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Executive Orders

EXECUTIVE ORDER MJF 02-05

Bond Allocation Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2002 (hereafter "the 2002 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 2002 Ceiling to finance student loans which, if the student meets certain timely payment requirements, will have interest rates below the interest rates established by the United States Department of Education and which

(1) have been made

(a) to residents of the state of Louisiana attending a post-secondary school located within or without the state of Louisiana, or

(b) to an out-of-state resident attending a post-secondary school located within the state of Louisiana;

(2) are guaranteed;

(3) are "eligible student loans" within the meaning of the Higher Education Act of 1965, including consolidation loans and certain loans to the parents of the students referred to in (1)(a) and (1)(b), *supra*, and

(4) meet certain additional requirements pursuant to financing documents, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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 bond issue, as described in this Section, shall be and is hereby granted an allocation from the

private activity bond volume limits for the calendar year of 2002 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$66,950,000	Louisiana Public Facilities Authority	Student Loan Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before May 27, 2002.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect 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 27th day of February, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0203#001

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Division of Pesticides and Environmental Programs

Application of Icon Pesticide (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act R.S. 49:953(B) and R.S. 3:3203(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in adopting the following rules for the implementation of regulations governing the use of the pesticide, icon (fipronil).

Icon is an essential pesticide in the control of rice pests. Without its use the rice crop in Louisiana is in imminent danger of being damaged by pests, to the extent that a substantial reduction in rice yield will result. Failure to control rice pests, therefore, poses an imminent peril to the economy of the state of Louisiana and to the rice growing parishes of Louisiana. The cumulative effect of icon as a pesticide, saltwater intrusion, anticipated high water temperatures, and other weather related factors pose an imminent peril to the environment and to the economy of the state of Louisiana and to the rice growing parishes of Louisiana. The application of icon in accordance with its label and labeling, but inconsistent with the department's rules and regulations and the potential misuse of this pesticide poses an imminent peril to the public health, safety and welfare and to the environment, especially if it gets into the waterways of this state.

The department has, therefore, determined that these emergency rules implementing a monitoring and registration program and governing icon applications, during the current crop year, are necessary in order to alleviate these perils. Information will be gathered to determine whether the effectiveness of this chemical outweighs any potential risk to the public or the environment.

The Rule becomes effective upon signature, February 28, 2002, and will remain in effect 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides Subchapter I. Regulations Governing Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - M.2. ...

N. Persons applying icon to rice seed and persons selling or planting icon treated rice seed, intended to be planted in Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Iberia, Jefferson Davis, Lafayette, St. Landry, St. Martin, St. Mary, and Vermillion parishes shall comply with the following.

1. Registration Requirements

a. The Commissioner hereby declares that prior to making any application of icon to rice seed, the seed treatment owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs (DPEP) in writing.

b. The Commissioner hereby declares that prior to selling icon treated rice seed, the dealer must first register such intent by notifying the DPEP in writing.

c. The Commissioner hereby declares that prior to making aerial applications of icon treated rice seed, the aerial owner-operator must first register such intent by notifying the DPEP in writing.

2. Growers of rice shall not force or coerce applicators to apply icon treated rice, when the applicators, conforming to the Louisiana Pesticide Laws and Rules and Regulations or to the pesticide label and labeling, deem it unsafe to make such applications. Growers found to be in violation of this section shall forfeit their right to use icon treated rice seed, subject to appeal to the Advisory Commission on Pesticides.

3. Icon Application Restriction

a. Do not apply icon treated rice seed by ground within 25 feet, or by air within 100 feet of lakes, reservoirs, rivers, permanent streams, marshes or natural ponds, estuaries and commercial fish farm ponds.

b. Do not allow icon treated rice seed to drift into neighboring fields, ponds, streams or estuaries with fish, shellfish, or crustaceans (including crawfish).

c. All icon label and labeling use restrictions shall be strictly followed.

4. Monitoring of Icon

a. Rice seed treaters, registered to treat rice seed with icon, shall report daily to the DPEP, on forms prescribed by the Commissioner, all treatments of icon to rice seed. Information shall include but not be limited to:

- i. pounds treated;
- ii. treatment rate;
- iii. pounds sold or distributed;
- iv. purchaser and/or grower name, address, and phone number.

b. Dealers selling icon treated rice seed shall report daily, to the DPEP, on forms prescribed by the Commissioner all sales of icon treated rice seed. Information shall include but not be limited to:

- i. pounds sold;
- ii. treatment rate;
- iii. acres to be planted;
- iv. planting date;
- vi. purchaser and/or grower name, address, parish and phone number;
- vii. location and parish of field to be planted;
- viii. planting applicator-owner/operator (aerial or ground).

c. Aerial Owner/operators planting icon treated rice seed shall provide and maintain records daily, on forms prescribed by the Commissioner all applications of icon treated rice seed. Information shall include but not be limited to:

- i. pounds per acre planted;
- ii. acres planted;
- iii. date planted;
- iv. grower name, address, parish and phone number;
- v. location and parish of field planted;
- vi. pilot's name and certification number.

5. Upon determination by the Commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists, he may consider:

- a. stop orders for use, sales, or application;
- b. label changes;
- c. remedial or protective orders;
- d. any other relevant remedies.

O. - P.6.a.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:791 (June 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 28:

Bob Odom
Commissioner

0203#007

DECLARATION OF EMERGENCY

Office of Student Financial Assistance Tuition Trust Authority

Student Tuition Assistance and Revenue Trust
(START Saving) Program C Earned Interest
(LAC 28:VI.315)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2).

This Emergency Rule is necessary to allow the Louisiana Office of Student Financial Assistance 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 authority has, therefore, determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective February 20, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

Part VI. Student Financial Assistance C Higher Education Savings

Chapter 3. Education Savings Account

§315. Miscellaneous Provisions

A. - B.4. ...

5. For the year ending December 31, 2001, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.33 percent.

6. For the year ending December 31, 2001, the Earnings Enhancements Fund earned an interest rate of 6.38 percent.

C. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23: 718 (June 1997), amended LR 24:1274 (July 1998), amended LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:

George Badge Eldredge
General Counsel

0203#010

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Commercial Laboratories Pending Accreditation
(LAC 33:I.4501 and 4719)(OS039E1)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, which allows the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011 and R.S. 30:2074, which allows the Department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the Secretary of the Department hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule.

This is a renewal of Emergency Rule OS039E, which was effective November 16, 2001, and published in the *Louisiana Register* on December 20, 2001. The department is drafting a Rule (Log #OS039E) to promulgate this regulation.

The Department relies on analytical data submitted both directly and indirectly to the Department to determine compliance with both state and federal regulations. As a result of deadlines established in current Louisiana regulations, the Department is prohibited from accepting data from commercial laboratories that have not received departmental accreditation. This rule will allow the Department to accept data from laboratories that have submitted complete applications and supporting documents, have submitted documentation verifying certification/accreditation by a department-approved

accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory, and have paid all appropriate fees. A finding of imminent peril to public health, safety, and welfare is based on the inability to accept and review analytical data. Furthermore, the environmental analytical laboratory industry could suffer a loss of jobs.

The Department is adding an exemption for personnel monitoring services and those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 *Code of Federal Regulations*, due to the fact that they are licensed under other department regulations and to prevent an additional economic burden and duplication of effort by the department.

The Department relies on the analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The Department must have access to accurate, reliable, precise analytical data in order to meet its mandate to protect human health and the environment.

This emergency rule is effective on March 16, 2002, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS039E1, you may contact the Regulation Development Section at (225) 765-0399.

Adopted this 8th day of March, 2002.

Title 33

Environmental Quality

Part I. Office of the Secretary

Subpart 3. Laboratory Accreditation

Chapter 45. Policy and Intent

§4501. Description and Intent of Program

A. - D. ...

E. This Subpart shall not apply to the following:

1. laboratory analyses programs accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals; and

2. personnel monitoring services in accordance with LAC 33:XV.430.C and to those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 *Code of Federal Regulations*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998), amended by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000), LR 28:

Chapter 47. Program Requirements

§4719. Implementation

A. - B. ...

C. The department will accept analytical data generated by laboratories that do not comply with the deadlines established in Subsection B of this Section for accreditation if such laboratories:

1. have submitted a complete application form and supporting documents;

2. have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory; and

3. have paid appropriate fees.

D. These regulations shall not apply to field tests as defined in LAC 33:I.4503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 28:

J. Dale Givens
Secretary

0112#010

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services**

**Home and Community Based Services Waiver
Program
Adult Day Health Care Waiver
Request for Services Registry**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following emergency rule under the Administrative Procedure Act, R.S. 49:950 et seq. The Emergency Rule 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 implemented the Adult Day Health Care Waiver Program effective January 6, 1985. The Adult Day Health Care Waiver was designed to meet the individual needs of aged and functionally impaired adults by providing a variety of health, social and related support services in a protective setting. Candidates who meet all of the eligibility criteria are ranked in the order of the date on record when the candidate initially requested to be evaluated for waiver eligibility and placed on waiting lists maintained by the participating Adult Day Health Care centers. In order to facilitate the efficient management of the waiver waiting list, the department transferred responsibility for the Adult Day Health Care Waiver waiting lists to the Bureau of Community Supports and Services and established a single state-wide request for services registry.

This Emergency Rule is being adopted to continue the provisions contained in the December 3, 2001 Rule.

Emergency Rule

Effective April 3, 2002, the Department of Health and Hospitals transfers responsibility for the waiting list for the Adult Day Health Care (ADHC) Waiver to the Bureau of Community Supports and Services (BCSS) and consolidates the approximately 27 waiting lists into a centralized state-wide request for services registry that is maintained by region and arranged in order of the date of the initial request.

Persons who wish to be added to the request for services registry shall contact a toll-free telephone number maintained by BCSS. Those persons on the existing waiting lists prior to the date of the transfer of responsibility to BCSS shall remain on the request for services registry in the order of the date on record when the candidate initially requested waiver services. When a candidate is listed on more than one waiting list, the earliest date on record shall be considered the date of initial request.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She 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

0203#005

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Community Supports and Services

Home and Community Based Services Waiver
Program Elderly and Disabled Adult Waiver
Request for Services Registry

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following Emergency Rule under the Administrative Procedure Act, R.S. 49:950 et seq. The Emergency Rule 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 August 1993 establishing the Home Care for the Elderly Waiver Program to provide community based services to individuals who are age 65 and older and meet the medical certification and financial eligibility requirements for nursing facility care (*Louisiana Register*, volume 19, number 8). The August 1993 Rule was amended by a Rule adopted in January 1998 to:

- 1) redefine the target population served by the Elderly and Disabled Adult (EDA) waiver and rename the waiver;
- 2) establish an average cost per day limit for each participant of the waiver;
- 3) establish and define new services;
- 4) establish methodology for the assignment of slots; and
- 5) clarify admission and discharge criteria, mandatory reporting requirements and the reimbursement requirement for the prior approval of the plan of care (*Louisiana Register*, volume 24, number 1).

The waiting lists for the EDA waiver were being maintained by 64 local Council on Aging agencies. In order to facilitate the efficient management of the waiver waiting list, the Department transferred responsibility for the Elderly and Disabled Adult waiver waiting list to the Bureau of

Community Supports and Services and established a single state-wide request for services registry. Provisions contained in the previously cited Rules that are not related to the Elderly and Disabled Adult waiver waiting list are not affected by adoption of this Emergency Rule.

This Emergency Rule is being adopted to continue the provisions contained in the December 3, 2001 Rule.

Emergency Rule

Effective April 3, 2002, the Department of Health and Hospitals amends the January 1998 Rule to incorporate the transfer of responsibility for the waiting list for the Elderly and Disabled Adult waiver to the Bureau of Community Supports and Services (BCSS) and consolidate the 64 waiting lists into a centralized state-wide request for services registry arranged in order of the date of the initial request. Persons who wish to be placed on the request for services registry shall contact a toll-free telephone number maintained by BCSS. Those persons on the waiting lists prior to the date of the transfer of responsibility to BCSS shall remain on the request for services registry in the order of the date on record when the candidate initially requested to be evaluated for waiver services.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She 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

0203#011

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Community Supports and Services

Home and Community Based Services
Waiver Program Personal Care Attendant
Waiver Request for Services Registry

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following Emergency Rule under the Administrative Procedure Act, R.S. 49:950 et seq. The Emergency Rule 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 February 1993 to implement a home and community services waiver to provide Personal Care Attendant (PCA) services to individuals who have lost sensory or motor functions and require assistance with personal care needs, ambulation and other related services. Candidates who meet all of the eligibility criteria are ranked by degree of need using the Degree of Need formula. Waiver slots in the three designated service areas are then filled in order of the highest scores as determined by the formula (*Louisiana Register*, volume 19, number 2).

The three PCA waiver waiting lists were being maintained by the regional PCA waiver provider agencies. In order to facilitate the efficient management of the waiver waiting list, the Department transferred responsibility for the Personal Care Attendant (PCA) Waiver waiting list to the Bureau of Community Supports and Services and established a single state-wide requested for services registry. Provisions contained in the previously cited Rule that are not related to the Personal Care Attendant waiver waiting list are not affected by adoption of this Emergency Rule.

This Emergency Rule is being adopted to continue the provisions contained in the December 3, 2001 Rule.

Emergency Rule

Effective April 3, 2002, the Department of Health and Hospitals transfers responsibility for the Personal Care Attendant (PCA) waiver waiting list to the Bureau of Community Supports and Services (BCSS) and consolidates the three waiting lists into a state-wide request for services registry arranged by degree of need and the date of the initial request. Persons who wish to be placed on the request for services registry shall contact a toll-free telephone number maintained by BCSS. Those persons on the existing waiting lists prior to the date of the transfer of responsibility to BCSS shall remain on the request for services registry in the order of degree of need score and the date on record when the candidate initially requested waiver services.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She 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

0203#014

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the 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 May 20, 1999 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, volume 25, number 5). This rule was adopted pursuant to Act 19 of the 1998 Legislative Session and Act 1485 (the Rural Hospital Preservation Act) of the 1997 Legislative Session. The May 20, 1999 rule was subsequently amended

to revise the disproportionate share qualification criteria for small rural hospitals in compliance with Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, volume 26, number 3).

The Bureau subsequently adopted a rule to establish an additional disproportionate share hospital group, for state fiscal year 2001 only, composed of large public non state hospitals in order to facilitate the transfers of public funds from qualifying health care providers as directed in Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature (*Louisiana Register*, volume 27, number 2).

Act 1074 of the 2001 Regular Session of the Louisiana Legislature amended the Rural Hospital Preservation Act to add certain hospitals to the definition of rural hospitals. In compliance with Act 1074, the Bureau has determined that it is necessary to amend the March 20, 2000 rule to revise the disproportionate share qualification criteria for small rural hospitals.

Qualification for disproportionate share is based on the hospital's latest year end cost report for the year ended during the specified period of the previous year. Payment is equal to each qualifying hospital's pro rata share of the uncompensated cost for all hospitals meeting these criteria for the cost reporting period ended during the specified period of the preceding year multiplied by the amount set for each pool. The specified cost reporting period for all hospitals except small rural hospitals is July 1 through June 30 of the previous year. The specified cost reporting period for small rural hospitals is April 1 through March 31 of the previous year. As a result of Medicare amending its reimbursement methodology for hospitals and granting extensions on the submission dates for hospital cost reports, the bureau amended the provisions governing cost reporting periods for qualification and calculation of payments for disproportionate share. This emergency rule is being adopted to continue the provisions contained in the August 8, 2001 rule.

Emergency Rule

Effective for dates of service on or after April 7, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the provisions governing the disproportionate share payment methodologies for hospitals by incorporating the following revisions.

I. General Provisions

A. - C. ...

D. DSH payments to a hospital determined under any of the methodologies below shall not exceed the hospital's net uncompensated cost as defined in section I.G for the state fiscal year to which the payment is applicable.

E. Qualification is based on the hospital's latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. - I. ...

III. Reimbursement Methodologies

B. Small Rural Hospitals

1. A small rural hospital is a hospital (excluding a long-term care hospital, rehabilitation hospital or free-standing psychiatric hospital, but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994 and is located in a parish with a population of less than fifty thousand or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

c. had no more than sixty hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly owned and operated hospital that is located in either a parish with a population of less than fifty thousand or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the Department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility has been in continuous operation since July 1, 1994, is currently operating under a license issued by the department, and is located in a parish with a population, as measured by the 1990 census, of less than 50,000.

2. ...

3. Payment is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

4. ...

C. Large Public Non-State Hospitals

1. A large public non state hospital is defined as any hospital owned by a parish, city or other local government agency or instrumentality; and not included in section III. A or B of the May 20, 1999 rule. A qualifying hospital may be a long term hospital.

2. Qualifying hospitals must meet the qualifying criteria contained in section II.E and either section II. A, B, or C of the May 20, 1999 rule. Qualifying hospitals must maintain a log documenting the hospital's provision of uninsured care as directed by the department. Issuance of the disproportionate share payment is contingent on the public non state hospital certifying public funds as representing expenditures eligible for FFP in compliance with Act 12 of the 2001 Regular Session of the Louisiana Legislature.

3. Disproportionate share payments to each qualifying public non state hospital are equal to that hospital's pro rata share of uncompensated costs for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for this pool. Payment shall not

exceed each qualifying hospital's actual uncompensated costs as defined in section I.G of the May 20, 1999 rule. If the cost reporting period is not a full period (12 months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

D. All Other Hospitals (private rural and urban hospitals, free-standing psychiatric hospitals exclusive of state hospitals, rehabilitation hospitals and long-term care hospitals)

1. - 2.c. ...

Implementation of this emergency rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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 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

0203#008

DECLARATION OF EMERGENCY

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

**Durable Medical Equipment Program
Vagus Nerve Stimulators**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the 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, provides coverage for durable medical equipment and supplies under the Medicaid Program. All medical equipment, appliances and supplies must be prior authorized to determine medical necessity. In concurrence with the recommendations of the Medical practices Committee, the bureau proposes to establish medical necessity criteria for the prior authorization of vagus nerve stimulators. Vagus nerve stimulators are implantable devices used to assist in the control of seizures related to epilepsy.

Emergency Rule

Effective April 1, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following criteria for prior authorization of vagus nerve stimulators (VNS) under the Durable Medical Equipment Program. The VNS is an implantable device used to assist in the control of seizures related to epilepsy and must be prescribed by a physician.

A. Inclusion Criteria. Consideration shall be given for Medicaid reimbursement for implantation of the VNS if the treatment is considered medically necessary, the patient has medically intractable epilepsy and meets one or more of the following criteria:

1. is 12 years of age or older, although case by case consideration may be given to younger children who meet all other criteria and have sufficient body mass to support the implanted system; or

2. has a diagnosis of partial epilepsy confirmed and classified according to the International League Against Epilepsy classification. The patient may also have associated generalized seizures, such as tonic, tonic-tonic, or atonic. The VNS may have efficacy in primary generalized epilepsy as well. Video electroencephalographic monitoring is usually necessary for confirmation and classification of seizure type; or

3. has seizures that resist control by antiepilepsy treatment, with adequately documented trails of appropriate antiepilepsy drugs or documentation of the patient's inability to tolerate these medications; or

4. has undergone surgical evaluation and is not considered to be an optimal candidate for epilepsy surgery; or

5. is experiencing at least four to six identifiable partial onset seizures each month. The patient must have had a diagnosis of intractable epilepsy for at least two years. The two year period may be waived if it is deemed that waiting would be harmful to the patient; or

6. has undergone Quality of Life measurements (QOL). The choice of instruments used for the QOL must assess quantifiable measures of day to day life in addition to the occurrence of seizures. In the expert opinion of the treating physician, and clearly documented in the request for prior authorization, there must be reason to believe that QOL will improve as a result of the VNS. This improvement should be in addition to the benefit of seizure frequency reduction; or

7. has progressive disorders, psychosis, or mental retardation that are not contraindications to VNS implantation. Taking into consideration the additional diagnosis, the treating physician must document the benefits of VNS.

B. Exclusion Criteria. Medicaid reimbursement for implantation of a VNS shall not be made if the patient meets one or more of the following criteria:

1. has psychogenic seizures or other nonepileptic seizures; or

2. has systemic or localized infections that could infect the implanted system; or

3. the patient's body mass is insufficient to support the implanted system.

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 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

00203#009

DECLARATION OF EMERGENCY

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

Facility Need Review Emergency
Community Home Bed Pool
(LAC 48:1.12501-12505)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule for Facility Need Review as authorized by R.S. 40:2116. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B) and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals adopted a rule governing the Facility Need Review process in August 1995 (*Louisiana Register*, volume 21, number 8). The August 1995 rule was amended to adopt new provisions governing the relocation of nursing facility beds (*Louisiana Register*, volume 25, number 7).

The Department amended the August 1995 rule governing the Facility Need Review process in order to implement provisions of the 2001 Appropriations Bill, Act 12 of the 2001 Regular Session. The Act provides that the Department of Health and Hospitals is authorized to transfer 50 beds currently licensed to state developmental centers to non-state operated community homes for the mentally retarded in accordance with a plan to be developed by the department. The department intends to use those fifty 50 beds to address emergency situations which cannot be dealt with adequately through the normal request for proposals process because of the significant delay in placement which is inherent in that process. Therefore, the department exercised its emergency rule making authority and amended its rules on Facility Need Review to include a plan whereby fifty 50 beds were used to create a pool of beds which are available for transfer to non-state operated community homes. This emergency rule is being adopted to continue the provisions contained in the August 1, 2001 rule.

Emergency Rule

Effective March 31, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the August 20, 1995 rule on Facility Need Review to include a plan whereby 50 beds will be used to create a pool of beds which will be available for transfer to non-state operated community homes.

Title 48
PUBLIC HEALTH GENERAL
Part I. General Administration
Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

- A. ...
- B. Definitions

* * *

*Emergency Community Home Bed Pool*Ca pool consisting of 50 approved beds which have been transferred from state developmental centers and which are made available for transfer to non-state operated community homes in order to address emergency situations on a case-by-case basis.

* * *

- C. - F.6. ...

7. Beds may not be disenrolled, except as provided under the alternate use policy, under the Emergency Community Home Bed Pool exception, and during the 120-day period to have beds re-licensed or re-certified. The approval for beds disenrolled, except as indicated, will automatically expire.

- F.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 25:1250 (July 1999), amended LR 27:0000.

§12503. Determination of Bed Need

- A.1. - 6.d. ...

7. Emergency Community Home Bed Pool Exception:
a. The Emergency Community Home Bed Pool is hereby created, consisting of fifty 50 Medicaid enrolled beds transferred from state developmental centers.

b. The beds in the Emergency Community Home Bed Pool shall be available for transfer to non-state operated community homes in order to address emergency situations on a case-by-case basis.

c. Emergency situations which may be addressed through the use of the Emergency Community Home Bed Pool shall include, but not be limited to, situations in which it is difficult or impossible to find a placement for an individual in an ICF/MR because of one of the following:

i. an inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population in general;

ii. an inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population who also have physical or behavioral disabilities or difficulties;

iii. an inadequate number of available ICF/MR beds in the service area to provide for the transition of individuals from residing in large residential facilities to residing within the community.

d. Any agency or individual who becomes aware of an actual or potential emergency situation should inform the Office for Citizens with Developmental Disabilities (OCDD). The OCDD shall submit to the Facility Need Review Program its recommendations for emergency placement. The recommendations from the OCDD shall

include identification of the individual in need of emergency placement, the individual's needs, the service area in which transfer from the Emergency Community Home Bed Pool is requested, and the names of one or more existing community homes that would be appropriate for emergency placement.

e. In order to be eligible for transfer of one or more beds from the Emergency Community Home Bed Pool, a community home must meet the following requirements, based on documentation provided by the Health Standards Section.

i. The facility must comply with the physical accessibility requirements of the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973, or if it does not comply with those requirements, it must have a written plan to be in compliance within 24 months.

ii. The facility can not have been on a termination track or have had any repeat deficiencies within the last 12 months.

iii. The facility must meet all square footage requirements, Life Safety Code requirements, and general construction requirements of 42 CFR Subpart D, Conditions of Participation for ICF/MR, as well as Standards for Payment, LAC 50:II Chapter 103 and Louisiana Licensing Requirements for Intermediate Care Facilities.

iv. The facility must ensure the provision of sufficient staffing and behavior modification plans to meet the needs of current residents and prevent clients residing in the facility from being adversely affected by the emergency admission.

f. The Secretary shall authorize the transfer of the bed to be used at the non-state operated community home, and upon the enrollment of the transferred bed at that community home, it shall be permanently transferred to that facility, subject to the following conditions: Once the bed is no longer needed to remedy the emergency situation, the facility shall continue to make it available for subsequent emergency placements, although it may be used temporarily to serve other individuals until it is needed for a new emergency placement. The facility shall make the bed available for a new emergency placement within 72 hours after receiving a request for such placement from the Department as set forth herein. If the facility does not comply with such a request, the Secretary may, at his discretion, transfer the bed from the facility back to the Emergency Community Home Bed Pool.

g. Beds which have been placed in the Emergency Community Home Bed Pool shall be exempt from the bed need criteria and the requirements for requests for proposals which are normally applicable to ICF/MRs.

h. For purposes of the Emergency Community Home Bed Pool exception, the definition of "service area" provided in §12503.A.1 is applicable.

- B. - B.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 27:

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 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

0203#012

DECLARATION OF EMERGENCY

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

Medicaid Pharmacy Program Average Wholesale Price

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B(1) et seq. and shall be in effect for the maximum period allowed under the 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, 1990, amending the reimbursement methodology for drugs under the Louisiana Medicaid Pharmacy Program (*Louisiana Register*, Volume 16, Number 4). In compliance with Act 10 of the 1999 Regular Session of the Louisiana Legislature, the Bureau amended the April 20, 1990 rule to limit payments for prescription drugs to the lower of:

- 1) average wholesale price (AWP) minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies;
- 2) Louisiana's maximum allowable cost (MAC) limitation plus the maximum allowable overhead cost (MAOC);
- 3) federal upper limits plus the; or
- 4) provider's usual and customary charges to the general public. In addition, the definition of chain pharmacies was established as five or more Medicaid enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 6).

As a result of a budgetary shortfall, the Bureau adopted a rule amending the June 20, 2000 rule to limit payments for prescription drugs to the lower of (AWP) minus 15 percent for independent pharmacies and 16.5 percent for chain pharmacies. In addition, the definition of chain pharmacies was changed from five or more to more than fifteen Medicaid-enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 8). As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau increased the reimbursement rate for prescription drugs under the Medicaid Pharmacy Program by amending the estimated acquisition cost formula from (AWP) minus 15 percent to 9(AWP) minus 13.5 percent for independent pharmacies and from (AWP) minus 16.5 percent to (AWP) minus 15 percent for chain

pharmacies. This emergency rule is being adopted to continue the provisions contained in the August 6, 2001 rule.

Emergency Rule

Effective for dates of services on or after April 5, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rate for prescription drugs under the Medicaid Pharmacy Program by amending the estimated acquisition cost formula from average wholesale price (AWP) minus 15 percent to AWP minus 13.5 percent for independent pharmacies and from AWP minus 16.5 percent to AWP minus 15 percent for chain pharmacies. This adjustment applies to single source drugs, multiple source drugs that do not have a state maximum allowable cost (MAC) or federal upper limit and those prescriptions subject to (MAC) overrides based on the physician's certification that a brand name product is medically necessary.

Implementation of this proposed rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid 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 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

0203#013

DECLARATION OF EMERGENCY

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

Minimum Licensing Standards Ambulatory Surgical Centers Stereotactic Radiosurgery

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 40:2131-2141. This Emergency Rule is adopted in accordance with the Administrative Procedure Act and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Human Resources adopted regulations governing the licensing of ambulatory surgical centers (*Louisiana Register*, volume 3, number 3). The March 20, 1977 rule was subsequently amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing to repeal requirements for the periodic processing of cultures (*Louisiana Register*, Volume 24, Number 2) and the semi-annual sampling for bacteria (*Louisiana Register*, volume 24, number 10).

Act 754 of the 2001 Session of the Louisiana Legislature amended R.S. 40:2133(A) and 2136 to expand the definition of ambulatory surgical centers to include treatment centers that offer stereotactic radiosurgery by use of a gamma knife or similar neurosurgical tool. In addition, the Act directed

the department to establish rules, regulations and minimum standards for the licensing of ambulatory surgical centers as defined in R.S. 40:2133(A). In compliance with Act 754, the department proposes to amend the licensing standards for ambulatory surgical centers in order to exempt facilities that perform stereotactic radiosurgery procedures from certain requirements. This action is being taken in order to comply with R.S. 40:2136(B). It is estimated that the implementation of this emergency rule has no fiscal impact other than the administrative cost of promulgating the rule.

Effective March 21, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the licensing standards governing the operations of ambulatory surgical centers to exempt facilities operated primarily for the purpose of performing stereotactic radiosurgery procedures from certain requirements.

Title 48

PUBLIC HEALTH - GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 45. Ambulatory Surgical Center

§4571. Stereotactic Radiosurgery

A. Ambulatory surgical centers operated primarily for the purpose of offering stereotactic radiosurgery by use of a gamma knife or similar neurosurgical tool, shall comply with all licensing requirements contained in Chapter 45 and applicable sections of the *Guidelines for Design and Construction of Hospital and Health Care Facilities*, except for the following.

1. Section 4509.L
2. Section 4545.B
3. Section 4545.D

4. The centers shall also be exempt from Section 9.5.F5.c of the *Guidelines for Design and Construction of Hospital and Health Care Facilities*. This Section states: "Scrub facilities. Station(s) shall be provided near the entrance to each operating room and may service two operating rooms if needed. Scrub facilities shall be arranged to minimize incidental splatter on nearby personnel or supply carts."

B. The exceptions listed in this Section do not apply to ambulatory surgical centers performing surgical procedures in conjunction with stereotactic radiosurgery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

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 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

0203#004

DECLARATION OF EMERGENCY

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

Public Hospitals CReimbursement
Methodology CUpper Payment Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B(1) et seq. and shall be in effect for the maximum period allowed under the 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 a prospective reimbursement methodology for inpatient services provided in non-state operated acute care 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). The January 1996 rule was later amended 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 5).

In compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature, an emergency rule was adopted to establish supplemental payments to non-state public hospitals, which are not recognized by the Department as small rural hospitals, for unreimbursed Medicaid costs incurred in providing care to Medicaid recipients (*Louisiana Register*, volume 26, number 12). Issuance of the supplemental payment is contingent on the public hospital entering into a cooperative endeavor agreement with the Department to certify public funds as representing expenditures eligible for federal financial participation (FFP).

The Bureau utilized the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c). 42 CFR §447.272(c) and §447.321(c) states as follows: "Exceptions, (1) Non-State government-operated hospitals. The aggregate Medicaid payments may not exceed a reasonable estimate of the amount that would be paid for the services furnished by these hospitals under Medicare payment principles in subchapter B of this chapter." This emergency rule is being adopted to continue the provisions contained in the April 1, 2001 rule.

Emergency Rule

Effective March 30, 2002 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, will utilize the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c). The hospital payment differential for any year shall be the difference between the upper limit of aggregate payments to non-state government-owned or operated hospitals, as defined in the 42 CFR §447.272(c) and §447.321(c), and the aggregate Medicaid per diem reimbursement paid to these hospitals for the year.

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 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

0203#015

DECLARATION OF EMERGENCY

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

**Child Care Assistance Program Providers and Payment
(LAC 67:III.5107 and 5109)**

This Emergency Rule is being repromulgated to correct a typographical error. The original Emergency Rule may be viewed in its entirety on pages 258-259 of the February 20, 2002 edition of the *Louisiana Register*.

The Department of Social Services, Office of Family Support has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt the following changes in the Child Care Assistance Program effective March 1, 2002. This emergency rule will remain in effect for a period of 120 days.

The agency implemented cost-saving measures effective January 1, 2001, and the effects of this action have now made more funding available. The low-income families who are eligible for Child Care Assistance need as much help as possible with those costs because of the declining economy and the negative impact on employment. This action will allow the eligibility of more applicants and eliminate or

decrease the co-payments required from participants by increasing the percentages paid by DSS.

Whereas the health and safety of the children of working families is entrusted to child care environments and the goal of this program and the federal Child Care and Development Fund is to serve as many families as possible, a Declaration of Emergency is necessary to effect changes in these regulations.

Programmatic eligibility will increase from 60 percent to 75 percent of the State Median Income. The sliding fee scale has been adjusted to reflect this change and to provide that families at or below the federal poverty level will not be required to contribute to the cost of child care up to the State Maximum Rate. Due to the time and action required to program these changes, March 1 is the earliest implementation date possible.

In addition to this change, because Family Child Day Care Home providers are having difficulty obtaining pediatric first-aid training, these providers will now only be required to have current training in first aid, eliminating the need for it to be specifically "pediatric."

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5107. Child Care Providers

A. - B.1.b. ...

c. effective March 1, 2002, furnish verification of 12 clock hours of training in job-related subject areas approved by the Department of Social Services and current verification of first aid training by the provider's renewal date each year.

B.1.d. - G.2. ...

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 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:

§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 may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "copayment." The sliding fee scale is based on a percentage of the state median income.

Sliding Fee Scale for Child Care Assistance Recipients Effective March 1, 2002C75 Percent of Projected Median Income

Number in Household	2	3	4	5	6	DSS %
Monthly Household Income	0 - 968	0 - 1219	0 - 1471	0 - 1723	0 - 1974	100%
	969 - 1535	1220 - 1908	1472 - 2281	1724 - 2654	1975 - 3027	95%
	1536 - 2101	1909 - 2596	2282 - 3090	2655 - 3585	3028 - 4079	85%
	Above 2101	ABOVE 2596	ABOVE 3090	ABOVE 3585	ABOVE 4079	0%

Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0 - 2226	0 - 2478	0 - 2729	0 - 2981	0 - 3233	100%
	2227 - 3199	2479 - 3372	2730 - 3543	2982 - 3716	3234 - 3888	95%
	3200 - 4172	3373 - 4265	3544 - 4357	3717 - 4450	3889 - 4543	85%
	Above 4172	ABOVE 4265	ABOVE 4357	ABOVE 4450	ABOVE 4543	0%

Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0 - 3484	0 - 3736	0 - 3988	0 - 4239	0 - 4491	100%
	3485 - 4060	3737 - 4232	3989 - 4405	4240 - 4577	4492 - 4749	95%
	4061 - 4636	4233 - 4728	4406 - 4821	4578 - 4914	4750 - 5006	85%
	Above 4636	ABOVE 4728	ABOVE 4821	ABOVE 4914	ABOVE 5006	0%

Number in Household	17	18	19	20		DSS %
Monthly Household Income	0 - 4743	0 - 4994	0 - 5246	0 - 5498		100%
	4744 - 4921	4995 - 5093	5247 - 5266			95%
	4922 - 5099	5094 - 5192	5267 - 5285			85%
	Above 5099	ABOVE 5192	ABOVE 5285			0%

B. - E. ...

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 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:

Gwendolyn P. Hamilton
Secretary

0203#006

DECLARATION OF EMERGENCY

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

Temporary Assistance to Needy Families (TANF) Initiatives (LAC 67:III.5507, 5511, 5541, and 5547)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 67:III.5507, 5511, 5541, and 5547, effective March 31, 2002. This Emergency Rule will remain in effect for a period of 120 days.

The original publication of these initiatives was in a Declaration of Emergency effective November 30, 2001. The final Rule was published in February 2002 for all sections of that Emergency Rule with the exception of these four. These sections required a separate Notice of Intent which was published in January 2002.

The final Rule for §§5507, 5511, 5541, and 5547 will be published on April 20. Therefore, a Declaration of Emergency is necessary to extend the effectiveness of these

TANF Initiatives as the original Emergency Rule will expire March 30.

Separation of these initiatives became necessary when the agency determined that eligibility factors as originally published for these TANF Initiatives were not consistent with the Memoranda of Understanding which implemented each initiative.

**Title 67
SOCIAL SERVICES**

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5507. Adult Education, Basic Skills Training, Job Skills Training, and Retention Services Program

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Workforce Commission to provide adult education, basic skills training, jobs skills training, and retention services to low income families. Employed participants will be provided child care and transportation services. Unemployed participants will be provided short-term child care and transportation services.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing education, training, and employment-related services to low income families in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or

below 200 percent of the federal poverty level. Within the needy family, only the parent or caretaker relative is eligible to participate. A needy family also includes a non-custodial parent who has earned income at or below 200 percent of the federal poverty level. Families who lose FITAP eligibility because of earned income are considered needy for a period of one year following the loss of cash assistance.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5511. Micro-Enterprise Development

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office of Women's Services to provide assistance to low-income families who wish to start their own businesses.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage. This goal will be accomplished by providing assistance to low-income families through the development of comprehensive micro-enterprise development opportunities as a strategy for moving parents into self-sufficiency.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level. Only the parent or caretaker relative within the needy family is eligible to participate.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5541. Court-Appointed Special Advocates

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana to provide services to needy children identified as abused or neglected who are at risk of being placed in foster care or, are already in foster care. Community advocates provide information gathering and reporting, determination of and advocacy for the children's best interests, and case monitoring to provide for the safe and stable maintenance of the children or return to their own home.

B. The services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in the home of relatives by ensuring that the time children spend in foster care is minimized.

C. Eligibility for services is limited to needy families, that is, one in which any member receives a Family

Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5547. Housing Services

A. The Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts to create pilot programs that provide transitional, short-term, or one-time housing services to needy families with minor children who participate in self-sufficiency activities, who are at risk of losing existing housing arrangements, who are in an emergency situation, or who face ineligibility because of increased earnings. These services can include but are not limited to: relocation assistance; costs associated with moving or relocation; down payment of deposit and/or initial month's rent; short-term continuation of a housing voucher; down payment for the purchase of a house; housing counseling and homebuyer education for prospective homeowners; or other transitional services determined in conjunction with the Department of Social Services and the Division of Administration.

B. These services meet the TANF goal to provide assistance to needy families so that children can be cared for in their own homes or the homes of relatives and the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

C. Eligibility for services is limited to parents, legal guardians, or caretaker relatives of minor children who are members of a needy family. A needy family is one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, Housing and Urban Development (HUD)-funded services, or who has earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Gwendolyn P. Hamilton
Secretary

0203#003

DECLARATION OF EMERGENCY

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

Oyster Harvest Area Grid System
(LAC 76:VII.519)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures when it finds that an imminent peril to the public welfare requires adoption of a rule upon shorter notice than provided in R.S. 49:953.A, and in accordance with R.S. 56:430.1.B, which provides for the establishment of an oyster harvest area grid system, the Wildlife and Fisheries Commission does hereby adopt the following emergency rule. Adoption of this Declaration of Emergency is necessary inasmuch as it is an essential component of the coastal

restoration program which must move forward immediately to protect the public resources that are critical to the economy and welfare of our coastal areas.

This Declaration of Emergency will become effective on March 19, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

Title 76

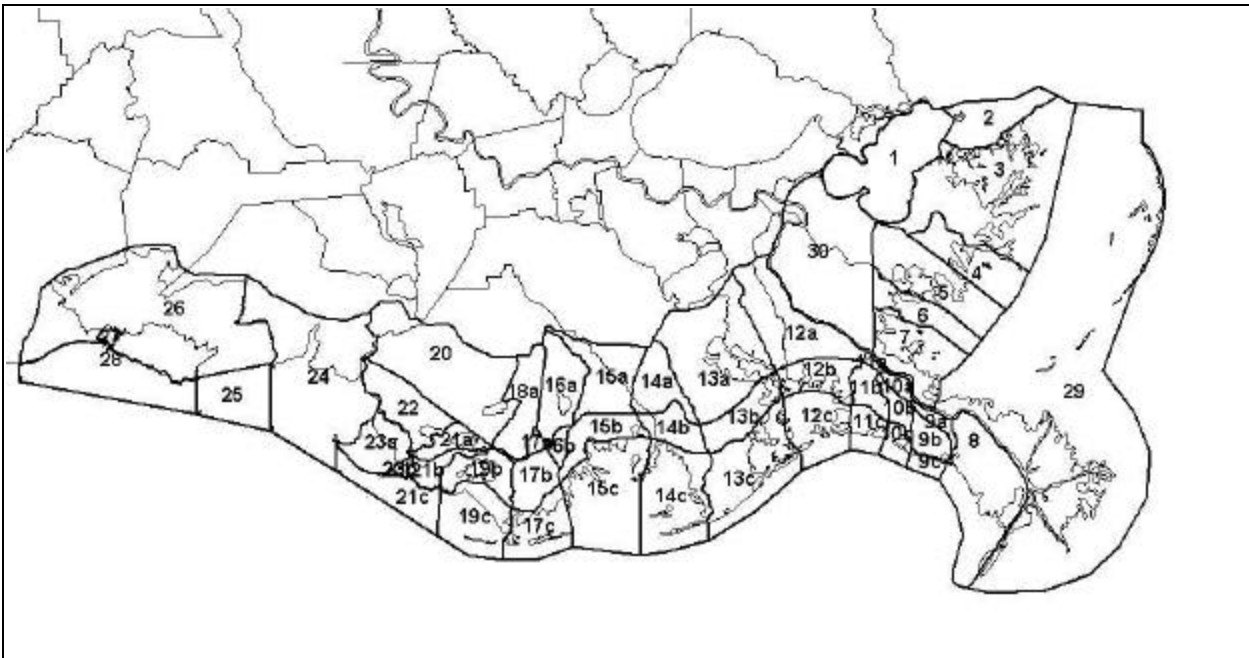
WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§519. Establishment of an Oyster Harvest Area Grid System

A. For the purpose of submission of oyster leaseholder production information, as required in R.S. 56:430.1, the oyster harvest area grid system is established as those grid areas detailed on the map which is attached hereto and made a part hereof.



AUTHORITY NOTE: Promulgated in accordance with R.S. 56:430.1.B.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:

James H. Jenkins, Jr.
Secretary

0203#017

DECLARATION OF EMERGENCY

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

Oyster Lease Moratorium (LAC 76:VII.505)

In accordance with emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429 and R.S. 56:432.1, the Wildlife and Fisheries Commission declares an immediate moratorium on the

issuance of oyster leases and on the taking of oyster lease applications for state waterbottoms not presently under lease. Continuation of issuance of new oyster leases would pose an imminent peril to the public welfare and requires adoption of a rule upon shorter notice than provided in R.S. 49:953.A, the Wildlife and Fisheries Commission does hereby adopt the following Emergency Rule. Adoption of this Declaration of Emergency is necessary, according to the Department of Natural Resources, inasmuch as immediate action is essential to reduce the state's exposure to potential claims from oyster leaseholders and further, that failure to do so would pose an imminent peril to the coastal restoration program and to the federal/state partnership which is critical to the efforts of the state to obtain comprehensive coast-wide restoration authorization and funding.

This Declaration of Emergency will become effective on March 7, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule.

**Title 76
WILDLIFE AND FISHERIES**

PART VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§505. Oyster Lease Moratorium

A. A moratorium on the issuance of oyster leases for waterbottoms not presently under lease is established. This includes a moratorium on the taking of oyster lease applications for waterbottoms not presently under lease. All pending applications will be held, along with all fees paid, pending a resolution of the moratorium, unless the applicant requests cancellation of the application and refund of fees. In the event of the death of an applicant, the applicant's heirs or legatees should so notify the department; and any lease ultimately issued shall only be issued to persons placed in possession of the application by Judgement of Possession or to a court-appointed administrator or executor on behalf of a deceased applicant's estate.

B. A moratorium is placed on the auction of oyster leases in default in payment of rent per LAC 76:VII.501.G, as authorized by R.S. 56:429.

C. Any leases selected by a leaseholder who has previously selected the relocation option pursuant to R.S. 56:432.1 shall be exempt from this moratorium but only to the extent of such previous selection.

D. At such time as the moratorium is lifted, applications for oyster leases will be accepted in accordance with all

applicable statutes, rules and regulations and the procedures set out below.

1. One week prior to the date that the moratorium is lifted, the date, time and place where applications are to be taken will be publicly advertised.

2. On the date for taking of applications only one applicant at a time will be allowed in the office and this applicant will be allowed to take only one application. Each applicant will have 15 minutes to designate the area he wishes to apply for. After the applicant pays the application and survey fees, he may return to the end of the line for another application.

3. Applications will be taken 24 hours a day (on a first come basis) until the department feels the influx of applicants can be handled during regular office hours at the New Orleans Office, at which time anyone will be able to take an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:948 (November 1984), amended LR 28:

Thomas M. Gattle, Jr.
Chairman

0203#016

Rules

RULE

Board of Elementary and Secondary Education

BESE Bulletins and Regulations Removal from the *Louisiana Administrative Code*

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Title 28, Education. The amendment will remove from the *Louisiana Administrative Code* 185 Bulletins which are non-regulatory, obsolete, or no longer issued.

List of Bulletins to be Removed from the *Louisiana Administrative Code*

Bulletin Number	Bulletin Name
746, Part B	Louisiana Standards for State Certification of School Personnel, Vocational-Technical Personnel
1134	Standards and Guidelines for Library Media Programs in Louisiana Schools
1404	National and Regional Accrediting Agencies for Proprietary Schools
1430	Agent/Solicitor - Proprietary Schools
1443	Rules and Regulations - Proprietary Schools
1452	Handbook for Supervisors of Child Welfare and Attendance, Visiting Teachers and School Social Workers
1462	Louisiana School Directory
1472	Annual Financial and Statistical Report
1532	The Early Childhood Special Education Handbook for Louisiana's Early Education Program
1553	Bureau of Veterans' Education and Training
1575	Reference Handbook: Occupational and Physical Therapy in Louisiana Schools
1580	Algebra I
1581	Geometry
1582	Algebra II
1583	Advanced Mathematics
1586	Elementary Classroom Music
1587	Secondary Music Education
1588	Language Arts K-6
1591	Elementary Art Education
1592	Secondary Art Education
1596	Comprehensive Health K-10
1597	Physical Education K-10
1598	Free Enterprise
1599	American History
1600	Civics
1601	Social Studies K-6
1604	American Studies Grade 7
1605	Louisiana Studies Grade 8
1606	Consumer Mathematics
1609	Mathematics K-8
1610	Computer Science
1612	Business Mathematics
1613	Science K-5
1614	Life Science/Ecology Grade 7
1617	Resource Manual for Administrators and Teachers of the Visually Impaired
1619	Louisiana Education Employees Professional Improvement Program
1635	Secondary Health Occupations Guide, 1987 Ed.
1640	Mildly Handicapped

1643	Earth Science Grade 8
1644	Physical Science (HS)
1645	General Science
1646	Biology I
1660	Chemistry I
1661	Secondary Physics
1662	Competency-Based Business Education, Typing/Shorthand/Clerical Practice
1664	Child Development, Vol. 1 and Vol. 2
1674	Vocational Education Curriculum Development General Safety and Health Manual for Technical, Vocational, and Technology Education Programs
1680	Housing
1682	Industrial Arts Curriculum Guide, Grades 6, 7, 8
1683	General Industrial Arts
1684	Basic Woodworking Technology
1685	Basic Metals
1686	Basic Technical Drafting
1686	Supplement to 1686, CADD Module
1687	Industrial Arts Curriculum Project
1690	Basic Program of Vocational Agriculture in Louisiana, Vol. I, Vol. II, and Vol. III
1695	Parenthood Education
1698	Energy Efficient Homes and Small Buildings
1699	Word Processing
1700	Clothing and Textiles
1705	Moderate/Profound
1710	Adult Responsibilities
1717	Adapted Physical Education Curriculum Guide
1721	Business English
1722	Elementary Environmental Science Resource Unit
1723	Energy/Power and Transportation
1724	Basic Electricity/Electronics
1725	Advanced Program of Vocational Agriculture in Louisiana, Vol. I, Vol. II, and Vol. III
1727	World Geography
1727	World Geography Map Supplement
1729	Introduction to Business
1734	French as a Second Language Program (grades 4-8) Spanish as a Second Language Program (grades 4-8)
1735	FHA Advisor's Handbook, 1996
1737	Fine Arts Survey
1739	Computer Literacy
1740	Marketing and Distributive Education I, 1985
1750	Advanced Metals
1751	Advanced Technical Drafting
1752	Advanced Woodworking Technology, 1985
1755	Louisiana Slide Video Library Catalog
1758	World History
1759	Western Civilization
1771	Data Processing (in revision)
1775	Child Care
1776	Exploratory Homemaking
1777	Basic Graphic Arts
1778	Advanced Electronics
1779	Architectural Drafting
1780	Acadians of Louisiana
1781	Recordkeeping
1792	Environmental Science
1795	English Language Arts 7-12
1802	Introduction to Algebra
1803	Advanced Electricity-Microprocessors and Robotics
1807	A Resource Guide for Personnel Serving Deaf and Hard of Hearing Students
1810	Consumer Homemaking I
1812	Principles of Technology

1813	Power Mechanics
1814	Business Math
1815	Entrepreneurship for Marketing Education
1816	Publications I & II (Yearbook)
1819	Publications I & II (Newspaper)
1820	Biology II
1821	Home and Family, 1987
1822, Part 1	Competency Based Postsecondary Curriculum Outlines (Diploma Program)
1822, Part 2	Competency Based Postsecondary Curriculum Outlines (Associate Degree Program)
1824	Greenhouse Management
1825	Dynamics of Effective Study
1827	AIDS Education Curriculum Guide
1830	GUMBO: Games Uniting Mind and Body
1832	English Language Arts Curriculum Guide for the Limited English Proficient Students, Grades K-12
1835	Chemistry II
1836	Handbook for Parent Involvement
1837	Handbook for Parent Involvement
1851	Educating the Non/Limited English Proficient Student
1856	Exploration of Construction Technology
1859	Basic Welding
1864	Substance Abuse Prevention Education Curriculum Guides Volume 1: Pre-K - 6 Volume 2: 7 - 12
1866	Competency-Based Administrative Support Occupations
1867	Graduation Exit Examination Annual Report for 1998-99
1869	Writing Measurable IEPs – A Training Package
1870	Determining Eligibility for Extended School Year Programs/Program Standards for Extended School Year Services
1873	Physical Science Grade 6
1876	Modern Foreign Language Curriculum Guide (grades 9-12)
1878	Principles of Technology II
1879	Related Services in the Educational Setting: Guidelines for IEP Committees
1880	Computer Numerical Control (CNC)
1880	Computer Numerical Control Supplement to Bulletin 1880
1882	Administrative Leadership Academy of Louisiana Guidelines
1883	School-Based Therapy: A Parents' Guide
1885	Clean Intermittent Catheterization in the Educational Setting
1887	Needs Assessment for Adult Responsibilities Course
1892	Nutrition Education: Nutrition and Food
1893	Motorcycle Safety, Awareness and Operator Training Program
1894	The Pebble Book (Using the Arts in the Elementary Classroom)
1895	MCOP
1896	Energy Conservation Lab Manual K-8
1897	Cooperative Home Economics Education
1898	Agriscience/Agrimarketing Summer Programs
1900	Integrated Algebra/Geometry
1902	Communication Technology
1906	Keyboarding Applications
1908	Manufacturing Technology
1909	Guidelines for Training: Noncomplex Health Procedures
1910	General Technology Education
1911	Food Science
1912	The Student Outcome Guide: A Resource Manual for Technical Assistance Providers in Programs Serving Students with Severe Disabilities
1914	Elementary Computer Literacy
1915	Business Education Course Outline and Core Competencies
1916	T & I Program and Course Standards
1917	Materials and Processes
1918	Creative Movement-Dance
1919	Communication-Theatre Arts
1920	Early Childhood
1923	Middle School Music
1924	Middle School Visual Arts

1926	Applied Agriscience Activities for Agriscience/Agrimarketing Programs
1927	Preschool Grant Application: Program for Children with Disabilities, ages 3-5
1933	The LA Curriculum System: Process Guide for Developing Inclusive Functional Programs for Students with Severe Disabilities
1936	Louisiana Nutrition Education and Training Program Resource Guide
1938	Church-Based
1942	Junior High Agriscience
1944	Marketing Education: Course Outline and Core Competencies
1945	Business Computer Applications I & II (1994)
1946	Health Occupations: Course Outline and Core Competencies
1947	Minimum Foundation Program Handbook
1948	Secondary Health Occupations Course Outline and Core Competencies (1995)
1949	Family Life Education and Family Economics
1951	Exploratory Business for Middle Schools, 1996
1956	Louisiana Mathematics Teacher Handbook
1957	End-of-Year Narrative Annual Performance Report for Adult Education – 1995-96
1967	Louisiana K-3 Reading and Math Initiative
1970	End-of-Year Narrative Annual Performance Report for Adult Education – 1996-97
1974	Annual Teacher Salary Schedule
1975	Minimum Foundation Program Audit and Evaluation Databook
1976	Annual School Level Expenditures Report, 1996-97
1990	Nursing Assistant
1991	Laboratory Technology
2000	Process Guidelines for Standards for Approval of Teacher Education Program (will replace contents of Bulletin 996)
2015	Regulations for the Tuition Exemption Program for School Support Staff (includes Tuition Exemption Pilot Program for School Support Staff and Tuition Exemption Program for Teacher Aides & Paraprofessionals)
	Louisiana's Handbook for Serving Students with Traumatic Brain Injury
	The General Education Access Guide: A Tool Kit for Program Development
	Grade 7 Exploratory Family and Consumer Sciences Curriculum Guide (Aug. 98)
	Grade 8 Exploratory Family and Consumer Sciences Curriculum Guide (Aug. 98)
	Business Education
	Agriscience

Weegie Peabody
Executive Director

0203#067

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel Primary and Secondary Teaching (Focus) Areas for Grades 7-12 Certification (LAC 1.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.A. This policy is a direct result of the new K-12 certification structure, which provides for greater in-depth content knowledge and instructional expertise across the grade levels. For grades 7-12

certification (secondary), all teachers must have a primary and a secondary focus (or specialty) area.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9 Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

**§903. Teacher Certification Standards and Regulations
Bulletin 746**

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975), amended LR 1:310 (July 1975), LR 1:398 (September 1975), LR 1:435 (October 1975), LR 1541 (December 1975), LR 27:825-828 (June 2001), LR 28:446 (March 2002).

**Primary and Secondary Teaching (Focus) Areas for
Grades 7-12 Certification**

Within the new certification structure that has been approved by the State Board of Elementary and Secondary Education, every secondary teacher in Louisiana must have a primary and a secondary focus area. The following areas are approved primary focus areas, to include a minimum of 31 semester hours of credit:

Agriculture (Vocational); Business Education; Computer Science; Distributive Education; English; French; Spanish; Latin; German; Family and Consumer Science; Industrial Arts; Mathematics; General Science; Biology; Chemistry; Earth Science; Physics; Environmental Science; Speech; and Social Studies.

The following areas are approved secondary focus areas, to include a minimum of 19 semester hours of credit:

Business Education; Computer Science; Distributive Education; English; French; Spanish; Latin; German; Journalism; Mathematics; Biology; Chemistry; Earth Science; Physics; Environmental Science; Speech; and Social Studies.

**Primary and Secondary Teaching (Focus) Areas for
Grades 7-12 Certification**

Certification Area	Primary 31 Hours	Secondary 19 Hours	Comment
Agriculture - Vocational	✓		
Business Education	✓	✓	
Computer Science	✓	✓	
Distributive Education	✓	✓	
English	✓	✓	
Foreign Languages			
French	✓	✓	
Spanish	✓	✓	
Latin	✓	✓	
German	✓	✓	
Family & Consumer Science	✓		
Industrial Arts	✓		
Journalism		✓	
Mathematics	✓	✓	

Science			If a candidate pursues
General Science	✓		
Biology	✓	✓	
Chemistry	✓	✓	
Earth Science	✓	✓	
Physics	✓	✓	
Environmental Science	✓	✓	
Speech	✓	✓	
Social Studies	✓	✓	

NOTE: If a university determines that hours beyond the required hours are needed for a specific primary (31) or secondary (19) teaching area, then the university may use portions of the flexible hours within the 124 total hours to address that need.

Weegie Peabody
Executive Director

0203#068

RULE

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

Scholarship/Grant Programs
(LAC 28:IV.301, 503, 507, 701, 705, 803, 903, 907, 1303, 1501, 1503, 1901, 1903, 2103, and 2107)

In accordance with Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant Rules (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

**Title 28
EDUCATION**

**Part IV. Student Financial AssistanceC Higher
Education Scholarship and Grant Programs
Chapter 3. Definitions
§301. Definitions**

*ACT Score*Cthe highest composite score achieved by the student on the official ACT test (including National, International, Military or Special test types) or an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT). ACT or SAT test scores which are unofficial, including so-called "residual" test scores, are not acceptable for purposes of determining program eligibility.

*Average Award Amount (TOPS-Tech)*Cis applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend LAICU colleges and universities and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior Program Year (Non-Academic Program) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards.

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." The amount paid for TOPS and TOPS-Tech Awards shall be as follows:

a. - c. ...

d. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the Average Award Amount (TOPS-Tech).

e. - g. ... * * *

Full-Time Student

a. ...

b. For continuation purposes, a student must be enrolled full-time at the end of the fourteenth class day at a semester school or the ninth class day at a quarter or term school;

c. - f. ...

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 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), LR26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 28:446 (March 2002).

Chapter 5. Application; Application Deadlines and Proof of Compliance

§503. Application Deadlines

A.1 - 3. ...

4. For priority consideration for award years after 1998-99, applicants must submit the FAFSA to be received by the federal processor by May 1, preceding the award year.

B. - E. ...

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 LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 25:1994 (September 2000), LR 28:447 (March 2002).

§507. Final Deadline for Submitting Documentation of Eligibility

A. ...

B. All documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of Student Aid Reports, applicant confirmation forms, promissory notes and other documents which may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 2001-2002 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 2002.

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 LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 28:447 (March 2002).

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

§701. General Provisions

A. - E.5.a. ...

b. In a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree receive an amount equal to the Average Award Amount (TOPS-Tech), as defined in §301, plus any applicable stipend, prorated by four terms or equivalent units in each Program Year (Non-academic Program). The stipend will be paid for each term or equivalent unit for which tuition is paid.

E.6. - 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 LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26: 1995, 2000 (September 2000), LR 28:447 (March 2002).

§705. Maintaining Eligibility

A.1. - 12. ...

B. Students failing to meet the requirements listed in §705.A.8 or §705.A.9.a or b may have their tuition awards reinstated upon regaining Steady Academic Progress (See §301.) and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who fail to meet the continuation requirements of §705.a.9.b., but who meet the continuation requirements of §705.A.9.a., shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall continue to receive the award amount for the Opportunity Award.

C. - D. ...

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 LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996, 2001 (September 2000), LR 28:447 (March 2002).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A. 5.d.iii. ...

6. if qualifying under the terms of §803.A.5.a., at the time of high school graduation,:

A.6.a. - A.6.a.ii. ...

iii. For students graduating through the 2001-2002 school year, the TOPS-TECH core curriculum as follows:

Core Curriculum B TOPS-TECH Award...

A.6.b. - A.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 26:65, 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 28:447 (March 2002).

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

A. - A.4.a. ...

i. at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting a core curriculum as defined in LAC 28:IV.703.A.5.a.i; and

A.4.a.ii. - 9. ...

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 LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), LR 28:448 (March 2002).

§907. Maintaining Eligibility

A.1. - 6. ...

7. submit the Renewal FAFSA in accordance with §501.B;

A.8. - B. ...

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 LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 25:1092 (June 1999), LR 26:689 (April 2000), LR 28:448 (March 2002).

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1303. Establishing Eligibility

A. LEAP applicants must meet all of the following criteria:

1. - 2. ...

3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is available to the applicant, by any deadline imposed by the institution attended; and

4. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1459 (August 1999), LR 28:448 (March 2002).

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program for Students (TOPS), TOPS-TECH, Rockefeller State Wildlife Scholarship, and Leveraging Educational Assistance Partnership (LEAP) Program.

B. - D. ...

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 LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August, 1999), LR 26:1998 (September 2000), LR 28:448 (March 2002).

§1903. Responsibilities of Postsecondary Institutions

A. - B.1. ...

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award is enrolled full-time, as defined in §301, at the end of the fourteenth class day for semester schools and the ninth class day for quarter and term schools, and for any qualifying summer

sessions at the end of the last day to drop and receive a full refund for the full summer session). Institutions shall not bill for students who are enrolled less than full-time at the end of the fourteenth class day for semester schools or the ninth class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session), unless the student qualifies for payment for less than full-time enrollment as defined in §2103.B. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth or ninth class day, as applicable, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures; and

B.3. ...

4. annually, all institutions are required to provide LASFAC a current fee schedule. The schedule must include an itemized description of the composition of the mandatory fees listed on the fee schedule;

5. certify that the institution will reimburse LASFAC for any award funds incorrectly disbursed to ineligible students; and

6. upon the school's certification that a recipient of a TOPS Award is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. public colleges and universities may bill for an amount up to the maximum tuition for that institution, as defined in §301;

b. Louisiana Technical College campuses may bill for an amount up to the tuition for that institution, as defined in §301;

c. LAICU member colleges and universities may bill for students enrolled in academic programs an amount up to the Weighted Average Award Amount, as defined in §301;

d. LAICU member colleges and universities may bill for students enrolled in nonacademic programs an amount up to the Average Award Amount (TOPS-Tech), as defined in §301;

e. for recipients of the Performance and Honors awards, institutions may bill LASFAC for the stipend that accompanies these awards, in the amounts of \$200 or \$400 per semester, respectively.

7. upon the school's certification that a recipient of a TOPS-TECH Award is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. eligible public colleges and universities that do not offer an academic undergraduate degree at the baccalaureate level may bill for an amount up to the tuition for that institution, as defined in §301;

b. all other Eligible Colleges and Universities may bill for an amount up to the Average Award Amount (TOPS-Tech), as defined in §301; and

8. Before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's out-of-pocket payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in

26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 1087(II), as amended, for the purpose of qualifying the student or his parent or guardian for the federal income tax credits provided for under 26 U.S.C. 25A.

C. - D.2. ...

3. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by LASFAC. Individual award checks for the Rockefeller State Wildlife Scholarship, TOPS Teacher Award and LEAP must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. Reporting of Academic Data. At the conclusion of each term or semester, the institution will complete and return to LASFAC, a College Academic Grade Report including, but not limited to, the following data elements:

1. - 3. ...

4. academic standing, and

E.5. - G ...

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 LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25: 1459 (August 1999), LR 26:1998, 2002 (September 2000), LR 28:448 (March 2002).

Chapter 21. Miscellaneous Provisions and Exceptions
§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - B. ...

C. Less Than Full-Time Attendance. LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards, and the TOPS-TECH Award, for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

C.1. - E.11.c. ...

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 LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 28:449 (March 2002).

§2107. Funding and Fees

A. - A.2. ...

B. Less than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or

2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

C. Insufficient Funds Appropriated

1. All LASFAC administered State Scholarship and Grant Program Awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS Opportunity, Performance, Honors and TECH Awards for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

a. Applicants who do not submit financial data on the initial FAFSA or a renewal FAFSA or who do not submit a renewal FAFSA to allow determination of eligibility for federal aid will be the first students eliminated from consideration if insufficient funds are appropriated for the program.

b. After the elimination of students under §2107.D.2.a, if funds are still insufficient to award all of those students who remain eligible for award year 1998-99, then those students qualified by the actions of the First Extraordinary Session of 1998 shall be funded only after all awards to all students who are eligible pursuant to the requirements of this Chapter as they existed prior to any Act of the 1998 First Extraordinary Session of the Legislature are fully funded. Students qualified by actions of the First Extraordinary Session of 1998 include the following:

i. students qualified by reduction of Foreign Language requirement for 1996-97 and 1997-98 graduates;

ii. students qualified as Exceptional Students/Students with disabilities;

iii. students who graduated from out-of-state high schools; and,

iv. students who completed an Approved Home Study Program.

c. After the elimination of students in §2107.D.2.a and b, if funds are still insufficient to award all of the remaining students, then those who remain will be prioritized according to their ACT score and, within ACT score, by their EFC in ranges of \$1,000, from lowest to highest. Beginning with the lowest qualifying ACT score, the students with the highest EFC shall be eliminated until the funds available are sufficient to award all remaining students or until all students with that ACT score have been eliminated. This process shall be repeated, beginning with the lowest ACT score and progressing to the highest ACT score, until the projected expenditure for awards equals the funds appropriated for that purpose.

d. After the elimination of students in §2107.D.2.a, if funds are sufficient to award all students who were eligible prior to the Act of the 1998 First Extraordinary Session of the Legislature, but are insufficient to award all students made eligible under such Act and listed in §2107.D.2.b, then those students made eligible by such Act shall be rendered ineligible by application of §2107.D.2.c, above, until funds available are sufficient to award all remaining students.

3. From among those students otherwise eligible who are denied an award because of the imposition of the procedures in §2107.D.2, if additional funds subsequently become available for expenditure in the same award year, those students who have the highest ACT scores and the least capacity to pay, as evidenced by their families' lower

EFC, shall be the first to be awarded by reversing the procedure described in §2107.D.2.c.

D. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

E. Transferability of Funds. A student receiving an award under the Tuition Opportunity Program for Students (TOPS), and/or Rockefeller State Wildlife Scholarship may have his award transferred to another postsecondary institution which is authorized to participate in these programs, as described in §1901. The student must meet all continuation requirements and submit a Scholarship and Grant Transfer Request Form.

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 LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), LR 28:449 (March 2002).

Mark S. Riley
Assistant Executive Director

0203#070

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

Student Tuition and Revenue Trust
(START Saving) Program
(LAC 28:VI.107 and 301)

In accordance with the Administrative Procedure Act R.S., 49:950 et seq., The Louisiana Tuition Trust Authority (LATTA) has amended the Rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2).

**Title 28
EDUCATION**

**Part VI. Student Financial Assistance Higher
Education Savings**

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§107. Applicable Definitions

* * *

Eligible Educational Institution either a state college, university, or technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. Secretary of Education or a public or independent college or university located outside this state that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. Secretary of Education or a Louisiana licensed proprietary school licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto and is eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1154 (August 2000), LR 28:450 (March 2002).

**Chapter 3. Education Savings Account
§301. Education Savings Accounts**

A. - H.2. ...

3. By signing the owner's agreement, the account owner certifies that both account owner and beneficiary are United States citizens or permanent residents of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and, if permanent residents have provided copies of INS documentation with the submission of the application and owner's agreement, and that either the account owner or beneficiary is a Louisiana resident.

H.4. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 28:450 (March 2002).

Mark S. Riley
Assistant Executive Director

0203#071

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Control of Emissions of Nitrogen Oxides
(LAC 33:III.2201)(AQ215)

Editor's Note: The following Rule has been repromulgated in its entirety to correct typographical errors. This Rule may be viewed in the February 20, 2002 edition of the *Louisiana Register* on pages 290-301.

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 Air Quality regulations, LAC 33:III.Chapter 22 (Log #AQ215).

This Rule establishes requirements for reducing emissions of nitrogen oxides (NOx) to allow the Baton Rouge nonattainment area to come into compliance with the National Ambient Air Quality Standard for ozone by May of 2005. Five parishes are defined by EPA as nonattainment. They are the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. Livingston is included even though it has no NOx emissions sources greater than 50 tons per year (tpy). Modeling has demonstrated that the nonattainment area cannot be brought into attainment without including certain outlying parishes. Therefore, the parishes of East Feliciana, Pointe Coupee, St. Helena, and West Feliciana also have been included in the Rule. The Rule establishes emission factors for reducing emissions from boilers, heaters, furnaces, turbines, and internal combustion engines at affected facilities. The Rule also establishes requirements for permits, compliance,

recordkeeping and reporting. During the summer of 2000, Louisiana experienced many days of elevated ozone levels, especially in the Baton Rouge area, as a number of the monitored readings exceeded the one-hour standard. In addition, the 5-parish Baton Rouge ozone nonattainment area did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Urban Airshed Modeling (UAM) indicates that a reduction in NO_x emissions is required to lower ozone levels. Therefore, it is necessary to identify and promulgate regulations to implement emission reduction controls. LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the NAAQS. This Rule to control emissions of NO_x is only one measure identified to reduce emissions. The basis and rationale for this Rule are to protect air quality in Louisiana and comply with the NAAQS for ozone.

The department made substantive changes to the Rule as a result of comments received during the public comment period and completion of the modeling analysis for the Baton Rouge attainment plan. The changes include, but are not limited to, the following:

1. change to, or in, emission factors for some boilers;
2. addition of certain exemptions;
3. addition of monitoring alternatives;
4. move of previous Subsection C (Definitions) to Subsection B;
5. move of previous Subsection B (Exemptions) to Subsection C; and
6. clarifications and rewording.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S.49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIROMENTAL QUALITY
Part III. Air

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. Applicability

1. The provisions of this Chapter shall apply to any affected facility in the Baton Rouge Nonattainment Area (i.e., the entire parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) and the Region of Influence (i.e., affected facilities in the attainment parishes of East Feliciana, Pointe Coupee, St. Helena, and West Feliciana).

2. The provisions of this Chapter shall apply during the ozone season (May 1 to September 30) of each year.

3. All affected facilities shall be in compliance as expeditiously as possible, but by no later than the dates specified in Subsection J of this Section.

B. Definitions. Unless specifically defined in this Subsection or in LAC 33:III.111 or 502, the words, terms, and abbreviations in this Chapter shall have the meanings commonly used in the field of air pollution control. For

purposes of this Chapter only, the following definitions shall supersede any definitions in LAC 33:III.111 or 502.

Administrator—the administrator, or an authorized representative, of the U. S. Environmental Protection Agency (EPA).

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

Affected Facility—any facility within the Baton Rouge Nonattainment Area or the Region of Influence with one or more affected point sources that collectively emit or have the potential to emit 50 tons or more per year of NO_x, unless exempted in Subsection C of this Section.

Affected Point Source—any point source located at an affected facility and subject to an emission factor listed in Paragraph D.1 of this Section or used as part of an alternative plan in accordance with Subsection E of this Section, unless exempted in Subsection C of this Section.

Ammonia Reformer—a type of process heater/furnace located in an ammonia production plant that is designed to heat a mixture of natural gas and steam to produce hydrogen and carbon oxides.

Averaging Capacity—the average actual heat input rate in MMBtu/hour at which an affected point source operated during the ozone season of the two calendar years of 2000 and 2001 (e.g., total heat input for the period divided by the actual hours of operation for the same period). Another period may be used to calculate the averaging capacity if approved by the department. For units with permit revisions that legally curtailed capacity or that were permanently shut down after 1997, the averaging capacity is the average actual heat input during the last two ozone seasons of operation before the curtailment or shutdown.

Baton Rouge Nonattainment Area—the entire parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge.

Biomass—defined as bagasse, rice-husks, wood, or other combustible, vegetation-derived material that is suitable for use as fuel.

Boiler—any combustion equipment fired with any solid, liquid, and/or gaseous fuel that is primarily used to produce steam, or heat water, or any other heat transfer medium for power generation or for heat to an industrial, institutional, or commercial operation. Equipment that is operated primarily for waste treatment and that incidentally produces steam shall not be regulated under this Chapter as a boiler.

Cap—a system for demonstrating compliance whereby an affected facility, a subset of affected sources at an affected facility, or a group of affected facilities under common control are operated to stay below a mass emission rate expressed as mass per unit of time. The allowable mass emission rate is calculated by adding the allowable emissions for each affected point source. The allowable emission is the product of the source's averaging capacity and the applicable factor in Subsection D.1 of this Section.

Chemical Processing Gas Turbine—a gas turbine that vents its exhaust gases into the operating stream of a chemical process.

Coal—all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society for Testing and Materials, Designation D388-77. For the purposes of this Chapter, coal shall also include

petroleum coke, solid carbon residues from the processing of petroleum products and coal-derived synthetic fuels, including but not limited to, solvent refined coal, coal-oil mixtures, and coal-water mixtures.

Combined Cycle—a combustion equipment configuration that generates electrical power with a stationary gas or liquid-fired turbine and/or a stationary internal combustion engine and that recovers heat from the discharge within equipment to heat water or generate steam.

Continuous Emissions Monitoring System (CEMS)—the total equipment that may be required to meet the data acquisition and availability requirements, used to sample, condition, if applicable, analyze, and provide a record of emissions.

Daily Average—an average of the hourly data for one calendar day starting at 12-midnight and continuing until the following 12-midnight.

Department—the Louisiana Department of Environmental Quality.

Elapsed Run-Time Meter—an instrument designed to measure and record the time that an affected point source has run during a designated period.

Electric Power Generating System—all boilers, stationary internal combustion engines, stationary gas turbines, and other combustion equipment within an affected facility that are used to generate electric power and that are owned or operated by a municipality, an electric cooperative, an independent power producer, a public utility, or a Louisiana Public Service Commission regulated utility company, or any of its successors.

Emergency Standby Gas Turbine or Engine—a gas turbine or engine operated as an electrical or a mechanical power source for an affected facility when the primary source has been disrupted or discontinued during an emergency due to circumstances beyond the control of the owner or operator of the affected facility and that is operated only during such an emergency or when normal testing procedures, as recommended by the manufacturer, are being performed. The definition includes a stationary gas turbine or a stationary internal combustion engine that is used at a nuclear power plant as an emergency generator that is subject to Nuclear Regulatory Commission (NRC) regulations and a stationary internal combustion engine that is used for the emergency pumping of water for either fire protection or flood relief. This term does not include an electric generating unit in peaking service.

Facility—a contiguous area under common control that contains various types of equipment that emit or have the potential to emit NO_x.

Facility-Wide Averaging Plan—an alternative emission plan whereby an affected facility (or affected facilities with a common owner or operator) with multiple affected point sources of NO_x emissions achieves the required reduction by a different mix of controls from that mandated by Subsection D of this Section. Some affected point sources may be over-controlled (more restrictive than the regulation) or shut down in order to offset other affected point sources that are under-controlled (less restrictive than the regulation) or not controlled, provided the required overall NO_x reduction is met.

Facility-Wide Emission Factor—the total average allowable NO_x emission factor in pound NO_x/MMBtu for

affected point sources when firing at their averaging capacities.

F Factor—the ratio of the gas volume of the products of combustion to the heat content of the fuel, typically expressed in dry standard cubic feet (dscf) per MMBtu.

Flare—a type of equipment specifically designed for combusting gaseous vents at an above-ground location.

Fluid Catalytic Cracking Unit Regenerator—a unit in a refinery where catalyst is recovered (regenerated) by burning off coke and other deposits with hot air. The term includes the associated equipment for controlling air pollutant emissions and for heat recovery.

Gas—any gaseous substance that can be used as a fuel to create heat and/or mechanical energy including natural gas, synthetically produced gas from coal or oil, gaseous substances from the decomposition of organic matter, and gas streams that are by-products of a manufacturing process.

Heat Input—the heat released due to fuel combustion in an affected point source, using the higher heating value of the fuel, excluding the sensible heat of the incoming combustion air.

Higher Heating Value—a measurement of the heat evolved during the complete combustion of a substance, including the latent heat of condensation of any water that is produced.

Horsepower Rating—the engine manufacturer's maximum continuous load rating at the lesser of the engine or driven equipment's maximum published continuous speed.

Incinerator—same as defined in LAC 33:III.111.

International Standards Organization (ISO) Conditions—standard conditions of 59° F, 1.0 atmosphere, and 60 percent relative humidity.

Kilns and Ovens—combustion equipment used for drying, baking, cooking, and calcining. Kilns can also be used for the treatment of solid wastes.

Lean-Burn Engine—a spark-ignited or compression-ignited, Otto cycle, diesel cycle, or two-stroke engine that is not capable of being operated with an exhaust stream oxygen concentration equal to or less than 1.0 percent, by volume on a dry basis, as originally designed by the manufacturer. The exhaust gas oxygen concentration shall be determined from the uncontrolled exhaust stream.

Liquid Fuel—any substance in a liquid state that can be used as a fuel to create heat and/or mechanical energy including:

- a. crude oil, petroleum oil, fuel oil, residual oil, distillate, or other liquid fuel derived from crude oil or petroleum;
- b. liquid by-products of a manufacturing process or a petroleum refinery; and
- c. any other liquid fuel.

Low Ozone Season Capacity Factor Boiler or Process Heater/Furnace—a boiler or process heater/furnace with maximum rated capacity greater than or equal to 80 MMBtu/hour and ozone season heat input less than or equal to 0.92×10^{11} Btu.

Malfunction—any sudden and unavoidable failure, as defined in LAC 33:III.111.

Maximum Rated Capacity—the maximum annual design capacity, as determined by the equipment manufacturer or as proven by actual maximum annual

performance in the field, unless the affected point source is limited by permit condition to a lesser annual capacity, in which case the limiting condition shall be used as the maximum rated capacity. Where the capacity of a point source is limited by an operating cap applicable to a group of point sources (e.g., several units capped to a combined total firing rate), the total firing rate cap shall be divided by the number of point sources in the cap to arrive at an equivalent maximum rated capacity. This equivalent maximum rated capacity shall be used only to determine the applicability of the emission factors and monitoring provisions of this Chapter.

Megawatt (MW) Rating—the continuous power rating or mechanical equivalent by a stationary gas turbine manufacturer at ISO conditions, without consideration to the increase in turbine shaft output and/or decrease in turbine fuel consumption by the addition of energy recovered from exhaust heat.

Nitric Acid Production Unit—a facility that produces nitric acid by any process.

Nitrogen Oxides (NO_x)—the sum of the nitric oxide and nitrogen dioxide in a stream, collectively expressed as nitrogen dioxide.

Number 6 Fuel Oil—fuel oil of the grade that is classified number 6, according to ASTM Standard Specification for classification of fuel oil by ASTM D396-84.

Ozone Season—May 1 to September 30, inclusively.

Peaking Service—a stationary gas turbine or stationary internal combustion engine that is operated intermittently to produce energy. To be in peaking service, the annual heat input or horsepower-hours for the affected point source shall be less than the product of 2500 hours and the MW rating of the turbine or the horsepower rating of the engine.

Permanent Shutdown—a shutdown of an affected point source where the owner or operator has filed a notice of permanent shutdown with the department or where the department, through a permit revision or final permit, has removed the affected point source from the applicable permit. (To maintain temporary shutdown status, a source must be maintained in good working order and not dismantled or cannibalized, must still be listed in the applicable permit, must still be listed on the department's emission inventory, and must continue to pay appropriate fees.)

Predictive Emissions Monitoring System (PEMS)—a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.

Process Heater/Furnace—any combustion equipment fired with solid, liquid, and/or gaseous fuel that is used to transfer heat to a process fluid, superheated steam, or water for the purpose of heating the process fluid or causing a chemical reaction. The term process heater/furnace does not apply to any unfired waste heat recovery boiler that is used to recover sensible heat from the exhaust of any combustion equipment, or to boilers as defined in this Subsection.

Pulp Liquor Recovery Furnace—either a straight Kraft recovery furnace or a cross recovery furnace as defined in 40 CFR 60 subpart BB.

Region of Influence—an area to the north of the Baton Rouge Nonattainment Area that encompasses affected facilities in the attainment parishes of East Feliciana, Pointe Coupee, St. Helena, and West Feliciana.

Rich-Burn Engine—all stationary reciprocating engines that do not fit the definition of lean-burn.

Sensible Heat—the heat energy stored in a substance as a result of an increase in its temperature.

Stationary Gas Turbine—any turbine system that is gas and/or liquid fuel fired and that is either attached to a foundation at an affected facility or is portable equipment operated at a specific affected facility for more than 60 days in any ozone season.

Stationary Internal Combustion Engine—a reciprocating engine that is either gas and/or liquid fuel fired and that is either attached to a foundation or is portable equipment operated at a specific affected facility for more than six months at a time. This term does not include locomotive engines or self-propelled construction engines.

Supplemental Firing Unit—a unit with burners that is installed in the exhaust duct of a stationary gas turbine or internal combustion engine for the purpose of supplying supplemental heat to a downstream heat recovery unit.

Thirty-Day (30-Day) Rolling Average—an average, calculated for each day that fuel is combusted, of hourly emissions data for the preceding 30 days that fuel is combusted in an affected point source.

Totalizing Fuel Meter—a meter or metering system that provides a cumulative measure of fuel consumption.

Trading Allowances—the tons of NO_x emissions that result from over-controlling, permanently reducing the operating rate of, or permanently shutting down, an affected point source located within the Baton Rouge Nonattainment Area or the Region of Influence. The allowances are determined in accordance with LAC 33:III.Chapter 6 and from the emission factors required by Subsection D of this Section for the affected point source and the enforceable emission factor assigned by the owner or operator in accordance with Subsection E of this Section. Trading allowances will be granted only for reductions that are real, quantifiable, permanent, and federally enforceable. NO_x reductions that are used in a facility-wide averaging plan cannot be also used in a trading plan.

Wood—wood, wood residue, bark, or any derivative fuel or residue thereof in any form, including but not limited to, sawdust, sander dust, wood chips, scraps, slabs, millings, shavings, and processed pellets made from wood or other forest residues.

C. Exemptions. The following categories of equipment or processes located at an affected facility within the Baton Rouge Nonattainment Area or the Region of Influence are exempted from the provisions of this Chapter:

1. boilers and process heater/furnaces with a maximum rated capacity of less than 80 million British thermal units (MMBtu) per hour;
2. stationary gas turbines with a megawatt rating based on heat input of less than 10 megawatts (MW);
3. stationary internal combustion engines as follows:
 - a. rich-burn engines with a rating of less than 300 horsepower (Hp); and
 - b. lean-burn engines with a rating of less than 1500 Hp;

4. low ozone season capacity factor boilers and process heater/furnaces, in accordance with Subsection H.11 of this Section;

5. stationary gas turbines and stationary internal combustion engines, that are:

- a. used in research and testing;
- b. used for performance verification and testing;
- c. used solely to power other engines or turbines

during start-ups;

d. operated exclusively for fire fighting or training and/or flood control;

e. used in response to and during the existence of any officially declared disaster or state of emergency;

f. used directly and exclusively for agricultural operations necessary for the growing of crops or the raising of fowl or animals; or

- g. used as chemical processing gas turbines.

6. any point source, in accordance with Subsection H.12 of this Section, that operates less than 400 hours during the ozone season;

7. flares, incinerators, kilns and ovens as defined in Subsection B of this Section;

8. any point source during start-up and shutdown as defined in LAC 33:III.111 or during a malfunction as defined in 40 CFR section 60.2;

9. any point source used solely to start up a process;

10. any point source firing biomass fuel that supplies greater than 50 percent of the heat input on a monthly basis;

11. any point source at a sugar mill;

12. fluid catalytic cracking unit regenerators;

13. pulp liquor recovery furnaces;

14. diesel-fired stationary internal combustion engines;

15. any affected point source that is required to meet a more stringent state or federal NO_x emission limitation, whether by regulation or permit. (In this case, the monitoring, reporting, and recordkeeping requirements shall be in accordance with the more stringent regulation or permit and not this Chapter. If the applicable regulation or permit does not specify monitoring, reporting, and recordkeeping requirements, the provisions of this Chapter shall apply.);

16. wood-fired boilers that are subject to 40 CFR 60, subpart Db;

17. nitric acid production units that are subject to 40 CFR 60, subpart G or LAC 33:III.2307;

18. any affected point source firing Number 6 Fuel Oil during a period of emergency and approved by the administrative authority;

19. boilers and industrial furnaces treating hazardous waste and regulated under LAC 33:V.Chapter 30 or 40 CFR part 264, 265, or 266, including halogen acid furnaces and sulfuric acid regeneration furnaces; and

20. high efficiency boilers or other combustion devices regulated under the Toxic Substance Control Act PCB rules under 40 CFR part 761.

D. Emission Factors

1. The following table lists NO_x emission factors that shall apply to affected point sources located at affected facilities in the Baton Rouge Nonattainment Area or the Region of Influence:

NO _x Emission Factors		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Electric Power Generating System Boilers:		
Coal-fired	>= 80 MMBtu/Hour	0.21 pound/MMBtu
Number 6 Fuel Oil-fired	>= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Industrial Boilers	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Process Heater/Furnaces:		
Ammonia Reformers	>= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines	>= 10 MW	0.16 pound/MMBtu ^b
Stationary Internal Combustion Engines:		
Lean-burn	>= 1500 Hp	4g/Hp-hour
Rich-burn	>= 300 Hp	2g/Hp-hour

^a all factors are based on the higher heating value of the fuel.

^b equivalent to 42 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

2. Any electric power generating system boiler that operates with a combination of fuels shall comply with an adjusted emission factor calculated as follows:

a. if a combination of fuels is used normally, the emission factor from Subsection D.1 of this Section shall be adjusted by the weighted average heat input of the fuels based on the ozone season average usage in 2000 and 2001, or another period if approved by the department;

b. if the boiler is normally fired with a primary fuel and a secondary fuel is available for back-up, the unit shall comply with the emission factor for the primary fuel while firing the primary fuel and with the emission factor for the secondary fuel while firing the secondary fuel. In addition, the usage of the secondary fuel shall be limited to the ozone season average usage of the secondary fuel in 2000 and 2001, or another period if approved by the department; and

c. in either case, if the secondary fuel is less than 10 percent of the weighted average, the owner or operator may choose to comply with the unadjusted limit for the primary fuel.

3. For affected point sources in an electric power generating system that fire gaseous or liquid fuels, the emission factors from Subsection D of this Section shall apply as the mass of NO_x emitted per unit of heat input (pound NO_x per MMBtu), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a ton per day or a pound per hour cap provided that monitoring is installed, calibrated, maintained, and operated to demonstrate compliance with the cap. The cap for a facility or for multiple facilities under common control is calculated

by adding the products of the factor from Subsection D.1 of this Section and the averaging capacity for each affected point source as follows:

Equation D-1

$$Cap (tpd) = 0.012 \times \sum_{i=1}^N (R_{li} \times HI_i)$$

Where:

HI_i = the averaging capacity of each point source (MMBtu/hour)

i = each point source included in the cap

N = the total number of point sources included in the cap

R_{li} = the limit for each point source from Subsection D of this Section (pound NO_x/MMBtu)

4. For all other affected point sources, including those in a coal-fired electric power generating system, the emission factors from Subsection D of this Section shall apply as the mass of NO_x emitted per unit of heat input (pound NO_x per MMBtu), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a cap as detailed in Subsection D.3 of this Section provided a system, approved by the department, is installed, calibrated, maintained, and operated to demonstrate compliance.

5. If one affected point source discharges in part or in whole to another affected point source, the portion discharging into the second point source shall be treated as emanating from the second point source and shall be controlled to the same limit as that specified for the second point source, while the portion discharging directly to the atmosphere from the first point source shall be controlled to the limit of the first point source. This term shall not include a combined cycle unit that discharges into a supplemental firing unit or other type of combustion equipment. For this type of point source, the emissions shall be controlled as follows:

a. for the turbines and/or engines, at the appropriate limits for the turbines and/or engines alone; and

b. for the supplemental firing unit or other type of combustion equipment, at the appropriate limit for the supplemental firing or combustion equipment with the measured emission values adjusted for the emissions coming from the turbines and/or engines.

6. Where a common stack is used to collect vents from affected point sources or affected point sources and exempt point sources and monitoring and/or testing of individual units is not feasible, the department, upon application from the owner or operator, shall specify alternative methods to demonstrate compliance with the emission factors of this Subsection.

7. Any affected point source firing gaseous fuel that contains hydrogen and/or carbon monoxide may apply a multiplier, as calculated below, to the appropriate emission factor given in Subsection D.1 of this Section. The total hydrogen and/or carbon monoxide volume in the gaseous fuel stream is divided by the total gaseous fuel flow volume to determine the volume percent of hydrogen and/or carbon monoxide in the fuel supply. In order to apply this multiplier, the owner or operator of the affected point source shall sample and analyze the fuel gas composition for hydrogen

and/or carbon monoxide in accordance with Subsection G.5 of this Section.

Equation D-2

$$\begin{aligned} & \text{If } (\text{Vol. \% } H_2 + \text{Vol. \% } CO) = \text{or} < 50 \\ & \quad \text{Then} \\ \text{fuel multiplier} &= 1 + \frac{0.5 \times (\text{Vol. \% } H_2 + \text{Vol. \% } CO)}{100} \\ & \quad \text{Otherwise} \\ \text{fuel multiplier} &= 1.25 \end{aligned}$$

8. The owner or operator of a stationary gas turbine using a fuel that has an F factor different than 8710 dscf/MMBtu may adjust the allowable emission factor shown in Subsection D.1 of this Section. The adjustment is made by dividing the actual F factor (dscf/MMBtu) of the fuel by 8710 and multiplying the result by 0.16 to get the adjusted allowable emission factor. The use of this option shall be detailed in the permit application or in the optional compliance plan described in Subsection F.7 of this Section.

9. On a day that is designated as an Ozone Action Day by the department, a facility shall not fire an affected point source with Number 6 Fuel Oil or perform testing of emergency and training combustion units without prior approval of the administrative authority.

E. Alternative Plans

1. Facility-Wide Averaging Plan. A facility-wide averaging plan is established in this Chapter for single affected facilities and multiple affected facilities that are owned or operated by the same entity. For sources located within the Baton Rouge Nonattainment Area and the Region of Influence, an owner or operator of one or more affected facilities may use the facility-wide averaging plan as an alternative means of compliance with the emission factors from Subsection D of this Section. A request for approval to use a facility-wide averaging plan, that includes the details of the plan, shall be submitted to the department either separately or with the permit application or in the optional compliance plan described in Subsection F.7 of this Section. A facility-wide averaging plan submitted under this provision shall be approved if the department determines that it will provide emission reductions equivalent to or more than that required by the emission factors in Subsection D of this Section and the plan establishes satisfactory means for determining initial and continuous compliance, including appropriate monitoring and recordkeeping requirements. Approval of the alternative plans by the administrative authority does not necessarily indicate automatic approval by the administrator.

a. An owner or operator who elects to use a facility-wide averaging plan for compliance shall establish an emission factor for each applicable affected point source such that if each affected point source was operated at its averaging capacity, the cumulative emission factor in pounds NO_x/MMBtu from all point sources in the averaging group would not exceed the facility-wide emission factor, as shown in Equation E-3. The equations below shall be used to calculate the cumulative emission rate and the facility-wide emission factor.

$$FL = \sum_{i=1}^N (R_{li} \times f_i) \quad \text{Equation E-1}$$

Where:

$$f_i = HI_i / \sum_{i=1}^N HI_i \quad \text{Equation E-2}$$

$$\sum_{i=1}^N (R_{ai} \times f_i) \leq FL \quad \text{Equation E-3}$$

Where:

- f_i = fraction of total system averaging capacity for point source i
- HI_i = the averaging capacity of each point source (MMBtu/hour)
- i = each point source in the averaging group
- N = the total number of point sources in the averaging group
- R_{ai} = the limit assigned by the owner to each point source in the averaging plan (pound NO_x /MMBtu)
- R_{fi} = the limit for each point source from Subsection D of this Section (pound NO_x /MMBtu)
- FL = facility-wide emission factor (pound NO_x /MMBtu) of all point sources included in the averaging plan

b. An owner or operator of an electric power generating system that fires gaseous or liquid fuels and that chooses to use an averaging plan shall demonstrate compliance by either of the following methods:

i. operating such that each affected point source does not exceed its assigned individual limit in pound NO_x /MMBtu on a 30-day rolling average basis; or

ii. complying with a cap as described in Subsection D.3 of this Section, provided that a monitoring system is installed, calibrated, maintained, and operated to demonstrate compliance with the cap.

c. Owners or operators of all other affected point sources, including those in a coal-fired electric power generating system, that choose to use an averaging plan shall demonstrate compliance by either of the following methods:

i. operating such that each affected point source does not exceed its assigned individual limit in pound NO_x /MMBtu on a 30-day rolling average basis; or

ii. complying with a cap as described in Subsection D.4 of this Section, provided a system, approved by the department, is installed, calibrated, maintained, and operated to demonstrate compliance with the cap.

d. An owner or operator that chooses to use the provisions of Subsection E.1.b.i or c.i of this Section to demonstrate compliance in an averaging plan shall include in the submitted plan a description of the actions that will be taken if any under-controlled unit is operated at more than 10 percent above its averaging capacity (HI_i in Subsection E.1.a of this Section). Such actions may include a comparison of the total current emissions from all units in the averaging plan to the total emissions that would result if the units in the plan were operated in accordance with Subsection D of this Section, other reviews, reporting, and/or mitigation actions. If the department determines that the actions are not adequate to prevent an increase of emissions over the total emissions that would result if the units were operated in accordance with Subsection D of this Section, the department shall require that the averaging plan

and/or the action plan be revised or shall disallow the use of the averaging plan.

e. The owner or operator of affected point sources complying with the requirements of this Subsection can include in the plan either all of the affected point sources at the facility or select only certain sources to be included.

f. NO_x reductions accomplished after 1997 through curtailments in capacity of a point source with a permit revision or by permanently shutting down the point source may be included in the averaging plan. In order to include a unit with curtailed capacity in the averaging plan, the old averaging capacity, determined from the average of the two ozone seasons prior to the capacity curtailment or such other two-year period approved by the department, shall be used to calculate the unit's contribution to the term FL . The new averaging capacity, determined from the enforceable permit revision, shall be multiplied by the owner assigned limit to calculate the contribution of the curtailed unit to the cumulative emission factor for the averaging group.

g. NO_x reductions from exempted point sources, as defined in Subsection C of this Section, may be used in a facility-wide averaging plan. If a unit exempted in Subsection C of this Section is included in an averaging

plan, the term R_i in Equation E-1 shall be established, in accordance with Subsection G of this Section, from a stack test or other determination of emissions approved by the department that was performed before the NO_x reduction project was implemented and the term R_{ai} shall be established from the owner-assigned emission factor in accordance with Subsection E.1.a of this Section.

h. Solely for the purpose of calculating the facility-wide emission factor, the allowable emission factor (pound NO_x /MMBtu) for each affected stationary internal combustion engine is the applicable NO_x emission factor from Subsection D of this Section (g/Hp-hour) divided by the product of the engine manufacturer's rated heat rate (expressed in Btu/Hp-hour) at the engine's Hp rating and 454×10^6 .

i. The owner or operator of affected point sources complying with the requirements of this Subsection in accordance with an emissions averaging plan shall carry out recordkeeping that includes, but is not limited to, a record of the data on which the determination of each point source's hourly, daily, or 30-day, as appropriate, compliance with the facility-wide averaging plan is based.

2. Trading Plan. Trading is established in this Chapter as an alternate means of compliance with the emission factors from Subsection D of this Section. Within the Baton Rouge Nonattainment Area and the Region of Influence, trading allowances, as defined in Subsection B of this Section, may be traded between affected facilities owned by different companies in accordance with the provisions of LAC 33:III.Chapter 6. The approval to use trading shall be requested in the permit application or in the optional compliance plan described in Subsection F.7 of this Section. A trading plan submitted under this provision shall be approved if the department determines that it will provide NO_x emission reductions equivalent to or more than that required by the emission factors of Subsection D of this Section and the plan establishes satisfactory means for determining ongoing compliance, including appropriate

monitoring and recordkeeping requirements. Approval of trading plans by the administrative authority does not necessarily indicate automatic approval of the administrator.

F. Permits

1. Authorization to Install and Operate NO_x Control Equipment

a. An owner or operator may obtain approval to install and operate NO_x control equipment that does not result in ammonia emissions above the minimum emission rate (MER) in LAC 33:III.Chapter 51 by submitting documentation in accordance with LAC 33:III.511. This documentation shall include an estimate of any carbon monoxide (CO), sulfur dioxide (SO₂), particulate matter (PM₁₀), and/or volatile organic compound (VOC) emission increases associated with the NO_x control technology. If approved, the administrative authority shall grant an authorization to construct and operate in accordance with LAC 33:III.501.C.3. Any appropriate permit revision reflecting the emission reduction shall be submitted to the department and deemed administratively complete no later than 180 days after commencement of operation and in accordance with the procedures of LAC 33:III.Chapter 5.

b. In accordance with LAC 33:III.511.C, installation of NO_x control equipment that results in ammonia emissions above the MER in LAC 33:III.Chapter 51 shall not commence until a permit or permit modification has been approved by the administrative authority. In accordance with LAC 33:III.5107.D.1, the administrative authority shall provide at least 30 days for public comment before issuing any such permit.

2. Alternatively to Subsection F.1.a of this Section, an owner or operator of an affected facility that is operating with a Louisiana air permit may submit a completed permit modification application for the changes proposed to comply with this Chapter.

3. Any owner or operator with an affected facility that has retained grandfathered status, as described in LAC 33:III.501.B.6, shall submit an application in accordance with LAC 33:III.501.C.1 for the changes proposed to comply with this Chapter.

4. Duty to Supplement. In accordance with LAC 33:III.517.C, if an owner or operator has a permit application on file with the department, but the department has not released the proposed permit, the applicant shall supplement the application as necessary to address this Chapter.

5. Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Considerations. A significant net emissions increase in CO, SO₂, PM₁₀, and/or VOC in accordance with LAC 33:III.504 or 509, that is a direct result of, and incidental to, the installation of NO_x control equipment or implementation of a NO_x control technique required to comply with the provisions of this Chapter shall be exempt from the requirements of LAC 33:III.509 and/or 504, as appropriate, provided the following conditions are met:

- a. the project shall not:
 - i. cause or contribute to a violation of the national ambient air quality standard (NAAQS); or
 - ii. adversely affect visibility or other air quality related value (AQRV) in a class I area;

b. any increase in CO, SO₂, PM₁₀, and/or VOC emissions shall be:

- i. quantified in the submittal required by Subsection F.1-4 of this Section; and

- ii. tested in accordance with Subsection G of this Section, as applicable;

- c. notwithstanding the requirements of Table 1 of LAC 33:III.504, any increase of VOC emissions at an affected facility located in the Baton Rouge Nonattainment Area shall be offset at a ratio of at least 1:1. Offsets shall be surplus, permanent, quantifiable, and federally enforceable and calculated in accordance with LAC 33:III.Chapter 6; and

- d. a 30-day public comment period shall be provided in accordance with LAC 33:III.519.C prior to issuance of a permit or permit modification.

6. Increases above the MER in toxic air pollutant (TAP) emissions shall be subject to the applicable requirements of LAC 33:III.Chapter 51.

7. When pre-permit application approval of plans is desired by an owner or operator, a compliance plan may be submitted in accordance with this Subsection. The administrative authority shall approve the plan if it contains all of the required information to determine that the affected sources will be in compliance with this Chapter and is accurate. The compliance plan may address individual point sources, groups of point sources, or all point sources at the facility, as determined by the owner. The following information shall be submitted as appropriate:

- a. the facility designation, as indicated by the identification number, submitted to the Office of Environmental Services, Permits Division;

- b. a list of all units in the compliance plan, the emission point number as designated on the emission inventory questionnaire, the averaging capacity, and the maximum rated capacity;

- c. identification of all combustion units with a claimed exemption in accordance with Subsection C of this Section, and the rule basis for the claimed exemption;

- d. a list of any units that have been, or will be, curtailed or permanently shut down;

- e. for each unit, the actual emission factor that will be used to achieve compliance;

- f. the control technology to be applied for each unit subject to control, and an anticipated construction schedule for each control device including the dates for completion of engineering, submission of permit applications, start and finish of construction, and initial start-up; and

- g. the calculations to demonstrate that each unit will achieve the required NO_x emission rate.

G Initial Demonstration of Compliance

1. Emissions testing to demonstrate initial compliance with the NO_x emission factors of Subsection D of this Section, or with emission limits that are part of an alternative plan under Subsection E of this Section, for affected point sources operating with a CEMS or PEMS that has been certified in accordance with Subsection H of this Section is not required. The certification of the CEMS or PEMS shall be considered demonstration of initial compliance. Testing for initial compliance is not required for an existing CEMS or PEMS that meets the requirements of Subsection H of this Section.

2. Emissions testing is required for all point sources that are subject to the emission limitations of Subsection D of this Section or used in one of the alternative plans of Subsection E of this Section. Test results must demonstrate that actual NO_x emissions are in compliance with the appropriate limits of this Chapter. As applicable, CO, SO₂, PM₁₀, oxygen (O₂), NH₃, and VOC shall also be measured. Performance testing of these point sources shall be performed in accordance with the schedule specified in Subsection J of this Section.

3. The tests required by Subsection G.2 of this Section shall be performed by the test methods referenced in Subsection G.5 of this Section, except as approved by the administrative authority in accordance with Subsection G.7 of this Section. Test results shall be reported in the units of the applicable emission factors and for the corresponding averaging periods.

4. Emission testing conducted in the three years prior to the initial demonstration of compliance date may be used to demonstrate compliance with the limits of Subsection D or E of this Section, if the owner or operator demonstrates to the department that the prior testing meets the requirements of this Subsection. The request to waive emissions testing according to this Paragraph shall be included in the permit application. The department reserves the right to request performance testing or CEMS performance evaluation upon 60 days notice.

5. Compliance with the emission specifications of Subsection D or E of this Section for affected point sources operating without CEMS or PEMS shall be demonstrated while operating at the maximum rated capacity, or as near thereto as practicable. The stack tests shall be performed according to emissions testing guidelines located on the department website in the technology section. Three minimum one-hour tests shall be performed and the following methods from 40 CFR part 60, appendix A shall be used:

- a. Methods 1, 2, 3, and 4 or 19, with prior approval, for exhaust gas flow;
- b. Method 3A or 20 for O₂;
- c. Method 5 for PM;
- d. Method 6C for SO₂;
- e. Method 7E or 20 for NO_x;
- f. Method 10 or 10A for CO;
- g. Method 18 or 25A for VOC;
- h. modified Method 5, or a department-approved equivalent, for NH₃; and/or
- i. American Society of Testing and Materials (ASTM) Method D1945-96 or ASTM Method D2650-99 for fuel composition; ASTM Method D1826-94 or ASTM Method D3588-98 for calorific value.

6. All alternative or equivalent test methods, waivers, monitoring methods, testing and monitoring procedures, customized or correction factors, and alternatives to any design, equipment, work practices, or operational standards must be approved by both the administrative authority and the administrator, if applicable, before they become effective.

7. An owner or operator may request approval from the department for minor modifications to the test methods listed in Subsection G.5 of this Section, including alternative

sampling locations and testing a subset of similar affected sources, prior to actual stack testing.

8. The information required in this Subsection shall be provided in accordance with the effective dates in Subsection J of this Section.

H. Continuous Demonstration of Compliance. After the initial demonstration of compliance required by Subsection G of this Section, continuous compliance with the emission factors of Subsection D or E of this Section, as applicable, shall be demonstrated by the methods described in this Subsection. For any alternative method, the department's approval does not necessarily constitute compliance with all federal requirements nor eliminate the need for approval by the administrator.

1. The owner or operator of boilers that are subject to this Chapter and that have a maximum rated capacity that is equal to or greater than 80 MMBtu/hour shall demonstrate continuous compliance as follows:

a. for boilers with a maximum rated capacity less than 250 MMBtu/hour:

- i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;
- ii. install, calibrate, maintain, and operate an oxygen monitor to measure oxygen concentration; and
- iii. in order to continuously demonstrate compliance with the NO_x limits of Subsection D or E of this Section, implement procedures to operate the boiler within the fuel and oxygen limits established during the initial compliance run in accordance with Subsection G of this Section; and

b. for boilers with a maximum rated capacity equal to or greater than 250 MMBtu/hour:

- i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure gas and/or liquid fuel usage. For coal-fired boilers, belt scales or an equivalent device shall be provided;
- ii. install, calibrate, maintain, and operate a diluent (either oxygen or carbon dioxide) monitor. The monitor shall meet all of the requirements of performance specification 3 of 40 CFR 60, appendix B;
- iii. install, calibrate, maintain, and operate a NO_x CEMS to demonstrate continuous compliance with the NO_x emission factors of Subsection D or E of this Section, as applicable. The CEMS shall meet all of the requirements of 40 CFR part 60.13 and performance specification 2 of 40 CFR 60, appendix B; and

iv. install, calibrate, maintain, and operate a CO monitor. The monitor shall meet all of the requirements of performance specification 4 of 40 CFR 60, appendix B; or

v. alternatively to Subsection H.1.b.ii-iv of this Section, for demonstration of continuous compliance, the owner or operator may install, calibrate, certify, maintain, and operate a PEMS to predict NO_x, diluent (O₂ or CO₂), and CO emissions for each affected point source. As an alternative to using the PEMS to monitor diluent (O₂ or CO₂), a monitor for diluent according to Subsection H.1.b.ii of this Section or similar alternative method approved by the department may be used. The PEMS shall be certified while operating on primary boiler fuel and, separately, on any alternative fuel. The certification shall be in accordance with EPA documents, "Example Specifications and Test Procedures for Predictive Emission Monitoring Systems"

and "Predictive Emission Monitoring System to Determine NO_x and CO Emissions from an Industrial Furnace" that are located on the EPA website in the emission monitoring section, both with posting dates of July 31, 1997; or

vi. alternatively to Subsection H.1.b.ii-iv of this Section, the owner or operator may request approval from the administrator for an alternative monitoring plan that uses a fuel-oxygen operating window to demonstrate continuous compliance of NO_x and CO. The corners of the window shall be established during the initial compliance test required by Subsection G of this Section or similar testing at another time. The details for use of an alternative monitoring plan shall be submitted in the permit application or in the optional compliance plan described in Subsection F.7 of this Section. The plan shall become part of the facility permit and shall be federally enforceable.

2. The owner or operator of process heater/furnaces that are subject to this Chapter and that have a maximum rated capacity that is equal to or greater than 80 MMBtu/hour shall demonstrate continuous compliance as follows:

a. for process heater/furnaces with a maximum rated capacity less than 250 MMBtu/hour:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, calibrate, maintain, and operate an oxygen monitor to measure oxygen concentration; and

iii. in order to continuously demonstrate compliance with the NO_x limits of Subsection D or E of this Section, implement procedures to operate the process heater/furnace within the fuel and oxygen limits established during the initial compliance run in accordance with Subsection G of this Section; and

b. for process heater/furnaces with a maximum rated capacity equal to or greater than 250 MMBtu/hour:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, certify, maintain, and operate an oxygen or carbon dioxide diluent monitor in accordance with the requirements of Subsection H.1.b.ii of this Section;

iii. install, certify, maintain, and operate a NO_x CEMS in accordance with the requirements of Subsection H.1.b.iii of this Section; and

iv. install, certify, maintain, and operate a CO monitor in accordance with the requirements of Subsection H.1.b.iv of this Section; or

v. alternatively to Subsection H.2.b.ii-iv of this Section, the owner or operator may install, calibrate, certify, maintain, and operate a PEMS in accordance with the requirements of Subsection H.1.b.v of this Section; or

vi. alternatively to Subsection H.2.b.ii-iv of this Section, the owner or operator may request approval from the department for an alternative monitoring plan that uses a fuel-oxygen operating window, or other system, to demonstrate continuous compliance of NO_x and CO. The corners of the window shall be established during the initial compliance test required by Subsection G of this Section or similar testing at another time. The details for use of an alternative monitoring plan shall be submitted in the permit application or in the optional compliance plan described in Subsection F.7 of this Section. The plan shall become part of the facility permit and shall be federally enforceable.

3. The owner or operator of stationary gas turbines that are subject to this Chapter and that have a megawatt rating based on heat input that is equal to or greater than 10 MW shall demonstrate continuous compliance as follows:

a. for stationary gas turbines with a megawatt rating based on heat input less than 30 MW:

i. if the stationary gas turbine uses steam or water injection to comply with the NO_x emission factors, install, calibrate, maintain, and operate a continuous system to monitor and record the average hourly fuel and steam or water consumption and the water or steam to fuel ratio. To demonstrate continuous compliance with the appropriate emission factor, the stationary gas turbine shall be operated at the required steam-to-fuel or water-to-fuel ratio as determined during the initial compliance test; and

ii. for other stationary gas turbines, install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage. Compliance with the emission factors of Subsection D or E of this Section shall be demonstrated by operating the turbine within the fuel limits established during the initial compliance run in accordance with Subsection G of this Section and by annual testing for NO_x and CO with an approved portable analyzer; or

iii. alternatively to Subsection H.3.a.i or ii of this Section, an owner or operator may choose to comply with the requirements of Subsection H.3.b.i-iv or v of this Section to demonstrate continuous compliance with the limits of Subsection D or E of this Section; and

b. for stationary gas turbines with a megawatt rating based on heat input of 30 MW or greater:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, certify, maintain, and operate an oxygen or carbon dioxide diluent monitor in accordance with the requirements of Subsection H.1.b.ii of this Section;

iii. install, certify, maintain, and operate a NO_x CEMS in accordance with the requirements of Subsection H.1.b.iii of this Section; and

iv. install, certify, maintain, and operate a CO monitor in accordance with the requirements of Subsection H.1.b.iv of this Section; or

v. alternatively to Subsection H.3.b.ii-iv of this Section, the owner or operator may install, calibrate, certify, maintain, and operate a PEMS in accordance with the requirements of Subsection H.1.b.v of this Section; or

vi. alternatively to Subsection H.3.b.ii-iv of this Section, the owner or operator may request approval from the department for an alternative monitoring plan that complies with the provisions of Subsection H.3.a.i of this Section, if the turbine uses steam or water injection for compliance, or Subsection H.3.a.ii of this Section for other turbines. The alternative plan shall also require annual testing for NO_x and CO with an approved portable analyzer and triennial stack testing for NO_x and CO in accordance with the methods specified in Subsection G.5 of this Section. The details for use of an alternative monitoring plan shall be submitted in the permit application or in the optional compliance plan described in Subsection F.7 of this Section. The plan shall become part of the facility permit and shall be federally enforceable.

4. The owner or operator of stationary internal combustion engines that are subject to this Chapter and have a horsepower rating of 300 Hp or greater for rich-burn engines or 1500 Hp or greater for lean-burn engines shall demonstrate continuous compliance as follows:

a. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage and demonstrate continuous compliance by operating the engine within the fuel limits established during the initial compliance run and by annual testing for NO_x and CO with an approved portable analyzer and by triennial stack testing for NO_x and CO in accordance with the methods specified in Subsection G.5 of this Section; or

b. alternatively to Subsection H.4.a of this Section, an owner or operator may choose to comply with the requirements of Subsection H.3.b.i-iv or v of this Section to demonstrate continuous compliance with the limits of Subsection D or E of this Section.

5. A CEMS unit may be used to monitor multiple point sources provided that each source is sampled at least once every 15 minutes and the arrangement is approved by the department.

6. Existing instrumentation for any requirement in this Subsection shall be acceptable upon approval of the department.

7. For any affected point source that uses a chemical reagent for reduction of NO_x, a NO_x CEMS, in accordance with Subsection H.1.b.iii of this Section, and a CO monitor, in accordance with Subsection H.1.b.iv of this Section, shall be provided.

8. Boilers or process heater/furnaces covered by this Chapter that discharge through a common stack shall meet the appropriate continuous monitoring requirements of Subsection H.1 or 2 of this Section, or an alternative approved by the department.

9. The owner or operator of any affected point source firing gaseous fuel for which a fuel multiplier from Subsection D.7 of this Section is used shall sample, analyze, and record the fuel gas composition on a daily basis or on an alternative schedule approved by the administrative authority. If an owner or operator desires to use an alternative sampling schedule, he shall specify a sampling frequency in his permit application and provide an explanation for the alternative schedule. Fuel gas analysis shall be performed according to the methods listed in Subsection G.5.g of this Section, or other methods that are approved by the department. A gaseous fuel stream containing 99 percent H₂ and/or CO by volume or greater may use the following procedure to be exempted from the sampling and analysis requirements of this Subsection:

a. a fuel gas analysis shall be performed initially using the test methods in Subsection G.5.g of this Section to demonstrate that the gaseous fuel stream is 99 percent H₂ and/or CO by volume or greater; and

b. the owner or operator shall certify that the fuel composition will continuously remain at 99 percent H₂ and/or CO by volume or greater during its use as a fuel to the point source.

10. All affected point sources that rely on periodic stack testing to demonstrate continuous compliance and use a catalyst to control NO_x emissions shall be tested after each occurrence of catalyst replacement. Portable analyzers shall

be acceptable for this check. Documentation shall be maintained on-site, if practical, of the date, the person doing the test, and the test results. Documentation shall be made available for inspection upon request.

11. The owner or operator of any low ozone season capacity factor boiler or process heater/furnace for which an exemption is granted shall install, calibrate, and maintain a totalizing fuel meter, with instrumentation approved by the department, and keep a record of the fuel input for each affected point source during each ozone season. The owner or operator of any boiler or process heater/furnace covered under this exemption shall notify the administrative authority within seven days if the Btu-per-ozone season limit is exceeded. If the Btu-per-ozone season limit is exceeded, the exemption shall be permanently withdrawn. Within 90 days after receipt of notification from the administrative authority of the loss of the exemption, the owner or operator shall submit a permit modification detailing how to meet the applicable emission factor as soon as possible, but no later than 24 months, after exceeding the Btu-per-ozone season limit. Included with this permit modification, the owner or operator shall submit a schedule of increments of progress for the installation of the required control equipment. This schedule shall be subject to the review and approval of the department.

12. The owner or operator of any affected point source that is granted an exemption for operating less than 400 hours during the ozone season shall install, calibrate, and maintain a nonresettable, elapsed run-time meter to record the operating time in order to demonstrate compliance. The owner or operator shall notify the administrative authority within seven days if the hours-per-ozone season limit is exceeded. If the hour-per-ozone season limit is exceeded, the exemption shall be permanently withdrawn. Within 90 days after receipt of notification from the administrative authority of the loss of the exemption, the owner or operator shall submit a permit modification detailing how to meet the applicable emission factor as soon as possible, but no later than 24 months, after exceeding the limit. Included with this permit modification, the owner or operator shall submit a schedule of increments of progress for the installation and operation of the required control equipment. This schedule shall be subject to the review and approval of the department.

I. Notification, Recordkeeping, and Reporting Requirements

1. The owner or operator of an affected point source shall notify the department at least 30 days prior to any compliance testing conducted under Subsection G of this Section and any CEMS or PEMS performance evaluation conducted under Subsection H of this Section in order to give the department an opportunity to conduct a pretest meeting and observe the emission testing. All necessary sampling ports and such other safe and proper sampling and testing facilities as required by LAC 33:III.913, or alternatives approved by the department, shall be provided for the testing. The test report shall be submitted to the department within 60 days after completing the testing.

2. The owner or operator of an affected point source required to demonstrate continuous compliance in accordance with Subsection H of this Section shall submit a written report within 90 days of the end of each quarter to

the administrative authority for any noncompliance of the applicable emission limitations of Subsection D or E of this Section. The required information may be included in reports provided to the administrative authority to meet other requirements, so long as the report meets the deadlines and content requirements of this Paragraph. The report shall include the following information:

- a. description of the noncompliance;
- b. cause of the noncompliance;
- c. anticipated time that the noncompliance is expected to continue or, if corrected, the duration of the period of noncompliance; and
- d. steps taken to prevent recurrence of the noncompliance.

3. The owner or operator of an affected point source shall maintain records of all continuous monitoring, performance test results, hours of operation, and fuel usage rates for each affected point source. Such records shall be kept for a period of at least five years and shall be made available upon request by authorized representatives of the department. The emission monitoring (as applicable) and fuel usage records for each affected point source shall be recorded and maintained:

- a. hourly for affected point sources complying with an emission factor on an hourly basis;
- b. daily for affected point sources complying with an emission factor enforced on a daily average basis or on a 30-day rolling average basis; and
- c. monthly for affected point sources exempt from the emission specifications based on ozone season heat input or hours of operation per ozone season.

4. The owner or operator shall maintain the following records:

- a. records for a facility-wide averaging plan in accordance with Subsection E.1.i of this Section;
- b. records approved for a trading plan in accordance with Subsection E.2 of this Section; and
- c. records in accordance with Subsections H.7, 8, 9, 10, 11, and 12 of this Section.

5. Ammonia emissions resulting from the operation of a NO_x control equipment system shall be reported annually in accordance with LAC 33:III.5107.A.

J. Effective Dates

1. The owner or operator of an affected facility shall modify and/or install and bring into normal operation NO_x control equipment and/or NO_x monitoring systems in accordance with this Chapter as expeditiously as possible, but by no later than May 1, 2005.

2. The owner or operator shall complete all initial compliance testing, specified by Subsection G of this Section, for equipment modified with NO_x reduction controls or a NO_x monitoring system to meet the provisions of this Chapter within 60 days of achieving normal production rate or after the end of the shake down period, but in no event later than 180 days after initial start-up. Required testing to demonstrate the performance of existing, unmodified equipment shall be completed in a timely manner, but by no later than November 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002).

J. Dale Givens
Secretary

0203#090

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Dissolved Oxygen Criteria for Beaucoup Creek,
Middle Fork Bayou D'Arbonne,
Bayou Cocodrie, and Cocodrie Lake
(LAC 33:IX.1123)(WQ042)

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.1123.C.3.Table 3 (Log #WQ042).

The numerical dissolved oxygen criteria for two Water Quality Management Subsegments in the Ouachita Basin (Beaucoup Creek, 081503, and Middle Fork Bayou D'Arbonne, 080610) and two subsegments in the Vermillion-Teche Basin (Bayou Cocodrie, 060201, and Cocodrie Lake, 060102) are being revised. Use Attainability Analyses of these subsegments have determined that naturally dystrophic critical periods for dissolved oxygen occur during parts of each year. While these water bodies exhibit naturally occurring seasonal variations in dissolved oxygen, no changes in designated uses are proposed. As part of the Louisiana Water Quality Management Plan, the State publishes a list of priority water bodies biennially under the Clean Water Act Section 305(b). In accordance with the Clean Water Act Section 303(d), water bodies are placed on a list of priority water bodies when assessment methodology indicates that they do not meet applicable water quality standards. After further review and assessment, some of these water bodies may be prioritized for fieldwork, Use Attainability Analyses, and Total Maximum Daily Load development. Until a Use Attainability Analysis is conducted to determine attainable uses and criteria, a Total Maximum Daily Load based upon national criteria may be inappropriate for many water bodies. Beaucoup Creek (081503), Middle Fork Bayou D'Arbonne (080610), Bayou Cocodrie (060201), and Cocodrie Lake (060102) have been classified as the highest priority on Louisiana's 303(d) list. Use Attainability Analyses have been conducted for these water bodies to determine the appropriate dissolved oxygen criteria. The Use Attainability Analyses present the required information for site-specific dissolved oxygen water quality standards revisions in accordance with state and federal water quality regulations, policies, and guidance. The basis

and rationale for this Rule are to establish site-specific criteria for these subsegments developed as a result of the Use Attainability Analyses conducted for the sites.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. 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
Chapter 11. Surface Water Quality Standards
§1123. Numerical Criteria and Designated Uses

* * *

[See Prior Text In A. - C.2]

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "Designated Uses."

- AC Primary Contact Recreation
- BC Secondary Contact Recreation
- CC Propagation of Fish and Wildlife
- LC Limited Aquatic Life and Wildlife Use
- DC Drinking Water Supply
- EC Oyster Propagation
- FC Agriculture
- GC Outstanding Natural Resource Waters

Numbers in brackets, e.g. [1], refer to endnotes listed at the end of the table.

Table 3.
Numerical Criteria and Designated Uses

AC Primary Contact Recreation;
 BC Secondary Contact Recreation;
 CC Propagation Of Fish and Wildlife;
 DC Drinking Water Supply;

EC Oyster Propagation;
 FC Agriculture;
 GC Outstanding Natural Resource Waters;
 LC Limited Aquatic Life And Wildlife Use

Code	Stream Description	Designated Uses	Criteria						
			Cl	SO ₄	DO	pH	BAC	C	TDS
Atchafalaya River Basin (01)									
* * *									
[See Prior Text In 010101 – 050901]									
Vermilion-Teche River Basin (06)									
* * *									
[See Prior Text In 060101]									
060102	Cocodrie Lake	A B C	10	5	^[19]	6.0-8.5	1	32	100
060201	Bayou Cocodrie C From U.S. Hwy. 167 to the Bayou Boeuf C Cocodrie Diversion Canal (Scenic)	A B C G	45	35	^[19]	6.0-8.5	1	32	100
* * *									
[See Prior Text In 060202 – 070601]									
Ouachita River Basin (08)									
* * *									
[See Prior Text In 080101-080609]									
080610	Middle Fork of Bayou D'Arbonne C From origin to Bayou D'Arbonne Lake (Scenic)	A B C G	50	15	^[20]	6.0-8.5	1	32	200
* * *									
[See Prior Text In 080701 – 081502]									
081503	Beaucoup Creek C Headwaters to Castor Creek	A B C	25	25	^[21]	6.0-8.5	1	32	100
* * *									
[See Prior Text In 081504-120806]									

Endnotes:

* * *

[See Prior Text In [1] – [18](c)]

^[19] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/l November-March, 3.5 mg/l April-October.

^[20] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/l October-June, 3 mg/l July-September.

^[21] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/l October-June, 2.5 mg/l July-September.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074.B.(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002).

James H. Brent, Ph.D.
 Assistant Secretary

0203#063

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Incorporation by Reference of 40 CFR 68
(LAC 33:III.5901)(AQ223*)

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.5901 (Log #AQ223*).

This Rule is identical to federal regulations found in 40 CFR Part 68, July 1, 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 Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

This Rule incorporates by reference into LAC 33:III.5901 the corresponding federal regulations in 40 CFR Part 68, July 1, 2000. In order that Louisiana can maintain equivalency with the U.S. Environmental Protection Agency (EPA) for this Part, new federal regulations, along with current federal regulations, must be updated and adopted into the LAC. This rulemaking satisfies that requirement. This incorporation by reference of 40 CFR Part 68 is being done to keep Louisiana's Air Regulations current with their federal counterparts. The basis and rationale for this Rule are to maintain equivalency with the federal regulations.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972. 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 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, 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 26:2272 (October 2000), LR 28:463 (March 2002).

James H. Brent, Ph.D.
Assistant Secretary

0203#055

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

LPDES Phase II Streamlining
(LAC 33:IX.Chapter 23)(WP041*)

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., has amended the Water Quality regulations, LAC 33:IX.Chapter 23 (Log #WP041*).

This Rule is identical to federal regulations found in 65 FR 30886-30913, Number 94, May 15, 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 Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

The Rule will streamline the LPDES program in the state regulations in accordance with the streamlining efforts of the EPA. This Rule will eliminate redundant regulatory language, provide clarification, and remove or streamline unnecessary procedures that do not provide any environmental benefits. This Rule is necessary to maintain the federal authorization of the LPDES program. 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.(2) 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**

**Chapter 23. The LPDES Program
Subchapter A. Definitions and General Program
Requirements**

§2311. Purpose and Scope

- A. Scope of the LPDES Permit Requirement
 1. The LPDES program requires permits for the discharge of pollutants from any point source into waters of the state. The terms pollutant, point source, and waters of the state are defined in LAC 33:IX.2313.
 2. The permit program established under LAC 33:IX.Chapter 23.Subchapters A-D also applies to owners or operators of any treatment works treating domestic sewage, whether or not the treatment works is otherwise required to obtain an LPDES permit in accordance with Paragraph A.1 of this Section, unless all requirements

implementing Section 405(d) of the CWA applicable to the treatment works treating domestic sewage are included in a permit issued under the appropriate provisions of Subtitle C of the Solid Waste Disposal Act, Part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under state permit programs approved by the administrator as adequate to assure compliance with section 405 of the CWA.

3. The state administrative authority may designate any person subject to the standards for sewage sludge use and disposal as a treatment works treating domestic sewage as defined in LAC 33:IX.2313, where he or she finds that a permit is necessary to protect public health and the environment from the adverse effects of sewage sludge or to ensure compliance with the technical standards for sludge use and disposal developed under CWA Section 405(d). Any person designated as a treatment works treating domestic sewage shall submit an application for a permit under LAC 33:IX.2331 within 180 days of being notified by the state administrative authority that a permit is required. The state administrative authority's decision to designate a person as a treatment works treating domestic sewage under this Paragraph shall be stated in the fact sheet or statement of basis for the permit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:463 (March 2002).

§2313. Definitions

A. The following definitions apply to LAC 33:IX.Chapter 23.Subchapters A-G. Terms not defined in this Section have the meaning given by the CWA.

[See Prior Text]

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

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

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

[See Prior Text]

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

[See Prior Text]

*Bypass*Cthe intentional diversion of waste streams from any portion of a treatment facility.

[See Prior Text]

*Concentrated Animal Feeding Operation*Can animal feeding operation that meets the criteria in LAC 33:IX.Chapter 23.Appendix B, or that the state administrative authority designates under LAC 33:IX.2335.C.

*Concentrated Aquatic Animal Production Facility*Ca hatchery, fish farm, or other facility that meets the criteria in LAC 33:IX.Chapter 23.Appendix C, or that the state administrative authority designates under LAC 33:IX.2337.C.

[See Prior Text]

*Municipal Separate Storm Sewer System*Ca defined at LAC 33:IX.2341.B.4 and 7.

[See Prior Text]

*Publicly Owned Treatment Works (POTW)*Ca treatment works, as defined by Section 212 of the Act, that is owned by a state or municipality [as defined by Section 502(4) of the Act]. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality, as defined in Section 502(4) of the Act, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

[See Prior Text]

*Silvicultural Point Source*Ca defined at LAC 33:IX.2343.B.1.

[See Prior Text]

*Sludge-Only Facility*Ca any treatment works treating domestic sewage whose methods of sewage sludge use or disposal are subject to regulations promulgated in accordance with Section 405(d) of the CWA, and is required to obtain a permit under LAC 33:IX.2311.A.2.

[See Prior Text]

*Storm Water*Cstorm water runoff, snow melt runoff, and surface runoff and drainage.

*Storm Water Discharge Associated With Industrial Activity*Ca defined at LAC 33:IX.2341.B.14.

[See Prior Text]

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

[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 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:722 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2755 (December 2000), LR 28:464 (March 2002).

§2317. Prohibitions

* * *

[See Prior Text in A-A.9.a]

b. the existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards. The state administrative authority may waive the submission of information by the new source or new discharger required by this Paragraph if the state administrative authority determines that the state administrative authority already has adequate information to evaluate the request. An explanation of the development of limitations to meet the criteria of this Paragraph is to be included in the fact sheet to the permit under LAC 33:IX.2445.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:465 (March 2002).

Subchapter B. Permit Application and Special LPDES Program Requirements

§2331. Application for a Permit

A. Duty to Apply

1. Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR Part 503, and who does not have an effective permit, except persons covered by general permits under LAC 33:IX.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, must submit a complete application 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 A.2-G.6]

7. Effluent Characteristics

a. Information on the discharge of pollutants specified in this Subparagraph (except information on storm water discharges that is to be provided as specified in LAC 33:IX.2341). When quantitative data for a pollutant are required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136 (See LAC 33:IX.2531). When no analytical method is approved, the applicant may use any suitable method, but must provide a description of the method. When an applicant has two or more outfalls with substantially identical effluents, the state administrative authority may allow the applicant to test only one outfall and report that the quantitative data also apply to the substantially identical outfall. The requirements in Subparagraph G.7.f and g of this Section that an applicant must provide quantitative data for certain pollutants known or believed to be present do not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. For all other pollutants,

24-hour composite samples must be used. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours. In addition, for discharges other than storm water discharges, the state administrative authority may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that the minimum of four grab samples will be a representative sample of the effluent being discharged.

b. Storm Water Discharges. For storm water discharges, all samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area. For all applicants, a flow-weighted composite shall be taken for either the entire discharge or for the first three hours of the discharge. The flow-weighted composite sample for a storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of 15 minutes (applicants submitting permit applications for storm water discharges under LAC 33:IX.2341.D may collect flow weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots, subject to the approval of the state administrative authority). However, a minimum of one grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than 24 hours. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required. For storm water discharge samples, taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first 30 minutes (or as soon thereafter as practicable) of the discharge for all pollutants specified in LAC 33:IX.2341.C.1. For all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants specified in LAC 33:IX.2341 except pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. The state administrative authority may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples under 40 CFR Part 136 (see LAC 33:IX.2531), and additional time for submitting data on a case-by-case basis. An applicant is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility.)

c. Reporting Requirements. Every applicant must report quantitative data for every outfall for the following pollutants:

- i. biochemical oxygen demand (BOD₅);
- ii. chemical oxygen demand;
- iii. total organic carbon;
- iv. total suspended solids;
- v. ammonia (as N);
- vi. temperature (both winter and summer); and
- vii. pH.

d. The state administrative authority may waive the reporting requirements for individual point sources or for a particular industry category for one or more of the pollutants listed in Subparagraph G.7.c of this Section if the applicant has demonstrated that such a waiver is appropriate because information adequate to support issuance of a permit can be obtained with less stringent requirements.

e. Each applicant with processes in one or more primary industry category (see Appendix A of this Chapter) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

i. the organic toxic pollutants in the fractions designated in Appendix D, Table I of this Chapter for the applicant's industrial category or categories unless the applicant qualifies as a small business under Paragraph G.8 of this Section. Appendix D, Table II of this Chapter lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure that uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes. [See Notes 2 and 3 of this Section.]

ii. the pollutants listed in Appendix D, Table III of this Chapter (the toxic metals, cyanide, and total phenols).

f.i. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in Appendix D, Table IV of this Chapter (certain conventional and nonconventional pollutants) are discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged that is not so limited in an effluent limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

ii. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants listed in Appendix D, Table II or III of this Chapter (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under Subparagraph G.7.e of this Section, are discharged from each outfall. For every pollutant expected to be discharged in concentrations of 10 ppb or greater the applicant must report quantitative data. For acrolein, acrylonitrile, 2,4-dinitrophenol, and 2-methyl-4,6-dinitrophenol, where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or greater the applicant must report quantitative data. For every pollutant expected to be discharged in concentrations less

than 10 ppb, or in the case of acrolein, acrylonitrile, 2,4-dinitrophenol, and 2-methyl-4,6-dinitrophenol, in concentrations less than 100 ppb, the applicant must either submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged. An applicant qualifying as a small business under Paragraph G.8 of this Section is not required to analyze for pollutants listed in Appendix D, Table II of this Chapter (the organic toxic pollutants).

g. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in Appendix D, Table V of this Chapter (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.

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

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

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

8. Small Business Exemption. An applicant that qualifies as a small business under one of the following criteria is exempt from the requirements in Clause G.7.e.i or f.i of this Section to submit quantitative data for the pollutants listed in Appendix D, Table II of this Chapter (the organic toxic pollutants):

* * *

[See Prior Text in G.8.a - O]

NOTE 1: At 46 FR 2046, Jan. 8, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21(g)(7)(v)(A) (and the department hereby suspends LAC 33:IX.2331.G.7.e.i) and the corresponding portions of Item V-C of the NPDES (and LPDES) application Form 2C as they apply to coal mines. This revision continues that suspension.¹

NOTE 2: At 46 FR 22585, Apr. 20, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21(g)(7)(v)(A) (and the department hereby suspends LAC 33:IX.2331.G.7.e.i) and the corresponding portions of Item V-C of the NPDES (and LPDES) application Form 2C as they apply to:

* * *

[See Prior Text in Note 2.a - c]

This revision continues that suspension.¹

NOTE 3: At 46 FR 35090, July 1, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21(g)(7)(v)(A) (and the department hereby suspends LAC 33:IX.2331.G.7.e.i) and the corresponding portions of Item V-C of the NPDES (and LPDES) application Form 2C as they apply to:

* * *

[See Prior Text in Note 3.a - 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.

* * *

[See Prior Text in P - Q.15]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002).

§2333. Signatories to Permit Applications and Reports

[See Prior Text in A - A.1.a]

b. the manager of one or more manufacturing, production, or operating facilities, provided: the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to ensure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and the authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

NOTE: The department does not require specific assignments or delegations of authority to responsible corporate officers identified in Subparagraph A.1.a of this Section. The agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the state administrative authority to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under Subparagraph A.1.b of this Section rather than to specific individuals.

[See Prior Text in A.2 - 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 28:467 (March 2002).

§2335. Concentrated Animal Feeding Operations

[See Prior Text in A]

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

[See Prior Text in C - 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 28:467 (March 2002).

§2337. Concentrated Aquatic Animal Production Facilities

[See Prior Text in A]

B. Reserved.

[See Prior Text in C - C.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 28:467 (March 2002).

§2339. Aquaculture Projects

[See Prior Text in A]

B. Definitions

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002).

§2341. Storm Water Discharges

[See Prior Text in A - B.7.b]

c. owned or operated by a municipality other than those described in Subparagraph B.7.a or b of this Section and that are designated by the state administrative authority as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under Subparagraph B.7.a or b of this Section. In making this determination the state administrative authority may consider the following factors:

[See Prior Text in B.7.c.i. - B.12]

13. Reserved.

[See Prior Text in B.14. - C]

1. Individual Application. Dischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit, or any discharge of storm water that the

state administrative authority is evaluating for designation (see LAC 33:IX.2443.C) under Subparagraph A.1.e of this Section, and are not a municipal separate storm sewer shall submit an LPDES application in accordance with the requirements of LAC 33:IX.2331 as modified and supplemented by the provisions of this Paragraph.

[See Prior Text in C.1.a - a.v.(c)]

(d). any information on the discharge required under LAC 33:IX.2331.G.7.f and g;

[See Prior Text in C.1.a.v.(e) - (f)]

vi. operators of a discharge that is composed entirely of storm water are exempt from the requirements of LAC 33:IX.2331.G.2, 3, 4, 5, and 7.c, d, e, and h; and

[See Prior Text in C.1.a.vii - D.1.d.iv]

(a). a grid system consisting of perpendicular north-south and east-west lines spaced one-fourth mile apart shall be overlaid on a map of the municipal storm sewer system, creating a series of cells;

[See Prior Text in D.1.d.iv.(b) - 2.b]

c. Characterization Data. When quantitative data for a pollutant are required under Subclause D.2.c.i.(c) of this Section, the applicant must collect a sample of effluent in accordance with LAC 33:IX.2331.G.7 and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136 (see LAC 33:IX.2531). When no analytical method is approved, the applicant may use any suitable method, but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including:

[See Prior Text in D.2.c.i - d.iii.(a)]

(b). describe a monitoring program for storm water discharges associated with the industrial facilities identified in Subsection D.2.d.iii of this Section, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing LPDES permit for a facility; oil and grease, COD, pH, BOD₅, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under LAC 33:IX.2331.G.7.f and g.

[See Prior Text in D.2.d.iv - G.4.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 LR 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2552 (November 2000), repromulgated LR 27:40 (January 2001), amended LR 28:467 (March 2002).

§2345. General Permits

A. Coverage. The state administrative authority may issue a general permit in accordance with the following:

1. Area. The general permit shall be written to cover one or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under Subparagraph A.2.b of this Section, except those covered by individual permits, within a geographic area. The area shall correspond to existing geographic or political boundaries, such as:

[See Prior Text in A.1.a - g]

2. Sources. The general permit may be written to regulate one or more categories or subcategories of discharges, sludge use, disposal practices, or facilities, within the area described in Paragraph A.1 of this Section, where the sources within a covered subcategory of discharges are either:

- a. storm water point sources; or
- b. one or more categories or subcategories of point sources other than storm water point sources, or one or more categories or subcategories of treatment works treating domestic sewage, if the sources or treatment works treating domestic sewage within each category or subcategory all:

[See Prior Text in A.2.b.i - v]

3. Water Quality-Based Limits. Where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed in accordance with LAC 33:IX.2361, the sources in that specific category or subcategory shall be subject to the same water quality-based effluent limitations.

4. Other Requirements

a. The general permit must clearly identify the applicable conditions for each category or subcategory of dischargers or treatment works treating domestic sewage covered by the permit.

b. The general permit may exclude specified sources or areas from coverage.

B. Administration

1. In General. General permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of 40 CFR Part 124 or corresponding state regulations. Special procedures for issuance are found at 40 CFR 123.44 for states.

[See Prior Text in B.2 - 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 26:2276 (October 2000), LR 26:2553 (November 2000), LR 28:468 (March 2002).

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]

1. Definitions

Severe Property Damage—substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

[See Prior Text in M.2 - 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 by the Water Pollution Control Division, LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000), LR 28:468 (March 2002).

§2359. Establishing Permit Conditions

[See Prior Text in A]

B.1. For a state issued permit, an applicable requirement is a state statutory or regulatory requirement that takes effect prior to final administrative disposition of a permit. For a permit issued by EPA, an applicable requirement is a statutory or regulatory requirement (including any interim final regulation) that takes effect prior to the issuance of the permit. LAC 33:IX.2423 for the state and 40 CFR 124.14 for EPA (reopening of comment period) provides a means for reopening permit proceedings at the discretion of the state administrative authority when new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. For state-administered and EPA-administered programs, an applicable requirement is also any requirement that takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in LAC 33:IX.2383.

[See Prior Text in B.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 28:469 (March 2002).

§2361. Establishing Limitations, Standards, and Other Permit Conditions

A.1. Technology-based effluent limitations and standards based on effluent limitations and standards promulgated under Section 301 of the CWA or new source performance standards promulgated under Section 306 of the CWA, on case-by-case effluent limitations determined under Section 402(a)(1) of the CWA, or on a combination of the three, in accordance with LAC 33:IX.2469. For new sources or new dischargers, these technology-based limitations and

standards are subject to the provisions of 40 CFR 122.29(d) (protection period).

2. Monitoring Waivers for Certain Guideline-Listed Pollutants

a. The state administrative authority may authorize a discharger subject to technology-based effluent limitations guidelines and standards in a LPDES permit to forego sampling of a pollutant found in LAC 33:IX.2533 if the discharger has demonstrated through sampling and other technical factors that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

b. This waiver is good only for the term of the permit and is not available during the term of the first permit issued to a discharger.

c. Any request for this waiver must be submitted when applying for a reissued permit or modification of a reissued permit. The request must demonstrate through sampling or other technical information, including information generated during an earlier permit term, that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

d. Any grant of the monitoring waiver must be included in the permit as an express permit condition and the reasons supporting the grant must be documented in the permit's fact sheet or statement of basis.

e. This provision does not supersede certification processes and requirements already established in existing effluent limitations guidelines and standards.

[See Prior Text in B.1 - 2]

C. Reopener Clause. For any permit issued to a treatment works treating domestic sewage (including sludge-only facilities), the state administrative authority shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under Section 405(d) of the CWA. The state administrative authority may promptly modify or revoke and reissue any permit containing the reopener clause required by this Subsection if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit or controls a pollutant or practice not limited in the permit.

[See Prior Text in D - D.9]

E. Technology-Based Controls for Toxic Pollutants. Limitations established under Subsection A, B, or D of this Section, to control pollutants meeting the criteria listed in Paragraph E.1 of this Section. Limitations will be established in accordance with Paragraph E.2 of this Section. An explanation of the development of these limitations shall be included in the fact sheet under LAC 33:IX.2445.A.2.a.i.

1. Limitations must control all toxic pollutants that the state administrative authority determines (based on information reported in a permit application under LAC 33:IX.2331.G.7 or in a notification under LAC 33:IX.2357.A.1 or on other information) are or may be discharged at a level greater than the level that can be

achieved by the technology-based treatment requirements appropriate to the permittee under LAC 33:IX.2469.C; or

[See Prior Text in E.2 - J.3]

K. Best management practices (BMPs) to control or abate the discharge of pollutants when:

[See Prior Text in K.1 - 2]

- 3. numeric effluent limitations are infeasible; or
- 4. the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA and the LEQA.

NOTE: Additional technical information on BMPs and the elements of BMPs is contained in the following documents: Guidance Manual for Developing Best Management Practices (BMPs), October 1993, EPA No. 833/B-93-004, NTIS No. PB 94-178324, ERIC No. W498; Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, September 1992, EPA No. 832/R-92-005, NTIS No. PB 92-235951, ERIC No. N482; Storm Water Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-001, NTIS No. PB 93-223550, ERIC No. W139; Storm Water Management for Industrial Activities; Developing Pollution Prevention Plans and Best Management Practices, September 1992; EPA No. 832/R-92-006, NTIS No. PB 92-235969, ERIC No. N477; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-002, NTIS No. PB 94-133782, ERIC No. W492. Copies of these documents (or directions on how to obtain them) can be obtained by contacting either the Office of Water Resource Center (using the EPA document number as a reference) at (202) 260-7786 or the Educational Resources Information Center (ERIC) (using the ERIC number as a reference) at (800) 276-0462. Updates of these documents or additional BMP documents may also be available. A list of EPA BMP guidance documents is available on the Office of Water Management Home Page at <http://www.epa.gov/owm>. In addition, states may have BMP guidance documents. These EPA guidance documents are listed here only for informational purposes; they are not binding and EPA does not intend that these guidance documents have any mandatory regulatory effect by virtue of their listing in this note.

[See Prior Text in L - P]

Q. Navigation. Any conditions that the secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired, in accordance with 40 CFR 124.59.

[See Prior Text in R - R.2]

S. In addition to the conditions established under LAC 33:IX.2359.A, each LPDES permit shall include conditions meeting the requirements in Subsections A - R of this Section, when applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), LR 26:2764 (December 2000), LR 28:469 (March 2002).

§2363. Calculating LPDES Permit Conditions

[See Prior Text in A - G.5]

H. Internal Waste Streams

1. When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by LAC 33:IX.2361.I shall also be applied to the internal waste streams.

[See Prior Text in H.2 - 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 26:2554 (November 2000), LR 28:470 (March 2002).

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.

1. Causes for Modification. The following are causes for modification but not revocation and reissuance of permits except when the permittee requests or agrees.

a. Alterations. There are material and substantial alterations or additions to the permitted facility or activity (including a change or changes in the permittee's sludge use or disposal practice) that occurred after permit issuance that justify the application of permit conditions that are different or absent in the existing permit.

NOTE: Certain reconstruction activities may cause the new source provisions of 40 CFR 122.29 to be applicable.

b. Information. The state administrative authority has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For LPDES general permits (LAC 33:IX.2345) this cause includes any information indicating that cumulative effects on the environment are unacceptable. For new source or new discharger LPDES permits (LAC 33:IX.2331, 40 CFR 122.29), this cause shall include any significant information derived from effluent testing required under LAC 33:IX.2331.K.5.f or H.4.c after issuance of the permit.

c. New Regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

i. for promulgation of amended standards or regulations, when:

(a) the permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA approved or promulgated water quality standards, or the secondary treatment regulations under LAC 33:IX.Chapter 23.Subchapter S; and

(b) EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit condition was based, or has approved a state action with regard to a water quality standard on which the permit condition was based; and

(c) a permittee requests modification in accordance with LAC 33:IX.2407 within 90 days after *Federal Register* notice of the action on which the request is based;

ii. for judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the permittee in accordance with LAC 33:IX.2407 within 90 days of judicial remand;

iii. for changes based upon modified state certifications of NPDES permits, see 40 CFR 124.55(b).

d. Compliance Schedules. The state administrative authority determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. However, in no case may an LPDES compliance schedule be modified to extend beyond an applicable CWA statutory deadline. See also LAC 33:IX.2385 (minor modifications) and Subparagraph A.1.n of this Section (LPDES innovative technology).

e. When the permittee has filed a request for a variance under CWA Section 301(c), 301(g), 301(h), 301(i), 301(k), or 316(a) or for fundamentally different factors within the time specified in LAC 33:IX.2331 or 40 CFR 125.72(a).

f. 307(a) Toxics. When required to incorporate an applicable CWA section 307(a) toxic effluent standard or prohibition (see LAC 33:IX.2361.B).

g. Reopener. When required by the reopener conditions in a permit, which are established in the permit under LAC 33:IX.2361.C (for CWA toxic effluent limitations and standards for sewage sludge use or disposal, see also LAC 33:IX.2361.B) or 2719.E (pretreatment program).

h.i. Net Limits. Upon request of a permittee who qualifies for effluent limitations on a net basis under LAC 33:IX.2363.G.

ii. When a discharger is no longer eligible for net limitations, as provided in LAC 33:IX.2363.G.1.b.

i. Pretreatment. As necessary under LAC 33:IX.2715.E (compliance schedule for development of pretreatment program).

j. Failure to Notify. Upon failure of an approved state to notify, as required by the CWA Section 402(b)(3), another state whose waters may be affected by a discharge from the approved state.

k. Non-Limited Pollutants. When the level of discharge of any pollutant that is not limited in the permit exceeds the level that can be achieved by the technology-based treatment requirements appropriate to the permittee under LAC 33:IX.2469.C.

l. Notification Levels. To establish a notification level as provided in LAC 33:IX.2361.F.

m. Compliance Schedules. To modify a schedule of compliance to reflect the time lost during construction of an innovative or alternative facility, in the case of a POTW that has received a grant under Section 202(a)(3) of the CWA for 100 percent of the costs to modify or replace facilities constructed with a grant for innovative and alternative wastewater technology under Section 202(a)(2) of the CWA. In no case shall the compliance schedule be modified to extend beyond an applicable CWA statutory deadline for compliance.

n. For a small MS4, to include an effluent limitation requiring implementation of a minimum control measure or measures as specified in LAC 33:IX.2349.B when:

i. the permit does not include such measure(s) based upon the determination that another entity was responsible for implementation of the requirement(s); and

ii. the other entity fails to implement measure(s) that satisfy the requirement(s).

o. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions.

p. When the discharger has installed the treatment technology considered by the permit writer in setting effluent limitations imposed under Section 402(a)(1) of the CWA and has properly operated and maintained the facilities but nevertheless has been unable to achieve those effluent limitations. In this case, the limitations in the modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by a subsequently promulgated effluent limitations guideline).

q. Reserved

r. Land Application Plans. When required by a permit condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise an existing land application plan, or to add a land application plan.

2. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

a. cause exists for termination under LAC 33:IX.2387 or 2769, and the state administrative authority determines that modification or revocation and reissuance is appropriate;

b. the state administrative authority has received notification (as required in the permit, see LAC 33:IX.2355.L.3) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (LAC 33:IX.2381.B) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

3. Upon modification or revocation and reissuance of a permit for a privately-owned sewage treatment facility regulated by the Public Service Commission, the permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W, unless a waiver or exemption has been granted under R.S. 30:2075.2.A.(6).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2283 (October 2000), LR 27:45 (January 2001), LR 28:470 (March 2002).

§2387. Termination of Permits

[See Prior Text in A - A.5]

B. The state administrative authority shall follow the applicable procedures in 40 CFR Part 124 or state procedures in terminating any LPDES permit under this Section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the state administrative authority may terminate the permit by notice to the permittee. Termination by notice shall be effective 30 days after notice is sent, unless the permittee objects within that time. If the permittee objects during that period, the state administrative authority shall follow 40 CFR Part 124 or applicable state procedures for termination. Expedited permit termination procedures are not available to permittees that are subject to pending state and/or federal enforcement actions, including citizen suits brought under state or federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending state or federal enforcement actions, including citizen suits brought under state or federal law.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:472000 (March 2002).

Subchapter E. General Program Requirements

§2403. Definitions

A. In addition to the definitions given in LAC 33:IX.2313 and 40 CFR 123.2 (LPDES) and 501.2

(sludge management), the definitions below apply to LAC 33:IX.Chapter 23.Subchapters E-G

Administrator—the administrator of the U.S. Environmental Protection Agency, or an authorized representative.

Application—the standard forms for applying for a permit, including any additions, revisions, or modifications to the forms or forms approved by EPA for use in approved states, including any approved modifications or revisions.

Appropriate Act and Regulations—the Clean Water Act (CWA) and applicable regulations promulgated under those statutes. In the case of an approved state program, appropriate Act and regulations includes program requirements.

CWA—the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act of Federal Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217 and Pub. L. 95-576; 33 U.S.C. 1251 et seq.

[See Prior Text]

State Administrative Authority—the chief administrative officer of any state, interstate, or tribal agency operating an approved program, or the delegated representative of the state administrative authority.

[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 Office of Environmental Assessment, Environmental Planning Division, LR 28:472 (March 2002).

§2407. Modification, Revocation and Reissuance, or Termination of Permits

[See Prior Text in A - B.3]

C.1. If the state administrative authority tentatively decides to terminate a permit under LAC 33:IX.2387.A or 2769 (for EPA-issued NPDES permits, only at the request of the permittee) or a permit under LAC 33:IX.2387.B (where the permittee objects), he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit that follows the same procedures as any draft permit prepared under LAC 33:IX.2409.

2. In the case of EPA-issued permits, a notice of intent to terminate or a complaint shall not be issued if the regional administrator and the permittee agree to termination in the course of transferring permit responsibility to an approved state under 40 CFR 123.24(b)(1) (NPDES) or 40 CFR 501.14(b)(1) (sludge). In addition, termination of an NPDES permit for cause in accordance with LAC 33:IX.2387.B may be accomplished by providing written notice to the permittee, unless the permittee objects.

[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 21:945 (September 1995), amended LR 23:725 (June 1997), LR 23:1524 (November 1997), amended by the Office of the Secretary, LR

25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:472 (March 2002).

§2415. Public Notice of Permit Actions and Public Comment Period

* * *

[See Prior Text in A - D.1.f]

g. for LPDES permits only (including those for sludge-only facilities), a general description of the location of each existing or proposed discharge point, the name of the receiving water, the sludge use and disposal practice(s), the location of each sludge treatment works treating domestic sewage, and use or disposal sites known at the time of permit application. For EPA-issued NPDES permits only, if the discharge is from a new source, a statement as to whether an environmental impact statement will be or has been prepared;

* * *

[See Prior Text in D.1.h - 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 26:2554 (November 2000), LR 28:473 (March 2002).

§2423. Reopening of the Public Comment Period

* * *

[See Prior Text in A.1 - C]

D. Public notice of any of the above actions shall be issued under LAC 33:IX.2415.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:473 (March 2002).

§2425. Issuance and Effective Date of Permit

A. After the close of the public comment period under LAC 33:IX.2415 on a draft permit, the state administrative authority shall issue a final permit decision. The state administrative authority shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on an LPDES permit. For the purposes of this Section a final permit decision means a final decision to issue, deny, modify, or revoke and reissue, or terminate a permit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:473 (March 2002).

**Subchapter F. Specific Decisionmaking Procedures
Applicable to LPDES Permits**

§2445. Fact Sheets

A. In addition to meeting the requirements of LAC 33:IX.2413, LPDES fact sheets shall contain:

1. any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions

or standards for sewage sludge use or disposal, including a citation to the applicable effluent limitation guideline, performance standard, or standard for sewage sludge use or disposal as required by LAC 33:IX.2317 and reasons why they are applicable or an explanation of how the alternate effluent limitations were developed;

2.a. when the draft permit contains any of the following conditions, an explanation of the reasons why such conditions are applicable:

i. limitations to control toxic pollutants under LAC 33:IX.2361.E;

ii. limitations on internal waste streams under LAC 33:IX.2363.I;

iii. limitations on indicator pollutants under LAC 33:IX.2469.G;

iv. limitations set on a case-by-case basis under LAC 33:IX.2469.C.2 or 3, or in accordance with Section 405(d)(4) of the CWA;

v. limitations to meet the criteria for permit issuance under LAC 33:IX.2317.A.9; or

vi. waivers from monitoring requirements granted under LAC 33:IX.2361.A;

b. for every permit to be issued to a treatment works owned by a person other than a state or municipality, an explanation of the state administrative authority's decision on regulation of users under LAC 33:IX.2361.M;

3. when appropriate, a sketch or detailed description of the location of the discharge or regulated activity described in the application;

4. for EPA-issued NPDES permits, the requirements of any state certification under 40 CFR 124.53; and

5. for permits that include a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), a brief description of how each of the required elements of the land application plan are addressed in the permit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:473 (March 2002).

Subchapter K. Criteria and Standards for Determining Fundamentally Different Factors under Sections 301(b)(1)(A), 301(b)(2)(A), and (E) of the Act

§2505. Method of Application

A. Written request for a variance under this Subchapter shall be submitted in duplicate to the state administrative authority in accordance with LAC 33:IX.2331.L.1 and LAC 33:IX.2405.

* * *

[See Prior Text in B - B.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:473 (March 2002).

Subchapter P. Criteria and Standards for Best Management Practices Authorized under Section 304(e) of the Act Reserved

[See Prior Text]

Pretreatment Requirements Cany substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

Significant Industrial User

[See Prior Text in A. Significant Industrial User.a - Editorial Note]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

§2733. Bypass

A. Definitions

Severe Property Damage Csubstantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

[See Prior Text in B - D.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 28:474 (March 2002).

James H. Brent, Ph.D.
Assistant Secretary

0203#056

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**UST Registration Requirements
(LAC 33:XI.301 and 303)(UT009)**

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 Underground Storage Tanks regulations, LAC 33:XI.301 and 303 (Log #UT009).

The Rule revises the current regulations to require all owners of new underground storage tanks (UST) systems to register such tanks on the Underground Storage Tanks Registration Form (UST-REG-01) at least 30 days prior to bringing such tanks into use. The certification of installation form, UST Registration of Technical Requirements (UST-REG-02), will no longer be required to be submitted at the same time as the registration form. The Rule requires that this form be submitted within 60 days after the introduction of a regulated substance. (Note that the form names have

§2560. Effective Date

Repealed.

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 23:199 (February 1997), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

§2561. Purpose and Scope

Repealed.

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), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

§2563. Definition

Repealed.

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), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

§2565. Applicability of Best Management Practices

Repealed.

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), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

§2567. Permit Terms and Conditions

Repealed.

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), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

§2569. Best Management Practices Programs

Repealed.

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), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

Subchapter T. General Pretreatment Regulations for Existing and New Sources of Pollution

§2705. Definitions

A. For purposes of this Subchapter, except as discussed below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this regulation.

changed.) This Rule amends the Underground Storage Tanks Regulations to correct the existing problem with registration of new UST systems. The current regulations prohibit the placing of a regulated substance into an unregistered UST. The regulations currently require that in order to register a new UST, both the Registration of Underground Storage Tanks (UST-REG-01) form and the Registration of Technical Requirements for USTs (UST-REG-02) form be submitted within 30 days of bringing the tanks into use. This has caused a problem since the Registration of Technical Requirements for USTs form cannot be completed until a tank tightness test has been performed, which requires that the tank be filled with fuel. Therefore, the Regulations are being revised to allow registration of a UST by completing the UST-REG-01 form 30 days before bringing a UST into use. This would be followed by submission of the UST-REG-02 form 60 days after fuel has been dropped in the UST and the tank can be certified as tight. The basis and rationale for this Rule are to allow fuel to be dropped into a UST for the purpose of tank tightness testing without violating the UST regulations.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY**

Part XI. Underground Storage Tanks

**Chapter 3. Registration Requirements, Standards,
and Fee Schedule**

§301. Registration Requirements

[See Prior Text in A. - A.3]

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, at least 30 days before bringing such tanks into use, register them on an *Underground Storage Tank Registration Form* (UST-REG-01). 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.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194.

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 26:2558 (November 2000), LR 28:475 (March 2002).

§303. Standards for UST Systems

[See Prior Text in A. - A.4.b.i.(e)]

ii. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over installation critical junctures (as defined in LAC 33:XI.1303) of an UST system is certified in accordance with LAC 33:XI.Chapter 13. To demonstrate compliance with Subparagraph A.4.a of this Section, all owners and operators must provide a certification of

compliance on the *UST Registration of Technical Requirements Form* (UST-REG-02) within 60 days of the introduction of any regulated substance. Forms shall be filed with the Office of Environmental Services, Permits Division.

[See Prior Text in A.4.c - B.5.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194.

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 26:2558 (November 2000), LR 28:475 (March 2002).

James H. Brent, Ph.D.
Assistant Secretary

0203#062

RULE

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Certification Requirements for Basic Correctional Officers
(LAC 22:III.4703)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice has amended rules and regulations relative to the training of peace officers.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND
LAW ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice**

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4703. Basic Certification

A. All full-time peace officers, as defined in R.S. 40:2402, shall complete a basic training course as prescribed and certified by the Council on Peace Officers Standards and Training (POST Council). Reserve or part-time officers or military police officers stationed in Louisiana may be eligible for certification if they successfully complete a basic training course prescribed for full-time peace officers and pass the POST statewide examination. There are three levels of POST certification.

1. ...

2. Level 2 Certification for Basic Correctional Peace Officer

a. The student will complete a training course with a minimum of 218 hours and is limited to those peace officers whose duties are the care, custody, and control of inmates. The training course consists of the ACA core curriculum plus a sufficient number of hours to obtain POST certification. POST Firearm certification for Level 2 students is required (Effective March 26, 2001).

b. Correctional peace officers with Level 2 certification must meet the POST firearms requirements for annual requalification as outlined in §4721.B and §4721.C.

A.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 28:475 (March 2002).

Michael A. Ranatza
Executive Director

0203#059

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

**EPO Plan of Benefits C Claims Filing Deadline
(LAC 32:V.405)**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to the deadline for filing claims. The reason for this action is to provide a uniform, 12-month deadline from the date of service for filing claims.

Accordingly, OGB has amended the following Rule to become effective July 1, 2002.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 4. Uniform Provisions

§405. When Claims Must be Filed

A. A claim for benefits must be received by the program within one year from the date on which the medical expenses were incurred.

B. The receipt date for electronically filed claims is the date on which the program receives the claim, not the date on which the claims is submitted to a clearinghouse or to the providers practice management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:476 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#076

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

**EPO Plan of Benefits C Deductible, Services not Otherwise
Subject to Co-Payment (LAC 32:V.701)**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document to implement a deductible for services other than physician office visits. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of OGB and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Because this Rule implements a calendar year deductible, effective July 1, the deductible for the period July 1 - December 31, 2002 will be one-half the calendar year deductible amount.

Accordingly, OGB has amended the following Rule, effective July 1, 2002.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 7. Schedule of Benefits C EPO

§701 Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

	PPO/Non Participating Provider	EPO
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Lifetime Maximum for all Benefits except Outpatient Prescription Drug Benefits per person ...		
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person ...		

1. Deductibles:

Inpatient deductible per day, maximum of 5 days per Admission (waived for admissions at PPO hospitals) ...		
Emergency room charges for each visit unless the Covered Person is hospitalized immediately following emergency room treatment (prior to and in addition to Calendar Year deductible) ...		
Professional and other eligible expenses, Employees and Dependents of Employees, per person, per Calendar Year ...		

Family Unit maximum (3 individual deductibles)
Professional and other eligible expenses, Retirees and Dependents of Retirees, per person, per Calendar Year ...

Family Unit maximum (3 individual deductibles)

Professional and other eligible expenses, not otherwise subject to co-payment, per person, per Calendar Year \$300
Family Unit maximum (3 individual deductibles)

A.2. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:717, 719 (May 2001), LR 27:1886 amended by the Office of the Governor, Division of Administration, Office of Group Benefits, (November 2001), LR 28:476 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#078

RULE

Office of the Governor Division of Administration Office of Group Benefits

EPO Plan of Benefits C Legal Limitations, Administrative Claims Review (LAC 32:V.409 and Chapter 5)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to review of initial claims determinations and the time for initiating legal action against OGB. The reason for this action is to modify claims review procedures in light of statutory changes effected by Act 1178 of 2001.

Accordingly, OGB has amended the following Rule to become effective upon promulgation:

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 4. Uniform Provisions

§409. Legal Limitations

A. A Plan Member must exhaust the Administrative Claims Review procedure before filing a suit for benefits. No action shall be brought to recover benefits under this plan more than one year after the time a claim is required to be filed or more than 30 days after mailing of the notice of

decision of the Administrative Claims Committee, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, IR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002).

Chapter 5. Administrative Claims Review

NOTE: This section establishes and explains the procedures for review of benefit and eligibility decisions by the Program.

§501. Administrative Claims Review

A. The Covered Person may request from the Program a review of any claim for benefits or eligibility. The written request must include the name of the Covered Person, member number, the name of the patient, the name of the provider, dates of service and should clearly state the reasons for the appeal.

B. The request for review must be directed to Attention: Administrative Claims Review within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review organization or prescription benefits manager

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002).

§503. Review and Appeal Prerequisite to Legal Action

A. The Covered Person must exhaust the Administrative Claims Review procedure before filing a suit for benefits. Unless a request for review is made, the initial determination becomes final, and no legal action may be brought to attempt to establish eligibility or to recover benefits allegedly payable under the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002).

§505. Administrative Claims Committee

A. The CEO will appoint an Administrative Claims Committee (the committee) to consider all such requests for review and to ascertain whether the initial determination was made in accordance with the Plan Document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002).

§507. Administrative Claims Review Procedure and Decisions

A. Review by the Committee shall be based upon a documentary record which includes:

1. all information in the possession of the Program relevant to the issue presented for review;

2. all information submitted by the Covered Person in connection with the request for review; and

3. any and all other information obtained by the Committee in the course of its review.

B. Upon completion of the review the Committee will render its decision which will be based on the Plan Document and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the Covered Person and any representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002).

§509. Procedure for Hearing Appeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002).

§511. Subpoena of Witness; Production of Documents

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002).

§513. Appeals Decisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002).

§515. Rehearing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002).

§517. Judicial Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#074

RULE

Office of the Governor Division of Administration Office of Group Benefits

EPO Plan of Benefits CSleep Studies (LAC 32:V.301)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to sleep studies. The reason for this action is to enhance member access to accredited facilities for sleep studies.

Accordingly, OGB has amended the following Rule, effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Medical Benefits Apply when Eligible Expenses are Incurred by a Covered Person

A.1. - 30. ...

31.a. testing of sleep disorders only when the tests are performed at either:

i. a sleep study facility accredited by the American Sleep Disorders Association or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or

ii. a sleep study facility located within a healthcare facility accredited by JCAHO.

b. No benefits are payable for surgical treatment of sleep disorders (including LAUP) except following demonstrated failure of non-surgical treatment and upon approval by the program.

32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1810 (October 1999), amended by the Office of the Governor, Division of Administrator, Office of Group Benefits, LR 28:478 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#077

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

**PPO Plan of Benefits CClaims Filing Deadline
(LAC 32:III.405)**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to the deadline for filing claims. The reason for this action is to provide a uniform, 12-month deadline from the date of service for filing claims.

Accordingly, OGB has amended the following Rule, effective July 1, 2002.

**Title 32
EMPLOYEE BENEFITS**

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 4. Uniform Provisions

§405. When Claims Must be Filed

A. A claim for benefits must be received by the program within one year from the date on which the medical expenses were incurred.

B. The receipt date for electronically filed claims is the date on which the program receives the claim, not the date on which the claims is submitted to a clearinghouse or to the providers practice management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1836 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:479 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#073

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

**PPO Plan of Benefits CLegal Limitations,
Administrative Claims Review
(LAC 32:III.409, 501, 503, 505, 507; and 509-517)**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits

authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to review of initial claims determinations and the time for initiating legal action against OGB. The reason for this action is to modify claims review procedures in light of statutory changes effected by Act 1178 of 2001.

Accordingly, OGB has amended the following Rule, effective upon promulgation.

**Title 32
EMPLOYEE BENEFITS**

Part III. Exclusive Provider (PPO) Plan of Benefits

Chapter 4. Uniform Provisions

§409. Legal Limitations

A. A Plan Member must exhaust the Administrative Claims Review procedure before filing a suit for benefits. No action shall be brought to recover benefits under this plan more than one year after the time a claim is required to be filed or more than thirty days after mailing of the notice of decision of the Administrative Claims Committee, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1836 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:479 (March 2002).

Chapter 5. Administrative Claims Review

NOTE: This section establishes and explains the procedures for review of benefit and eligibility decisions by the Program.

§501. Administrative Claims Review

A. The Covered Person may request from the Program a review of any claim for benefits or eligibility. The written request must include the name of the Covered Person, member number, the name of the patient, the name of the provider, dates of service and should clearly state the reasons for the appeal.

B. The request for review must be directed to Attention: Administrative Claims Review, within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review organization or prescription benefits manager

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:479 (March 2002).

§503. Review and Appeal Prerequisite to Legal Action

A. The Covered Person must exhaust the Administrative Claims Review procedure before filing a suit for benefits. Unless a request for review is made, the initial determination becomes final, and no legal action may be brought to attempt to establish eligibility or to recover benefits allegedly payable under the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), amended by the

Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:479 (March 2002).

§505. Administrative Claims Committee

A. The CEO will appoint an Administrative Claims Committee (the Committee) to consider all such requests for review and to ascertain whether the initial determination was made in accordance with the Plan Document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

§507. Administrative Claims Review Procedure and Decisions

A. Review by the Committee shall be based upon a documentary record which includes:

1. all information in the possession of the Program relevant to the issue presented for review;
2. all information submitted by the Covered Person in connection with the request for review; and
3. any and all other information obtained by the Committee in the course of its review.

B. Upon completion of the review the Committee will render its decision which will be based on the Plan Document and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the Covered Person and any representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

§509. Procedure for Hearing Appeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

§511. Subpoena of Witnesses; Production of Documents

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

§513. Appeals Decisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

§515. Rehearing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

§517. Judicial Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#072

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO Plan of Benefits CSleep Studies (LAC 32:III.301)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to sleep studies. The reason for this action is to enhance member access to accredited facilities for sleep studies.

Accordingly, OGB has amended the following Rule, effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses are Incurred by a Covered Person

A.1. - 30. ...

31.a. testing of sleep disorders only when the tests are performed at either:

i. a sleep study facility accredited by the American Sleep Disorders Association or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or

ii. a sleep study facility located within a healthcare facility accredited by JCAHO.

b. No benefits are payable for surgical treatment of sleep disorders (including LAUP) except following

demonstrated failure of non-surgical treatment and upon approval by the program.

32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#075

RULE

**Office of the Governor
Division of Administration
Property Assistance Agency**

Items of Property to be Inventoried
(LAC 34:VII.307)

In accordance with the R.S. 49:950 et seq., the Division of Administration, Louisiana Property Assistance Agency, has amended LAC 34:VII.307. The Items of Property to be Inventoried Rules will have no known impact on family formation, stability, and autonomy as set forth in R.S. 39:321.

Title 34

**GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL**

Part VII. Property Control

Chapter 3. State Property Inventory

§307. Items of Property to be Inventoried

A. All items of moveable property having an "original" acquisition cost, when first purchased by the state of Louisiana, of \$1000 or more, all gifts and other property having a fair market value of \$1000 or more, and all weapons, regardless of cost, with the exception of items specifically excluded in §307.E, must be placed on the statewide inventory system. The term "moveable" distinguishes this type of equipment from equipment attached as a permanent part of a building or structure. The term "property" distinguishes this type of equipment from "supplies" with supplies being consumable through normal use in no more than one year's time. All acquisitions of qualified items must be tagged with a uniform state of Louisiana identification tag approved by the commissioner of administration and all pertinent inventory information must be forwarded to the Louisiana Property Assistance Agency director or his designee within 60 calendar days after receipt of these items. In instances when equipment must be installed and/or tested before acceptance by the agency, the calendar days will begin upon official acceptance by the agency.

B - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:321 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Control, LR 2.228 (August 1976), amended 8:277 (June 1982), amended by the Office of the Governor, Division of Administration, Louisiana Property

Assistance Agency, LR 15:832 (October 1989), LR 18:1256 (November 1992), LR 28:481 (March 2002).

Irene C. Babin
Director

0203#053

RULE

**Office of the Governor
Office of Financial Institutions**

Banks (LAC 10:III.701-703)

Under the authority of the Louisiana Banking Law, R.S. 6:1, et seq., and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner has amended the following Rule providing for Directors' Examination Requirements.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES, AND UCC**

Part III. Banks

Chapter 7. Directors' Examination Requirements

§701. General Provisions

A. Introduction. R.S. 6:290, 6:793, and 6:1310, amended by Act Number 530 of the 2001 Legislative Session, requires at least once in each year every state bank, savings bank, and savings and loan association (each hereafter referred to as "institution") to cause its books, records, and accounts to be examined in accordance with a Regulation promulgated by the Commissioner of the Office of Financial Institutions. This examination is called the annual directors' examination and constitutes the institution's annual external audit program. The annual external audit program must be conducted in accordance with the requirements prescribed in this Rule.

B. Board of Directors Responsibilities. The board of directors of an institution is responsible for determining how to best obtain reasonable assurance that the institution's financial statements and regulatory reports are prepared in accordance with appropriate accounting and regulatory standards. In this regard, the board is also responsible for ensuring that its annual external auditing program is appropriate based on the size and complexity of the institution and includes an evaluation of all significant risk. To help ensure the adequacy of internal controls and accuracy of financial reporting, the board of directors is required to establish and elect an audit committee of not less than three members, a majority of which should be outside directors.

C. Audit Committee Responsibilities. The audit committee shall secure and oversee the annual external audit program required by this Rule. The committee shall require that a written report be presented to the board of directors and documented in the board minutes.

D. Scope. This Rule does not apply to all institutions regulated by the Office of Financial Institutions.

1. Institutions not subject to this Rule include the following.

a. Those institutions with total assets of \$500 million or more. These institutions must comply with federal banking law annual external audit requirements, which are

more stringent than the annual external audit options provided in this Rule.

b. Those institutions that have been insured by the Federal Deposit Insurance Corporation (FDIC) for a period of less than four years. These institutions are required to obtain annual financial audits performed by an independent public accountant.

c. Those institutions that are under some type of enforcement action that requires an annual external audit program more stringent than the policy statement options.

2. Institutions subject to this Rule include the following (must meet all three criteria):

a. those institutions with less than \$500 million in total assets at the beginning of their fiscal year; and

b. which have been insured by the Federal Deposit Insurance Corporation (FDIC) for more than three years; and

c. which are under no contractual or enforcement actions that would require an annual external audit program more stringent than the options contained in Subsection E of this Rule.

E. Acceptable Types of Annual External Audit Programs. The types of annual external audit programs included in the Federal Regulatory Agencies' Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations (Policy Statement) will meet the requirements of this Rule. The Policy Statement provides for the following four types of annual external audit programs:

1. a financial statement audit performed by an independent public accountant;

2. a balance sheet audit performed by an independent public accountant;

3. a report by an independent public accountant on an institution's internal control structure over financial reporting;

4. an agreed-upon procedures or state-required examination report.

F. Auditor Qualifications

1. If an institution's audit committee secures any of the types of annual external audit programs listed in Paragraphs E.1-3, the annual external audit program, as well as reports issued, must be performed by independent public accountants that have experience with financial institution accounting and auditing or similar expertise, are knowledgeable about relevant laws and regulations, and comply with the accounting, auditing, and other professional standards referred to in the Policy Statement.

2. If an audit committee selects the type of annual external audit program listed in Paragraph E.4, the annual external audit program, as well as reports issued, must be performed by either independent public accountants or qualified independent auditors. These individuals must have experience with financial institution accounting and auditing or similar expertise, are knowledgeable about relevant laws and regulations, and comply with the accounting, auditing, and other professional standards established for the professional designations they hold.

G. Annual Reporting Period. The annual external audit program shall cover a maximum of a 12-month period of operations. Each subsequent annual report shall have the same ending period as the prior year report for comparison purposes, unless the institution obtains prior written permission from the commissioner to change its reporting

date. The preferable time to schedule the performance of an annual external audit program is as of an institution's fiscal year-end. However, a quarter-end that coincides with a regulatory report date provides similar benefits. Therefore, an institution may choose either alternative as an acceptable reporting period for the annual external audit program, provided that same reporting date is used for future filings.

H. Due Date and Reporting Requirements. Within 120 days after the end of its fiscal year or quarter-end date that coincides with a regulatory report date for which the institution chooses as its annual reporting date, unless the institution obtains prior written permission from the commissioner to extend this date, each institution shall file with the commissioner two copies of the following:

1. the report, including all opinions and footnotes, if applicable, presented in connection with the type of annual external audit program selected by the audit committee and presented to the board of directors;

2. any management letters issued by the individual or firm that conducted the annual external audit services; and

3. management's response to any management letters issued.

I. Holding Company Subsidiaries. If an institution is owned by another entity such as a holding company and the group's consolidated financial statements for the same period are audited, the subsidiary institution is not required to obtain a separate audit of its financial statements provided the audit scope includes substantive testing of the subsidiary's financial records and activities. If the auditing firm considers the subsidiary institution's activities to be immaterial to the financial statements of the consolidated entity, the audit committee of the subsidiary institution shall obtain additional audit coverage that meets one of the four alternative annual external audit programs listed in Subsection E.

J. Due Date and Reporting Requirements for Consolidated Financial Statements. If an institution is included in an audited consolidated financial statement and the audit scope for the consolidated statement meets the requirements of Subsection I, within 120 days after the end of its fiscal year or period for which the consolidated financial statements are presented, unless the institution obtains prior written permission from the commissioner to extend this date, the institution shall submit two copies of the following:

1. the consolidated audited financial statements, which shall include the accountant's report, financial statements, and all footnotes;

2. consolidating worksheets for the balance sheet and statement of income that separately break out all entities within the consolidation on a separate basis;

3. any management letters issued by the individual or firm that conducted the annual external audit services; and

4. management's response to any management letters issued.

K. Multiple Institutions Included in a Consolidated Audited Financial Statement. If more than one institution is included in a consolidated audited financial statement, only two copies of the information listed in Subsection J should be submitted, with a cover letter identifying all institutions covered by the reports submitted. This information must be submitted to the commissioner of financial institutions

within 120 days after the end of the fiscal year or period for which the consolidated financial statements are presented, unless the institution obtains prior written permission from the commissioner to extend this date.

L. Requirements for a Written Engagement Letter. The audit committee shall obtain a written engagement letter from an independent accountant or individual performing services, before such services are performed. The engagement letter shall include a description of all services to be performed, as well as any additional contractual conditions agreed to between the institution and the provider of the services.

M. Access to Examination Workpapers

1. Management shall provide the independent public accountant or other individuals that perform the annual external audit program access to all examination reports and written communication between the institution and the federal agencies or state bank commissioner since the last annual external auditing activity.

2. All independent public accountants and independent internal auditors that perform any of the types of annual external audit programs listed in Subsection E shall agree in the engagement letter to grant all authorized state and federal examiners access to all workpapers and other materials pertaining to the institution prepared in the course of performing the annual external audit program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:290, 6:793 and 6:1310.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:17 (January 1990), repealed and repromulgated by the Office of the Governor, Office of Financial Institutions, LR 28:481 (March 2002).

§702. Definitions

Agreed-Upon Procedures/State Required Examination Report Cthe fourth type of annual external audit program allowable under the Federal Regulatory Agencies' Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations. If an audit committee chooses this type of annual external audit program, the audit program must be performed in compliance with a policy statement issued by the commissioner.

Annual Directors' Examination Can annual examination of an institution's books, records, and accounts that must be:

1. the responsibility of and performed under the direction of the audit committee of the board of directors;
2. one of the types of audit programs permitted in this Rule;
3. performed by individuals that meet the requirements stated in this Rule;
4. summarized in a written report that is presented to the board of directors; and
5. submitted to the commissioner of the office of financial institutions and the FDIC, along with copies of management letters and management's response, within the time frames established in this Rule.

Federal Regulatory Agencies CThe Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS). These agencies cooperatively issue interagency policy statements.

Immediate Family Members Can individual's spouse, minor children and any children, including adult children, residing in the individual's home.

Independent Internal Auditor Ca qualified internal auditor that is, in fact, independent as defined in the Standards for the Professional Practice of Internal Auditing by the Institute of Internal Auditors and/or the Statements of Principle and Standards for Internal Auditing in the Banking Industry by the Bank Administration Institute.

1. An internal auditor will not be considered independent if, for example:

- a. he/she is employed by or accountable to anyone other than the board of directors of the institution or holding company, if applicable;
- b. his/her performance is evaluated by, and salary and annual bonus are set by anyone other than the board of directors of the institution, or holding company if applicable;
- c. his/her duties consist of non-audit responsibilities within the institution or holding company;
- d. he/she has any proprietary interest in any partnership, firm or corporation which controls the institution, directly or indirectly, except that he or she may own and/or have a beneficial interest (including any shares of a retirement and/or incentive plan) of up to a maximum of 1 percent of the total outstanding shares of the institution or holding company which employs the internal auditor;
- e. he/she has any loan (including any overdrafts, cash items, unposted items, drawing against uncollected funds, or any other such items) to or from the institution or holding company or any officer, director, or principal stockholder thereof. This latter prescription does not apply to the following loans from a financial institution, if they are free from classification by bank regulatory authorities, and made under normal lending procedures, terms and requirements:
 - i. automobile loans and leases collateralized by the automobile;
 - ii. loans secured by the surrender value of an insurance policy;
 - iii. loans fully collateralized by cash deposits at the same institution;
 - iv. credit cards and cash advances on checking accounts with an aggregate unpaid balance of \$5,000 or less, provided that these are obtained from a financial institution under its normal lending procedures, terms, and requirements and are at all times kept current as to all terms;
- f. he/she is a member of the immediate family of an officer, director, attorney, or employee of the institution or holding company.

2. The aforementioned examples are not to be construed as all-inclusive criteria in judging the independence of an internal auditor, as other conditions may also contribute to the lack of independence. It is the responsibility of the board of directors to determine if there are any unusual relationships or affiliations, which the internal auditor may have with the institution and to have any questions as to his or her independence resolved before he or she proceeds with the examination. Any unusual relationships shall be disclosed to the Commissioner of the Office of Financial Institutions.

Independent Public Accountant Can accountant who is independent of the institution and registered or licensed to practice, and holds himself or herself out as a public accountant, and who is in good standing under the laws of the state or political subdivision of the United States in which the home office of the institution is located. The independent public accountant must comply with the American Institute of Certified Public Accountants' (AICPA) Code of Professional Conduct and any related guidance adopted by the Independence Standards Board and the agencies. No certified public accountant or public accountant will be recognized as independent if he/she is not independent both in fact and in appearance.

Outside Director Cmembers of an institution's board of directors who:

1. are not officers, employees, or principal stockholders (as defined below) of the institution, its subsidiaries, or its affiliates; or

2. are not immediate family members of officers, employees, principal stockholders of the institution, its subsidiaries, or its affiliates; or

3. do not have any material business dealings with the institution, its subsidiaries, or its affiliates.

Policy Statement Cthe Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations issued by the Federal Regulatory Agencies.

Principal Stockholder Cany person that, directly or indirectly or acting through or in concert with one or more persons, owns, controls, or has the authority to vote more than twenty percent of any class of voting securities of the financial institution or its parent company. Voting securities owned or controlled by a member of a person's immediate family are considered held by that person.

Qualified Independent Internal Auditor Can internal auditor that meets the "independent internal auditor" definition in this subsection who is a duly registered certified public accountant in good standing under the laws of this state, a certified internal auditor, a chartered bank auditor, or an individual that has functioned as an internal auditor in financial institutions for a minimum period of two years that recognizes and adheres to the rules of conduct and personal standards established for the professional designation(s) he or she holds. Any certified public accountant functioning as an internal auditor must adhere to the rules of conduct and standards applicable to the CPA in practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:290, 6:793 and 6:1310.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR. 28:483 (March 2002).

§703. Minimum Standards for Director's Examination Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:290, 6:793 and 6:1310.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:17 (January 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 28:484 (March 2002).

If any provisions or item of this Regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the

Regulation which can be given effect without the invalid provisions, item, or application.

John D. Travis
Commissioner

0203#082

RULE

**Office of the Governor
Office of Financial Institutions**

**Collection Agency Examination
(LAC 10:XV.505)**

Under the authority of R.S. 9:3576.4 and Senate Concurrent Resolution 65 of the 2001 Regular Session of the Louisiana Legislature, and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner has adopted the following Rule which establishes the parameters of collection agency examinations by the Office of Financial Institutions.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER
CREDIT, INVESTMENT SECURITIES, AND UCC
Part XV. Other Regulated Entities**

**Chapter 5. Debt Collection Agencies
Subchapter A. Examinations**

§505. Parameters

A. Section 3576.2 of the Collection Agency Regulation Act, ("CARA"), R.S. 9:3576.1 et seq., empowers the Commissioner of Financial Institutions ("Commissioner") to regulate the licensing, operations, and practices of collection agencies and debt collectors to protect the welfare of the citizens of the State of Louisiana. R.S. 9:3576.5.D authorizes the Commissioner to examine the books, records, and accounts of all persons regulated by CARA. The Commissioner possesses the power to clarify, by rule, the parameters of the examinations performed by the Office of Financial Institutions. Those parameters include the examination of any and all of the records required to determine compliance with the CARA. Licensees are to maintain records in compliance with rules promulgated by the Commissioner. The Commissioner is further authorized to establish policies and procedures for the examination of in-state and out-of-state collection agencies and debt collectors; such policies and procedures may be modified from time to time to assure compliance with CARA.

AUTHORITY NOTE: Promulgated in accordance with R. S. 9:3576.4 and Senate Concurrent Resolution 65 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 28:484 (March 2002).

If any provision or item of this Rule, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the Rule which can be given effect without the invalid provisions, items, or applications.

John D. Travis
Commissioner

0203#081

RULE

**Office of the Governor
Real Estate Commission**

**Change of Licensing Status
(LAC 46:LXVII.1507)**

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Commission has amended LAC 46:LXVII.Chapter 15. The amendment defines the terms and conditions under which the post licensing education requirement must be completed by inactive licensees in order to transfer a license to active status.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Chapter 15. Transfers and Terminations

§1507. Change of Licensing Status

A. - B. ...

C. Any licensee transferring to inactive status without fulfilling his/her post licensing requirement will be required to complete the 30-hour post licensing course prior to transferring his/her license to active status.

D. The 30-hour post licensing course can be used to satisfy the continuing education or a portion of the continuing education required for transfer to active status as follows:

1. one to three years of inactive statusC30 hours of post licensing in lieu of the required 20 hours of continuing education. Any licensee remaining in the inactive status for more than one year will also be required to complete a four-hour continuing education course covering the Louisiana Real Estate License Law and Commission Rules and Regulations within one-year prior to the date of the transfer to active status;

2. three to five years of inactive statusC30 hours of post licensing and at least 10 hours of continuing education that includes a four-hour course covering the Louisiana Real Estate License Law and Commission Rules and Regulations. This four-hour course must be completed within one year prior to the date of the transfer to active status;

3. more than five years of inactive statusC30 hours of post licensing and at least 50 hours of continuing education that includes a four-hour course covering the Louisiana Real Estate License Law and Commission Rules and Regulations. This four-hour course must be completed within one year prior to the date of the transfer to active status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41, (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:485 (March 2002).

Julius C. Willie
Executive Director

0203#084

RULE

**Office of the Governor
Real Estate Commission**

**Post Licensing EducationC Eligibility of Courses, Vendor
Advertisement, and Continuing Education on an Individual
Basis (LAC 46:LXVII.5515, 5535, and 5539)**

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Real Estate Commission has amended LAC 46:LXVII.Chapter 55. The amendments are relative to real estate post licensing and continuing education vendors and serve to (1) require that post licensing courses be open to all licensees; (2) prohibit salesperson preclicensing educational credit for attendance at continuing education and/or post licensing courses; (3) allow broker preclicensing credit for attendance at certain continuing education and/or post licensing courses; and (4) remove the mandatory vendor code number from real estate school advertising guidelines.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

**Chapter 55. Real Estate Post Licensing and
Continuing Education Vendors**

§5515. Eligibility of Courses

A. Post Licensing

1. Approved post licensing courses must be open to all licensees subject to post licensing requirements, regardless of broker affiliation. Each course acceptable for credit toward fulfillment of the 30-hour post licensing requirements for salespersons or brokers must be a minimum of 4 hours in length and require passage of an examination on course contents as conditions for receiving a post licensing certificate.

A.2. - 3. ...

4. Approved real estate schools shall not grant preclicensing educational credit to students enrolled in a salesperson preclicensing educational course for attendance at any continuing education and/or post licensing education course(s) presented by the school for real estate licensees.

5. Approved real estate schools, which present broker preclicensing educational courses separate from salesperson preclicensing courses, may request approval from the commission for continuing education or post licensing credit for real estate licensees, if the course meets applicable post licensing and/or continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:485 (March 2002).

§5535. Advertisement

A. All advertisements by approved vendors shall state the exact name of the vendor as registered with the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:485 (March 2002).

§5539. Post Licensing and Continuing Education on an Individual Basis

A. - B. ...

C. The commission may approve, on a limited basis, courses offered by entities not registered as approved vendors with the commission. Such approvals may be granted to no more than three specific locations per approval, per non-registered vendor and shall be limited to two approvals per non-registered vendor within a one year period. Non-registered vendors requesting approval beyond this limit will be required to submit an application and receive approval as an approved vendor to be eligible to offer additional courses for post licensing and/or continuing education credit. Entities requesting approval under this provision shall comply with specific application and reporting procedures required by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:486 (March 2002).

Julius C. Willie
Executive Director

0203#065

RULE

**Office of the Governor
Real Estate Commission**

Real Estate Schools
(LAC 46:LXVII.5305, 5323, and 5329)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Real Estate Commission has amended 46:LXVII.Chapter 53. The amendments (1) update the content requirements for real estate prelicense courses; (2) establish the content and delivery methods for distance education courses; (3) provide for equivalent credit hours; and (4) remove the mandatory certificate of authority number from real estate school advertising guidelines.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Chapter 53. Real Estate Schools

§5305. Prelicensing Courses C Course Content and Delivery Method

A. The commission shall require certified real estate schools to meet content requirements established by the commission in courses offered for salesperson and broker prelicensing credits.

B. ...

1. Real Estate 101C90 hour course in real estate principles/practices, Louisiana Real Estate License Law, Commission Rules and Regulations, Law of Agency and Civil Law pertaining to real estate licensees;

2. Real Estate 201C90 hour basic real estate fundamentals review for broker applicants;

3. Real Estate 202C30 hour course on Louisiana License Law, Rules and Regulations of the Commission, Law of Agency and Louisiana Civil Law pertaining to real estate licensees;

B.4. - C. ...

D. In addition to traditional in-class prelicensing course offerings, the commission may approve prelicensing courses offered through distance education delivery methods. As used in this Chapter, a distance education delivery method is defined as internet-based instruction in which instruction takes place in other than a classroom setting, the instructor and the student are in physically separate locations, and interactive instructional methods are provided. The commission will approve only those courses through distance education delivery methods that are Internet-based instruction. Each course must meet the following standards:

1. be certified by the Association of Real Estate License Law Officials (ARELLO);

2. provide interactive instruction and teach to mastery;

3. provide a structured learning method that includes major units, clear objectives, modules of instruction, quantitative criteria, diagnostic assessments and remediations;

4. meet the content requirements and equivalent hours required by the commission for in-class presentations;

5. be offered by a Louisiana state certified real estate school;

6. college and university academic credit distance learning courses, if part of a college or university credit curriculum, must be individually approved by the commission, but may use course delivery methods not limited to the Internet.

E. Prior to submitting an application to the commission for approval of prelicensing education courses via Internet-based distance education, the school must apply for and receive approval of the method of course delivery for the proposed course from the Association of Real Estate License Law Officials (ARELLO). Only those courses that meet the commission's standards for course content and equivalent hours will be granted approval by the commission. After receiving approval from ARELLO, the school must file an application with the commission and include the complete application as filed with ARELLO.

F. Loss of ARELLO certification for a prelicensing course offered via Internet-based education will automatically suspend commission approval of this course.

G. As used in this Chapter, interactive means the course structure and technologies promote active student involvement with the course content, including the ability to:

1. access or bypass optional content, if applicable;

2. submit questions or answer test items, and receive direct feedback; and

3. communicate with the instructor and/or other students on an immediate or reasonably delayed basis. Interactive instruction specifically excludes courses that only provide passive delivery of instructional content.

H. Colleges and university academic credit courses for distance learning will not be required to be ARELLO approved if part of a college or university curriculum. Any other distance learning courses offered to the general public outside of a curriculum program must be ARELLO approved.

I. As used in this Chapter, college or university is defined as one who offers at least a two-year degree approved by the Louisiana Board of Regents or equivalent regulatory body in any other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:486 (March 2002).

§5323. Certificates of CompletionC Classroom or Equivalent Hours

A. Each real estate school shall provide an individual certificate of completion or comparable completion verification to each student only upon successful completion of a course of study. Such verification shall include student name, date of completion, course level, number of hours or equivalent hours completed, and shall be signed by the school director or an authorized designee.

B. - D. ...

E. Equivalent hours, as used in this Chapter, means the time required for the average student to master the required content in a prelicensing course of instruction through an approved internet-based distance education course that is equivalent to the in-class prelicensing course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:487 (March 2002).

§5329. School Advertising

A. Advertising by certified schools shall be clear, concise and accurate. All advertisements shall be in the name of the real estate school as certified by the commission.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:487 (March 2002).

Julius C. Willie
Executive Director

0203#083

RULE

Department of Health and Hospitals Board of Nursing and Board of Medical Examiners

Authorized Practice
(LAC 46:XLVII.4513)

In accordance with the provisions of the Administrative Procedure Act, R.S.49:950 et seq., the Board of Nursing (board) and the Board of Medical Examiners pursuant to the authority vested in the board by R.S.37:918 (12) and 37:1031-1035, has amended the Professional and Occupational Standards pertaining to the authorized practice of Advanced Practice Registered Nurses. The amendments of the rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4513. Authorized Practice

A. - C.2 ÿ

3. Definitions as used in this Part:

*Collaborating Physician*Ca physician in active practice with whom the APRN has developed and signed a collaborative practice agreement for limited prescriptive and distributing authority and who holds a current, unencumbered, unrestricted and valid medical license issued or recognized by the Louisiana State Board of Medical Examiners and is in good standing with no pending disciplinary proceedings, and practices in accordance with rules of the Louisiana State Board of Medical Examiners. A collaborating physician shall have current hospital privileges prior to an APRN seeking hospital privileges at the same institution.

*Joint Administration Committee or Committee*Cthe joint committee comprised of five members designated by the board and five members designated by the Louisiana State Board of Medical Examiners as follows:

i. one APRN practicing in a rural area, appointed by the board from a list submitted by the Louisiana Association of Nurse Practitioners;

ii. one APRN practicing in an urban area appointed by the board from a list submitted by Louisiana State Nurses Association;

iii. three registered nurses on the board appointed by the board;

iv. two physicians on the Louisiana State Board of Medical Examiners appointed by the Louisiana State Board of Medical Examiners;

v. one physician that collaborates with an APRN practicing in a rural area appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana State Medical Society;

vi. one physician that collaborates with an APRN practicing in an urban area appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana State Medical Society;

vii. one physician that collaborates with an APRN appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana Medical Association.

Under Physician Direction the limited prescriptive authority as approved by the Joint Administration Committee and demonstrated in the collaborative practice agreement as provided for in R.S. 37:913(9). Physician direction of the APRN is essential and implies that there is informed concurrence of the limited prescriptive authority actions of the APRN, in accordance with written clinical practice guidelines in existence between the collaborating physician and the APRN. Although physician direction shall not be construed in every case to require the physical presence of the collaborating physician, he shall be within a reasonable distance to provide timely response to medical emergencies and he and the APRN must have the capability to be in contact with each other by telephone or other telecommunications devices. Reasonable distance implies that the collaborating physician is within the local area of the APRN's practice site or sites and is not attending an educational program or on vacation in another state or country.

4.a. - d. ¶

i. 500 hours of clinical practice as a licensed APRN within the last 6 months in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for limited prescriptive and distributing authority; practice in another state as a licensed APRN may be accepted to meet this requirement;

ii. successful completion of a minimum of 36 contact hours of education in advanced pharmacotherapeutics obtained as a component of a formal educational program preparing registered nurses for advanced practice or continuing education programs for advanced practice, approved by the board, within the 4-year time period immediately prior to the date of initial application for prescriptive and distributing authority with at least 12 hours having been obtained within two years prior to application. The APRN shall submit the continuing education advanced pharmacotherapeutics curriculum to the board for review and approval. The APRN shall obtain at least 2/3 of the required pharmacotherapeutic hours by attending continuing education programs and may obtain 1/3 of the required pharmacotherapeutic hours by non-lecture programs, such as computer assisted instruction and/or self-study accredited by a national professional accrediting organization approved by the board. Continuing Medical Units may be used as continuing education provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education course to be approved by the board, the course shall include:

4.d.i.(a). - v.(c). ¶

(i). is available by telephone or direct telecommunications for consultation, assistance with

medical emergencies, or patient referral; in the absence of the collaborating physician the following shall apply:

[a]. the back-up physician or physicians shall be in good standing and approved by the medical board and review and sign the collaborative practice agreement;

[b]. in the event that the collaborating physician fails to name a back-up physician, the collaborative practice agreement shall clearly state that the APRN will not prescribe in the absence of the collaborating physician;

4.d.v.(c).(ii). - (e). ¶

vi. the committee shall develop guidelines extending or modifying the requirements of "under physician direction", as defined in LAC 46: XLVII.4513.C.3, as well as the requirements of LAC 46:XLVII.4513.C.4.d.v. (c), for an APRN who is employed by or who contracts with the Louisiana Department of Health and Hospitals' Office of Public Health to specifically provide family planning, Human Immunodeficiency Virus ("HIV") infection or sexually transmitted disease treatment or services and Rural Health Clinics.

4.d.vii. - b. ¶

c. An APRN who is granted limited prescriptive authority shall not prescribe or distribute any controlled substance as defined, enumerated or included in federal or state statutes or regulations, 21 CFR 1308.11-15., R.S. 40:964, or any substance which may hereafter be designated a controlled substance by amendment or supplementation of the cited regulations and statute. The committee may authorize an APRN with limited prescriptive authority to prescribe or distribute controlled substances on an individual practice basis. An APRN who is so authorized shall provide their Drug Enforcement Administration registration number on all written prescriptions and be furnished on all oral prescriptions and shall comply with all scheduled drug prescription requirements in accordance with LAC 46:LIII.3531, Schedule Drug Prescription Requirements.

i. An APRN who is granted limited prescriptive authority may request approval of the Joint Administration Committee to prescribe and distribute controlled substances to the extent expressly authorized by the APRN's collaborating physician provided that:

(a). the APRN has been approved by the Joint Administration Committee to prescribe and distribute noncontrolled substances;

(b). the APRN has been approved by the board to prescribe and distribute noncontrolled substances;

(c). the APRN has practiced with limited prescriptive and distributing authority with the same collaborating physician in the APRN's licensed category and area of specialization for 500 hours immediately preceding the initial request and 160 hours of collaborative practice for each additional request;

(d). the APRN's application, provides to the satisfaction of the Joint Administration Committee, an identified need for controlled substances within the patient population served by the collaborative practice;

(e). controlled substances utilization is expressly contained in the collaborative practice agreement, which specifies the circumstances, limitations and extent to which such substances may be prescribed or distributed; and

(f). the collaborative practice agreement contains acknowledgment of responsibility by the collaborating physician to ensure that the controlled substance authority of an APRN is utilized in a manner that is consistent with any rule or regulation imposed upon his practice.

ii. Controlled substances which may be prescribed or distributed by an APRN shall be limited to Schedule III, IV and V and shall be limited to, consistent with, and exclusively within the parameters of the practice specialty of the collaborating physician and the APRN's licensed category and area of specialization. The committee may approve an APRN to prescribe certain drugs to treat Attention Deficit Disorder (ADD).

iii. An APRN granted authority to prescribe or distribute controlled substances shall not utilize such substances in connection with the treatment of:

(a). chronic or intractable pain, as defined in LAC 46:XLV.6515 - 6923;

(b). obesity, as defined in LAC 46:XLV.6901 - 6913; or

(c). oneself, a spouse, child or any other family member.

iv. Any APRN authorized to prescribe controlled substances shall provide to the Board a copy of his or her Louisiana Controlled Dangerous Substance permit and Drug Enforcement Administration registration number prior to prescribing or distributing controlled substances. A place for an APRN to write their DEA number, as well as the name, address and telephone number of the collaborating physician, shall be pre-printed on the prescription pad and a sample of the prescription shall be submitted to the board for approval prior to prescribing or distributing controlled substances.

d. ¶

e. Each year an APRN with limited prescriptive authority shall obtain six contact hours of continuing education in pharmacotherapeutics in their category and area of specialization. Documentation of completion of the continuing education contact hours required for prescriptive authority shall be submitted at the time of the APRN's license renewal. The APRN shall obtain at least 2/3 of the required advanced pharmacotherapeutic hours by attending continuing education and may obtain 1/3 of the required advanced pharmacotherapeutic hours by non-lecture offerings or Continuing Medical Education Units (CMEs) provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education program to be approved by the board, the program shall:

i. be provided by a board approved national certifying organization or provider approved by the board;

5.e.ii. - f. ¶

g. Prior to changes with the collaborating physician, or physicians or coverage physician, when applicable, the APRN shall notify the board in writing requesting approval of such changes. The board may approve changes in the

practice site or sites when both the collaborating physician(s) and APRN has been previously approved by the Committee and all other requirements are met as set forth in these rules. The APRN shall notify the board in writing within thirty days of all changes regarding practice sites.

5.h. - 6. ¶

a. Receive and distribute free drug samples and other gratuitous medications supplied by drug manufacturers, other than controlled substances, that shall:

6.a.i. - 10. ¶

11. Reinstatement. AN APRN who has been approved by the Joint Administration Committee for limited prescriptive and distributive authority and who has ceased practicing limited prescriptive authority for more than 12 months may apply for reinstatement of such authority.

a. In the event that the time period is greater than 12 months but less than 4 years the APRN shall:

i. meet the requirements as set forth in LAC 46:XLVII.4513.4.a, b, and c.

ii. provide evidence of 6 contact hours of continuing education in pharmacotherapeutics for each 12-month period of non-prescribing in their category and area of specialization. The APRN shall obtain at least 2/3 of the required advanced pharmacotherapeutic hours by attending continuing education and may obtain 1/3 of the required advanced pharmacotherapeutic hours by non-lecture offerings or Continuing Medical Education Units (CMEs) provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education program to be approved by the Board, the program shall:

(a). be provided by a board approved national certifying organization or provider approved by the board;

(b). include content relevant to advanced practice nursing and the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health.

b. In the event that the time period is greater than four years the APRN shall meet the requirements as set forth in LAC 46:XLVII.4513.4.a., b., c., and d.ii.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.(12), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (June 1999), amended by the Board of Nursing, LR 27:727 (May 2001), amended by the Board of Nursing and the Board of Medical Examiners LR 28:487 (March 2002).

Barbara L. Morvant
Executive Director
and

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Interim Executive Director

0203#052

RULE

**Department of Health and Hospitals
Licensed Professional Vocational
Rehabilitation Counselors Board of Examiners**

Vocational Rehabilitation Counselors
Professional Ethics
(LAC 46:LXXXVI.502, 503,
705, 1101, Chapters 16 and 17)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners pursuant to the authority vested in it by R.S. 37:3445, has amended the Professional and Occupational Standards pertaining to Vocational Rehabilitation Counselors in order to make such rules consistent with changes in statutory law, and amended ethical standards and rules and procedures applicable to enforcement of ethical standards. The amendments to the Rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LXXXVI. Vocational Rehabilitation Counselors
Chapter 5. License and Practice of Vocational
Rehabilitation Counseling**

**§501. License of Title and Practice as Stated in R.S.
37:3450**

A. No person shall assume or use the title or designation "Licensed Professional Vocational Rehabilitation Counselor" or engage in the practice of vocational rehabilitation counseling unless he has in his possession a valid license issued by the board under the authority of this chapter. Only persons in possession of a valid license issued by the board under the authority of this chapter may perform vocational rehabilitation services.

B. Except as provided in R.S. 37:3452, no person shall perform the services of a vocational rehabilitation counselor unless he has in his possession a valid license issued by the board under the authority of this Chapter.

C. Except as provided in R.S. 37:3452, no person shall hold himself out as an expert of vocational rehabilitation services unless he has in his possession a valid license issued by the board under the authority of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:490 (March 2002).

§503. Definitions

A. For purposes of this Rule, the following definitions will apply:

* * *

Practice of Rehabilitation Counseling Rendering or offering to individuals, groups, organizations, or the general public rehabilitation services in private practice for compensation involving the application of principles, methods, or procedures of the rehabilitation counseling profession which include but are not limited to:

1. - 2. ...

3. *Vocational Rehabilitation Services* Includes, but is not limited to, vocational assessment, vocational counseling, education, and training services, including on-the-job training, self-employment plans, job analysis, and job placement. For purposes of this Chapter, "vocational assessment" includes, but is not limited to, the administration, interpretation, and use of single scale screening tests of intelligence and tests of education, achievement, personal traits, interests, aptitudes, abilities, language, adaptive behavioral tests, and symptom screening checklist, solely to define vocational goals and plan actions as related to rehabilitation concerns, educational progress, and occupations and careers.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3443 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 19:1569 (December 1993), LR 28:490 (March 2002).

**Chapter 7. Requirements for Licensure and Renewal
of License**

§705. Renewal

A. A license issued pursuant hereto shall be renewed annually by payment of the renewal fee every year prior to August first, and by meeting the requirement that 30 clock hours of continuing education be obtained during a two-year period in an area of professional rehabilitation counseling as approved by CRC or by the board. The chairman shall issue a document renewing the license for a term of one year. Beginning August 1, 1994, all persons holding a license will begin a new 2 year period for clock hours. Anyone licensed during the year out of sync with the Board fiscal year will be required to acquire a pro rata share of hours as determined by the board for their first two year period. All license holders will be required to renew every year with their training hours acquired over a two year period. Renewal must be completed within 60 days of the August first deadline for each renewal year. If the renewal is not submitted within that time frame, the license shall lapse. and the applicant must meet all existing licensure requirements to be issued a license.

B. A licensee may request retirement status if he is not going to engage in private practice for the next year or longer. Under retirement status the licensee would not be required to submit continuing education credits. If a retiree wishes to reactivate, he would need to do the following:

1. notify the board;
2. complete an application for reactivation;
3. pay the existing renewal fee;
4. begin documentation of continuing education hours.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 19:1571 (December 1993), LR 28:490 (March 2002).

Chapter 11. License

§1101. Denial, Revocation, or Suspension of License

A. The board, by affirmative vote of at least four of its five members, shall withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of R.S. 37:3441-3452 or otherwise discipline a person holding such a license upon proof that the applicant or licensee:

A1. - 2. ...

3. is abusing drugs or alcohol an extent or in a manner dangerous to any other person or the public, or to an extent that said use impairs his ability to engage in the practice of rehabilitation counseling or perform rehabilitation counseling services or perform vocational rehabilitation services;

4. has impersonated another person holding a license issued by the board or allowed another person to use his license;

A.5. - D. ...

E. The board is authorized to suspend a license issued by it for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective, the board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:491 (March 2002).

Chapter 16. Code of Professional Ethics for Licensed Rehabilitation Counselors

§1600. General

A. Licensed rehabilitation counselors are committed to facilitating the personal, social, and economic independence of individuals with disabilities. In fulfilling this commitment, licensed rehabilitation counselors work with various people, programs, institutions, and service delivery systems. Licensed rehabilitation counselors recognize that their actions (or inaction) can either aid or hinder clients in achieving their rehabilitation objectives, and they accept this responsibility as part of their professional obligations. Licensed rehabilitation counselors may be called upon to provide various kinds of assistance including: counseling; vocational explorations; vocational assessment and testing; evaluations of social, medical, vocational, and psychiatric information; job placement and job development activities; forensic assessments; and other types of rehabilitation services. They are required to do so in a manner that is consistent with their education and experience. Moreover, licensed rehabilitation counselors must demonstrate their adherence to ethical standards and ensure that the standards are vigorously enforced. The Code of Professional Ethics for Licensed Rehabilitation Counselors (henceforth referred to as the Code) is designated to facilitate the achievement of these goals.

B. The primary obligation of licensed rehabilitation counselors is to their clients (defined in the Code as individuals with disabilities who are receiving services from licensed rehabilitation counselors). The objective of the Code is to promote public welfare by specifying and enforcing ethical standards of behavior expected of licensed rehabilitation counselors. Accordingly, the Code contains two kinds of standards: Canons and Rules of Professional Conduct.

C. The Canons are general standards of an aspirational and inspirational nature that reflect the fundamental spirit of caring and respect which professionals share. They are maxims designed to serve as models of exemplary professional conduct. The Canons also express general concepts and principles from which the more specific Rules are derived. Unlike the Canons, the Rules are exacting standards intended to provide guidance in specific circumstances.

D. Licensed rehabilitation counselors who violate the Code are subject to disciplinary action. A violation of a Rule is interpreted as a violation of the applicable Canon and the general principles it embodies. Since the use of Licensed Rehabilitation Counselor (LRC) designation is a privilege granted by the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners (LLPVRC), the Board reserves unto itself the power to suspend or revoke this privilege or to impose other penalties for a Rule violation. Disciplinary penalties are imposed as warranted by the severity of the offense and its attendant circumstances. All disciplinary actions are undertaken in accordance with published procedures and penalties that are designed to ensure proper enforcement of the Code within a framework of due process and equal protection under the law.

E. When there is reason to question the ethical propriety of specific behavior, individuals are encouraged to refrain from such behavior until the matter has been clarified. LRCs who need assistance in interpreting the Code should write to the Board to request an advisory opinion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:491 (March 2002).

§1601. Canon 1: Moral And Legal Standards

A. Licensed rehabilitation counselors shall behave in a legal, ethical, and moral manner in the conduct of their profession, maintaining the integrity of the Code and avoiding any behavior that would cause harm to others. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will obey the laws and statutes of the legal jurisdiction in which they practice.

2. Licensed rehabilitation counselors will be thoroughly familiar with and observe the legal limitations of the services they offer to clients. They will discuss these limitations as well as all benefits available to the clients they serve in order to facilitate open, honest communications and avoid unrealistic expectations.

3. Licensed rehabilitation counselors will be alert to the legal parameters relevant to their practices as well as to any disparities that may exist between legally mandated ethical and professional standards and the Code. Where disparities exist, licensed rehabilitation counselors will follow the legal mandates and formally communicate such disparities to the Ethics Committee. In the absence of legal guidelines, the Code is binding.

4. Licensed rehabilitation counselors will not engage in any act or omission of a dishonest, deceitful, or fraudulent nature in the conduct of their professional activities. They will not allow the pursuit of financial gain or other personal benefits to interfere with the exercise of sound professional judgment and skills, nor will they abuse the relationship with a client to promote their personal or financial gain or the financial gain of an employer.

5. Licensed rehabilitation counselors will understand and abide by the Canons and Rules of Professional Conduct prescribed in the Code.

6. Licensed rehabilitation counselors will not advocate, sanction, participate in, cause to be accomplished, carry out through another or condone any act which they themselves are prohibited from performing by the Code.

7. Moral and ethical standards of behavior are a personal matter for licensed rehabilitation counselors to the same degree as they are for any other citizen, except as such standards may compromise the fulfillment of the individuals' professional responsibilities or reduce public trust in licensed rehabilitation counselors.

8. Licensed rehabilitation counselors will respect the rights and reputation of any institution, organization or firm with which they are associated when making oral or written statements. In those instances where they are critical of policies, they will attempt to effect change through constructive action within the organization.

9. Licensed rehabilitation counselors will refuse to participate in employment practices that are inconsistent with the moral or legal standards regarding the treatment of employees or the public. Licensed rehabilitation counselors will not condone practices that result in illegal or otherwise unjustifiable discrimination on any basis in hiring, promotion or training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:491 (March 2002).

§1602. Canon 2: Client-Counselor Relationship

A. Licensed rehabilitation counselors shall respect the integrity and protect the welfare of the people and groups with whom they work. The primary obligation of licensed rehabilitation counselors is to their clients (defined as individuals with disabilities who are receiving services from licensed rehabilitation counselors). At all times, licensed rehabilitation counselors shall endeavor to place their clients' interests above their own. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will clearly communicate to clients the purposes and goals of rehabilitation counseling, and any limitation that may affect the counseling relationship.

2. Licensed rehabilitation counselors will not misrepresent their role or competence to clients. If requested, they will provide information about their credentials, and will refer clients to other specialists as the needs of the clients dictate.

3. Licensed rehabilitation counselors will be continually cognizant of their own needs and values as well as of their potential influence over clients, students, and subordinates. They will avoid exploiting the trust or dependency of such persons. Licensed rehabilitation counselors will make every effort to avoid dual relationships that could impair their professional judgment or increase the risk of exploitation. Examples of dual relationships include, but are not limited to research with and treatment of employees, students, supervisors, close friends, or relatives. Sexual intimacy with clients is unethical.

4. Licensed rehabilitation counselors will not knowingly engage in behavior that is harassing or demeaning to persons with whom they interact in their work based on factors such as those persons' age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status.

5. Licensed rehabilitation counselors who provide services at the request of a third party will clarify the nature of their relationships to all rightful, legal parties and to all members of the treatment team. Licensed rehabilitation counselors will inform all parties of their ethical responsibilities and take needed actions to assure that all parties understand their ethical responsibilities. Licensed rehabilitation counselors who are employed by third parties as case consultants or expert witnesses, where there is not intent to provide rehabilitation counseling services directly to clients (beyond file review, initial interview, and/or assessment) will clearly define, through written or oral means, the limits of their relationship (particularly in the areas of informed consent and confidentiality) to all rightful, legal parties and to all members of the treatment team. When serving as case consultants or expert witnesses, licensed rehabilitation counselors shall provide unbiased, objective opinions.

6. Licensed rehabilitation counselors will honor the rights of clients to consent to participate and the right to make decisions with regard to rehabilitation services. They will inform the clients or their legal representative, using language that is reasonably understandable to the client and/or legal representative, of factors that may affect the clients' decision to take part in rehabilitation services, and they will obtain written consents once the clients or their legal representatives are fully informed of these factors. Licensed rehabilitation counselors who work with minors or other persons who are unable to give informed, voluntary consent will take special care to protect the interests of their clients.

7. Licensed rehabilitation counselors will avoid initiating or continuing consulting or counseling relationships if it appears there can be no benefit to the client; in these cases, the licensed rehabilitation counselor will suggest appropriate alternatives to the client.

8. Licensed rehabilitation counselors will recognize that families are usually an important factor in the clients' rehabilitation and will strive to enlist their understanding and involvement as a positive resource in achieving

rehabilitation goals. The client's permission will be secured prior to any family involvement.

9. Licensed rehabilitation counselors and their clients will work together to devise an integrated, individualized rehabilitation plan that promises reasonable success and is consistent with each client's circumstances and abilities. Licensed rehabilitation counselors will continually monitor such plans to ensure their ongoing viability and effectiveness, remembering that clients have the right to make their own choices.

10. Licensed rehabilitation counselors will work with their clients in evaluating potential employment opportunities, considering only those jobs and circumstances that are consistent with the client's overall abilities, vocational limitations, physical and mental restrictions, general temperament, interests and aptitude patterns, social skills, education, general qualifications, and other relevant characteristics and needs. Licensed rehabilitation counselors will neither place nor participate in the placing of clients in positions that could damage the interests and welfare of either the client or the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:492 (March 2002).

§1603. Canon 3: Client Advocacy

A. Licensed rehabilitation counselors shall serve as advocates for individuals with disabilities. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will be obligated at all times to promote better access for individuals with disabilities for facilities, programs, transportation, and communication, so that clients will not be excluded from opportunities to participate fully in rehabilitation, education, and society.

2. Licensed rehabilitation counselors will ensure that programs, facilities, and employment settings are appropriately accessible before referring clients to them.

3. Licensed rehabilitation counselors will strive to understand the accessibility problems individuals with cognitive, hearing, mobility, visual and/or other disabilities face, and to demonstrate this understanding in the practice of their profession.

4. Licensed rehabilitation counselors will strive to eliminate attitudinal barriers, including stereotyping and discrimination, toward individuals with disabilities and to increase their own awareness and sensitivity to such individuals.

5. Licensed rehabilitation counselors will remain aware of the actions taken by cooperating agencies on behalf of their clients and will act as the advocates of such clients to ensure effective service delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002).

§1604. Canon 4: Professional Relationships

A. Licensed rehabilitation counselors shall act with integrity in their relationships with colleagues, organizations, agencies, institutions, referral sources, and other professions in order to provide clients with optimum benefits. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will ensure that there is a mutual understanding of the rehabilitation plan by all involved in the rehabilitation of clients and that all rehabilitation plans are developed with such mutual understanding.

2. Licensed rehabilitation counselors will abide by and help to implement "team" decisions when formulating rehabilitation plans and procedures, even if not in personal agreement with such decisions, unless they constitute a breach of ethical conduct.

3. Licensed rehabilitation counselors will not commit receiving counselors to any prescribed course of action in relation to clients they may transfer to other colleagues or agencies. 4. Licensed rehabilitation counselors will promptly supply all information needed for a cooperating agency or counselor to begin serving a client.

5. Licensed rehabilitation counselors will not offer ongoing professional rehabilitation counseling or case management services to clients who are receiving such services from another rehabilitation counselor without first notifying that individual. File reviews and second-opinion services are not included in the concept of professional rehabilitation counseling and case management services and do not require prior notification.

6. Licensed rehabilitation counselors will secure appropriate reports and evaluations from other specialists when such reports may affect rehabilitation planning and/or service delivery.

7. Licensed rehabilitation counselors will not discuss the competency of other rehabilitation counselors or agencies (including the judgments made, methods used or quality of rehabilitation plans) in a disparaging way with their clients.

8. Licensed rehabilitation counselors will not use their professional relationships with supervisors, colleagues, students or employees to exploit them sexually or otherwise. Neither will they engage in or condone sexual harassment (defined as deliberate or repeated comments, gestures or physical contacts of a sexual nature that are unwanted by the recipients).

9. Licensed rehabilitation counselors who know of an ethics violation by another rehabilitation counselor will attempt to resolve the issue informally with that person provided the misconduct is minor in nature and/or appears to be due to a lack of sensitivity, knowledge, or experience. If the violation is more serious or not amenable to an informal resolution, the rehabilitation counselor will bring it to the attention of the appropriate committee on professional ethics of any professional organization or credentialing body with which the rehabilitation counselor is affiliated.

10. Licensed rehabilitation counselors possessing information of an alleged violation of this Code will reveal such information to the Board or another authority empowered to investigate or act upon the alleged violation,

if requested to do so, unless and only to the extent that the information is protected by law.

11. Licensed rehabilitation counselors who employ or supervise students or other professionals will provide appropriate working conditions, timely evaluations, constructive consultations, and suitable experience opportunities to facilitate the professional development of these individuals.

AUTHORITY NOTE: Promulgated in accordance with RS. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002).

§1605. Canon 5: Public Statement/Fees

A. Licensed rehabilitation counselors shall adhere to professional standards in establishing fees and promoting their services. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will consider carefully the value of their services and the financial resources of their clients in order to establish reasonable fees for their professional services.

2. Licensed rehabilitation counselors will not accept a fee or any other form of remuneration for their work from clients who are entitled to their services through an institution, agency, or other benefit structure, unless rehabilitation counselors fully inform clients of the availability of services from such other services.

3. Licensed rehabilitation counselors will neither give nor receive commissions, rebates or any other form of remuneration when referring clients for professional services.

4. Licensed rehabilitation counselors who describe the rehabilitation counseling and other services offered to the public will present such information fairly and accurately, avoiding misrepresentation through sensationalism, exaggeration, or superficiality. Licensed rehabilitation counselors will be guided by their primary obligation to aid the public in forming valid opinions and making informed choices and judgments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:494 (March 2002).

§1606. Canon 6: Confidentiality

A. Licensed rehabilitation counselors shall respect the confidentiality of information obtained from clients in the course of their work. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will inform clients of the limits of confidentiality at the onset of the rehabilitation counseling relationship.

2. Licensed rehabilitation counselors will take reasonable direct action, inform responsible authorities or warn those persons at risk if the condition or actions of a client indicate there is a clear and imminent danger to the client or others; rehabilitation counselors will take such actions only after advising the client of what must be done. Consultations with other professionals should be used in order to clarify a reasonable course of action. If actions are

taken that result in diminished autonomy for a client, they must be taken only after careful deliberation, and clients must be permitted to resume autonomous responsibility as quickly as possible.

3. Licensed rehabilitation counselors will not forward any confidential information to another person, agency, or potential employer without the written permission of the client or the client's legal representative.

4. Licensed rehabilitation counselors will ascertain that the agencies which cooperate in serving their clients have specific policies and practices in place to protect client confidentiality.

5. Licensed rehabilitation counselors will safeguard the maintenance, storage, and disposal of client records so unauthorized persons cannot gain access to them. Any non-professional who must be given access to a client's records will be thoroughly instructed by the licensed rehabilitation counselor about the confidentiality standards to be observed.

6. Licensed rehabilitation counselors will maintain and dispose of records in accordance with law and in a manner that permits compliance with the requirements of this Code.

7. Licensed rehabilitation counselors will present only germane data in preparing oral and written reports, and will make every effort to avoid undue invasions of privacy.

8. Licensed rehabilitation counselors will obtain written permission from clients or their legal representatives prior to taping or otherwise recording counseling sessions. Even if a legal representative's consent is obtained, rehabilitation counselors will not record sessions against the expressed wishes of their client.

9. Licensed rehabilitation counselors will provide only relevant information about clients seeking jobs to prospective employers. Before releasing any information that might be considered confidential, the rehabilitation counselor will secure the permission of the client or legal representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:494 (March 2002).

§1607. Canon 7: Assessment

A. Licensed rehabilitation counselors shall promote the welfare of clients in the selection, use, and interpretation of assessment measures. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will recognize that different tests require different levels of competence to administer, score, and interpret; they will also recognize the limits of their professional competence and will perform only those functions for which they are trained.

2. Licensed rehabilitation counselors will carefully consider the specific validity, reliability, and appropriateness of tests when selecting them for use in a given situation or for particular clients. They will proceed with caution in attempting to evaluate and interpret the performance of individuals with disabilities, members of minority groups, or persons who are not represented in standardized norms. Licensed rehabilitation counselors will take into consideration the effects of socioeconomic, ethnic, disability, and cultural factors on test scores.

3. Licensed rehabilitation counselors will administer tests under the conditions established when the tests were standardized. When non-standard conditions are required to accommodate clients with disabilities, or when unusual behaviors or irregularities occur during the testing session, those circumstances will be noted and taken into account when interpreting the test results.

4. Licensed rehabilitation counselors will ensure that instrument limitations are not exceeded, and that periodic assessments are made to prevent client stereotyping.

5. Licensed rehabilitation counselors will inform clients, using language that is reasonably understandable to the client, of the purpose of any testing and the explicit use of the results before administration.

6. Licensed rehabilitation counselors will ensure that an explanation of the test results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client, unless the nature of the relationship is clearly explained to the client in advance and precludes provision of an explanation of results (such as in some organizational consulting, pre-employment screenings, and forensic evaluations). Regardless of whether the scoring and interpretation are done by the rehabilitation counselor, by assistants, or by automated or other outside services, licensed rehabilitation counselors will take reasonable steps to ensure that appropriate explanations of results are given.

7. Licensed rehabilitation counselors will attempt to ensure that the interpretations produced by automated assessment programs or procedures have been validated through appropriate research. Public offerings of automated test interpretation services will be considered as professional-to-professional consultations. In these instances, the formal responsibility of the consultant is to the consultee, but the ultimate and overriding responsibility is to the client.

8. Licensed rehabilitation counselors will recognize that assessment results may become outdated and will make every effort to avoid the use of obsolete measures. They will not base their assessment decisions or recommendations on data or test results that are outdated for the current purpose.

9. Licensed rehabilitation counselors will refrain from misuse of assessment techniques, results, and interpretations and take reasonable steps to prevent others from misusing the information these techniques provide. This includes refraining from releasing raw test results or raw data to persons who are not qualified to use such information.

10. Licensed rehabilitation counselors will make reasonable efforts to maintain the integrity and security of tests and other assessment techniques consistent with law, contractual obligations, and in a manner that permits compliance with the requirements of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:494 (March 2002).

§1608. Canon 8: Research Activities

A. Licensed rehabilitation counselors shall assist in efforts to expand the knowledge needed to serve individuals with disabilities more effectively. The Rules of Professional

Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will ensure that research data meet rigid standards of validity, accuracy, and protection of confidentiality.

2. Licensed rehabilitation counselors will be aware of and responsive to all pertinent ethical, legal, and scientific guidelines on research with human subjects. When planning such research, rehabilitation counselors will ensure that the project, design, execution, and reporting are in full compliance with such guidelines.

3. Licensed rehabilitation counselors who present case studies in classes, professional meetings, or publications will confine the content to information that can be sufficiently disguised to ensure full protection of client identity.

4. Licensed rehabilitation counselors will credit those who contribute to publications in proportion to the size of their contribution.

5. Licensed rehabilitation counselors recognize that openness and honesty are essential to relationships between rehabilitation counselors and research participants. When a study's methodology requires concealment or deception, the rehabilitation counselor will ensure that participants understand the reasons for such actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:495 (March 2002).

§1609. Canon 9: Forensic Activities

A. Licensed rehabilitation counselors who perform forensic functions, such as assessments, interviews, consultations, reports, or expert testimony, must comply with all other provisions of this Code to the extent that they apply to such activities. Licensed rehabilitation counselors base their forensic work on appropriate knowledge of and competence in the areas underlying such work, including specialized knowledge concerning special populations. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors' forensic assessments, recommendations, and reports will be based on information and techniques (including personal interviews of the individual, when appropriate) sufficient to provide appropriate substantiation for their findings.

2. Licensed rehabilitation counselors will provide written or oral forensic reports or testimony of the vocational rehabilitation characteristics of an individual only after they have conducted an assessment of the individual adequate to support their statements or conclusions, except as noted in Paragraph 3 of this Section.

3. Licensed rehabilitation counselors will clarify the impact of their limited information on the reliability and validity of their reports and testimony, and they will appropriately limit the nature and extent of their conclusions or recommendations, when, despite reasonable efforts, an individual assessment is not feasible.

4. Licensed rehabilitation counselors in most circumstances will avoid performing multiple and potentially conflicting roles in forensic matters. When rehabilitation counselors may be called on to serve in more than one role in a legal proceeding—for example, as a case

consultant or expert witness for one party or for the court and as a fact witness. They will clarify role expectations and the extent of confidentiality in advance to the extent feasible, and thereafter as changes occur, in order to avoid compromising their professional judgment and objectivity and in order to avoid misleading others regarding their role.

5. Licensed rehabilitation counselors will testify truthfully, honestly, candidly, and consistent with applicable legal procedures, describe fairly the bases for their testimony and conclusions in forensic testimony and reports. Licensed rehabilitation counselors will acknowledge the limits of their data or conclusions whenever necessary to avoid misleading.

6. Licensed rehabilitation counselors will not be precluded by a prior professional relationship with a party from testifying as a fact witness or from testifying to their services to the extent permitted by applicable law. Licensed rehabilitation counselors will take into account ways in which the prior relationship might affect their professional objectivity or opinions and disclose the potential conflict to the relevant parties.

7. Licensed rehabilitation counselors will be reasonably familiar with the Rules governing their roles in performing forensic activities. Licensed rehabilitation counselors will be aware of the occasionally competing demands placed upon them by these Rules and the requirements of the court system, and will attempt to resolve these conflicts by making known their commitment to this Code and taking steps to resolve the conflict in a responsible manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:495 (March 2002).

§1610. Canon 10: Competence

A. Licensed rehabilitation counselors shall establish and maintain their professional competence at a level which ensures their clients will receive the benefit of the highest quality of service the profession is capable of offering. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed professional counselors will function within the limits of their defined role, training, and technical competency, accepting only those positions for which they are professionally qualified. They will provide services, teach, or conduct research in new areas or involving new techniques only after first undertaking appropriate study, training, supervision, and/or consultation from persons who are competent in those areas or techniques.

2. Licensed rehabilitation counselors will continuously strive, through reading, attending professional meetings, and taking courses of instruction, to remain aware of developments, concepts, and practices that are essential in providing the highest quality of services to their clients.

3. Licensed rehabilitation counselors, recognizing that personal problems may interfere with their professional effectiveness, will refrain from undertaking any activity in which such problems could lead to inadequate performance. If they are already engaged in such a situation when they become aware of a problem, they will seek competent professional assistance to determine if they should limit, suspend, or terminate their professional activities.

4. Licensed rehabilitation counselors who are educators will perform their duties based on careful preparation so that their instruction is accurate, up-to-date, and scholarly.

5. Licensed rehabilitation counselors who are educators will ensure that statements made in catalogs and course outlines are accurate, particularly in terms of subject matter, basis for grading, and teaching methods.

6. Licensed rehabilitation counselors who are educators will maintain high standards of knowledge and skill by presenting information in their field fully and accurately, and by giving appropriate recognition to alternative viewpoints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:496 (March 2002).

§1611. Canon 11: LRC Credential

A. Rehabilitation counselors holding the designation of Licensed Rehabilitation Counselor (LRC) shall honor its integrity and respect the limitations placed on its use. The Rules of Professional Conduct governing compliance with this Canon are as follows:

1. Licensed rehabilitation counselors will use the LRC designation only in accordance with state statutory regulation as promulgated by the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners (LLPVRC).

2. Licensed rehabilitation counselors will not claim a depth or scope of knowledge, skills, or professional capabilities that are greater than warranted simply because they achieved the LRC designation.

3. Licensed rehabilitation counselors will not write, speak, or act in a way as to lead another to reasonably believe the rehabilitation counselor is an official Board representative unless authorized to do so in writing by the Board.

4. Licensed rehabilitation counselors will not claim possession of unique skills or devices not available to others in the profession unless the existence and efficacy of such skills or devices has been scientifically demonstrated.

5. Licensed rehabilitation counselors will not initiate or support the candidacy of an individual for licensure if that individual is known to engage in professional practices that violate the Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:496 (March 2002).

Chapter 17. Procedures for Processing Ethical Complaints

§1701. General

A. The Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, hereafter referred to as the "Board" or "LLPVRC," is dedicated to the promotion of professional rehabilitation counselor practice in Louisiana through licensure to advance the quality of service provided to persons with disabilities.

B. The Board, in furthering its objectives, administers the Code of Professional Ethics for Licensed Rehabilitation Counselors that has been developed and approved by the Board.

C.1. The purpose of the LLPVRC Guidelines and Procedures for Processing Ethical Complaints is to facilitate the work of the LLPVRC Ethics Committee ("Committee") by specifying the procedures for:

a. processing cases of alleged violation of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors;

b. sanctioning licensed rehabilitation counselors (LRC); and

c. appeals.

2. The intent of the board is to monitor the professional conduct of its licensees to promote sound ethical practices. LLPVRC does not, however, warrant the performance of any individual.

D. In the event that the board receives a complaint concerning an individual who does not possess an LRC designation, a representative of the board will inform the complainant and may refer the complainant to an appropriate authority.

E. Any failure to disclose pertinent information of which an LRC has direct personal knowledge or any misleading disclosure by an LRC with respect to an ethics charge, criminal case, disciplinary proceeding, or similar matter, concerning him/her, may constitute a violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:496 (March 2002).

§1702. Ethics Committee Members

A. The Ethics Committee is a standing committee of the board. The committee consists of at least three but no more than five board members, including committee chair, who are appointed by the chair of the board. Any vacancy occurring on the committee will be filled by the chair of the board.

B. A quorum of three members of the committee is necessary to conduct a hearing or any other business to come before the committee.

C. In the event any member of the committee has a personal interest in the case or has any knowledge of the case other than what has been provided to all committee members, he/she shall withdraw from hearing the case. In the event that the chair shall withdraw, the board chair shall appoint another committee member to act a chair of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:497 (March 2002).

§1703 Role and Function

A. The Ethics Committee is responsible for:

1. educating the licensees and the general public as to the Board's Code of Professional Ethics for Licensed Rehabilitation Counselors;

2. periodically reviewing and recommending changes in the Code of Professional Ethics for Licensed Rehabilitation Counselors as well as the Guidelines and Procedures for Processing Ethical Complaints;

3. receiving and processing complaints of alleged violations of the Code of Professional Ethics for Licensed Rehabilitation Counselors; and

4. receiving and processing questions.

B. The committee shall meet in person or by telephone conference a minimum of four times per year for processing complaints.

C. In processing complaints of alleged violations, the committee will compile an objective, factual account of the dispute in question and make the best possible recommendation for the resolution of the case. The committee, in taking any action, shall do so only for cause, shall only take the degree of disciplinary action that is reasonable, shall utilize these procedures with objectivity and fairness, and, in general, shall act only to further the interests and objectives of the Board and its licensees.

D. If a Committee member exc uses himself/herself from a complaint and insufficient members are available to conduct business, the chair of the board shall appoint a former LLPVRC Board Member, who is an LRC, to act as a member of the Committee. In the event that no former LLPVRC board member is available to act as a member of the committee, the chair of the board shall appoint a member who is a licensee until a sufficient number of members is obtained that constitutes a quorum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:497 (March 2002).

§1704. Responsibilities of the Committee Members

A. The committee members have an obligation to act in an unbiased manner, to work expeditiously, to safeguard the confidentiality of the committee's activities, and to follow procedures established to protect the rights of all individuals involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:497 (March 2002).

§1705. Responsibilities of the Committee Administering the Complaint

A. The responsibilities of the committee will include, but not be limited to, the following:

1. reviewing complaints that have been received;

2. determining whether the alleged behavior, if true, would violate LLPVRC's Code of Professional Ethics for Licensed Rehabilitation Counselors, and whether the committee should accept the complaint under these rules;

3. notifying the complainant and licensee that the committee has determined that no action will be taken; or, if action is to be taken, notify the complainant and the LRC of acceptance of the complaint via certified mail and marked "Personal and Confidential";

4. requesting additional information from the complainant, licensee, or others;

5. arranging for legal advice with the assistance of the LLPVRC Chair; and

6. preparing and sending, via certified mail, and marked "personal and confidential," communications to the complainant and LRC on the decisions of the Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:497 (March 2002).

§1706. Jurisdiction

A. The committee has jurisdiction to consider whether an individual has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors if the individual is a current licensee of the LLPVRC.

B. Should a respondent attempt to relinquish LLPVRC licensure during the course of any case, the board reserves the right to continue the matter for a final and binding resolution according to these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:498 (March 2002).

§1707. Eligibility to File Complaints

A. The committee will accept complaints that an LRC has violated one or more sections of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors from the following:

1. members of the general public who have reason to believe that an LRC has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors.

2. LRCs or members of other helping professions who have reason to believe that a licensee has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors.

3. the committee chair when the committee has reason to believe through information received through materials in the public domain that an LRC has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:498 (March 2002).

§1708. Time Lines

A. The time lines set forth in these standards are guidelines only and have been established to provide a reasonable framework for processing complaints.

B. The committee will grant an extension of a deadline requested by a licensee or complainant only when justified by unusual circumstances.

C. LRCs are pledged, in accordance with the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors, to cooperate with proceedings of the Board for any alleged violation of the Code of Professional Ethics for Licensed Rehabilitation Counselors. If the LRC voluntarily relinquishes licensure or if the licensee or complainant fails to cooperate with an ethical inquiry in any way, the Board shall, at its discretion, continue its investigation, noting in its final report the circumstances of the LRCs failure to cooperate. The committee, in its sole discretion, may terminate the complaint of an uncooperative complainant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:498 (March 2002).

§1709. Nature of Communication

A. Only signed, written communications regarding ethical complaints against LRCs will be accepted. If telephone inquiries from individuals are received regarding the filing of complaints, responding to complaints, or providing information regarding complaints, the individuals calling will be informed of the signed, written communication requirement and asked to comply.

B. All correspondence related to a complaint must be addressed to the Ethics Committee, LLPVRC Board of Examiners, P.O. Box 41594, Baton Rouge, LA 70835-1594, and must be marked "confidential." This process is necessary to protect the confidentiality of the complainant and the LRC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:498 (March 2002).

§1710. Management of Filed Complaints

A. Upon receipt of complaints, the Committee will communicate to the complainant and LRC in writing, via certified mail marked "personal and confidential," noting its receipt of the complaint and its confirmation of the licensed status of the accused LRC.

B. The committee will determine whether the complaint, if true, would violate one of more sections of the Code of Professional Ethics for Licensed Rehabilitation Counselors. If not, the complaint will not be accepted and the complainant and licensee so informed in writing via certified mail.

C. If the committee determines that the complaint contains insufficient information to make a fair determination of whether the behavior alleged in the complaint would be cause for action by the committee, the committee may request further written information for the complainant or others.

D. When complaints are accepted, the complainant and LRC will be so informed in writing via certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:498 (March 2002).

§1711. Notification of LRC

A. Once the complaint has been received, the LRC will be sent a copy of the complaint via certified mail, and marked "personal and confidential."

B. If the complaint is accepted, the LRC will be asked to respond in writing to the complaint against him/her, addressing each of the following areas:

1. Acknowledge the section of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors which he/she has been accused of having violated; and

2. Submit any fact affidavits, documents, or written arguments which he/she wishes to be considered by the committee in reviewing the complaint.

C. The LRC will be informed that if he/she wants to respond, he/she must do so in writing within 30 days from the date of notification. If the licensee fails to respond in writing to a request from the committee, the committee may impose sanctions on the basis of the complaint alone.

D. Should the committee request further information from the LRC, the licensee shall be given 30 days from the date of request to respond.

E. The committee may, in its discretion, delay or postpone its review of the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:499 (March 2002).

§1712. Disposition of Complaints

A. After receiving the response of the LRC, Committee members will be provided copies of the response and supporting fact affidavits, documents, or written arguments provided by the LRC and others.

B. At the next meeting or teleconference of the Committee, the Committee will discuss the complaint, response, and any supporting documentation.

C. On the basis of the complaint and the LRC's response, the Committee must act as follows.

1. If no violation is found, the case will be closed and all parties will be notified of case closure in writing via certified mail; or

2. If reasonable basis is found to exist for any violation alleged in the complaint, all parties will be notified in writing via certified mail. Upon a finding of reasonable basis, the LRC may make a written request for a hearing before the Committee or the Committee, in its discretion, may initiate a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:499 (March 2002).

§1713. Withdrawal of Complaints

A. If the complainant and LRC agree to discontinue the complaint process, the Committee may, at its discretion, complete the adjudication process if available evidence indicates that this is warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational

Rehabilitation Counselors Board of Examiners LR 28:499 (March 2002).

§1714. Ethics Committee Actions

A. Letter of Instruction. In the event it is determined that the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors has been violated, the Committee will consider the degree of harm and significant mitigating circumstances and may issue a letter of instruction, which is not a sanction.

B. Sanctions. In the event it is determined that the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors has been violated, and a letter of instruction is not appropriate, the Committee shall impose one or a combination of the possible sanctions which follow:

1. Reprimand. Remedial requirements may be stipulated by the Committee.

2. Probation for a specified period of time subject to Committee review of compliance. Remedial requirements may be imposed to be completed within a specified period of time.

3. Suspension of LRC license for a specified period of time subject to Committee review of compliance. Remedial requirements may be imposed to be completed within a specified period of time.

4. Revocation of LRC license.

C. The penalty for failing to fulfill, in a satisfactory manner, a remedial requirement imposed by the Committee as a result of a sanction will be automatic revocation unless the Committee determines that the remedial requirement should be modified based on good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:499 (March 2002).

§1715. Notification of Results

A. The LRC shall be given a written notice via certified mail of Committee decisions regarding complaints against him/her.

B. If a violation has been found and the LRC's license has been suspended or revoked, other licensure or certification boards, voluntary national certification boards, and appropriate professional associations will also be notified of the results.

C. If a violation has been found and the LRC's license has been suspended or revoked, a notice of the Committee action that includes the section(s) of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors that were found to have been violated and the sanctions imposed will be published on the LLPVRC website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:499 (March 2002).

§1716. Hearings

A. A hearing shall be initiated:

1. if the LRC requests a hearing; or

2. at any time at the request of the Committee.

B. If a hearing has been requested or initiated by the Committee, and provided all necessary and requested

information is received, the Committee Chair shall schedule a hearing on the case at the next scheduled Committee meeting and notify the complainant and the licensee of their right to attend the hearing.

C. The hearing will be held before the Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:499 (March 2002).

§1717. Hearing Procedures

A. Purpose

1. A hearing will be conducted to determine whether a violation of the Code of Professional Ethics for Licensed Rehabilitation Counselors has occurred and, if so, to determine appropriate disciplinary action.

2. The committee shall be guided in its deliberations by principles of basic fairness and professionalism, and will keep its deliberations as confidential as possible, except as provided herein.

B. Notice

1. The LRC shall be advised in writing via certified mail by the chair administering the complaint of the time and place of the hearing.

2. If the LRC fails to appear at the hearing, the committee shall decide the complaint and determine what testimony it will hear on record. Failure of the LRC to appear at the hearing shall not be viewed by the committee as sufficient grounds alone for taking disciplinary action.

C. Conduct of the Hearing

1. The location of the hearing shall be determined at the discretion of the committee. The committee shall provide a private room to conduct the hearing and no observers or recording devices other than a recording device used by the committee shall be permitted.

2. The chair administering the complaint shall preside over the hearing and deliberations of the committee. At the conclusion of the hearing and deliberations of the committee, the chair shall promptly issue written notice to the LRC via certified mail of the committee's decision. The chair shall also notify the complainant in writing via certified mail of the disposition of the complaint. However, the chair shall not disclose the disciplinary action, if any, imposed on the licensee.

3. A record of the hearing shall be made and preserved, together with any documents presented in evidence, at the board's administrative office. The record shall consist of a summary of testimony received or a verbatim transcript, at the discretion of the committee.

4. The LRC and the complainant shall be entitled to have legal counsel or a representative present to advise and represent them throughout the hearing. Legal counsel for the board may also be present at the hearing to advise the committee and shall have the privilege of the floor.

5. Either party shall have the right to call witnesses to substantiate his/her version of the case.

6. The committee shall have the right to call witnesses it believes may provide further insight into the matter.

7. Witnesses shall not be present during the hearing except when they are called upon to testify and shall be excused upon completion of their testimony and any cross-examination.

8. The chair administering the complaint shall allow questions to be asked of any witness by the opposition or members of the committee if such questions and testimony are relevant to the issues in the case.

9. The chair administering the complaint will determine what questions and testimony are relevant to the case. Should the hearing be subject to irrelevant testimony, the chair may call a brief recess until order can be restored.

10. Both the complainant and the LRC, and any witnesses and legal counsel that they may have must pay their own expenses. Parties initiating telephone contact will assume the expenses related to the calls.

D. Presentation of Evidence

1. The chair administering the complaint shall be called upon first to present the charge(s) made against the LRC and to briefly describe the evidence supporting the charge. The chair shall also be responsible for examining and cross-examining witnesses on behalf of the complainant and for otherwise presenting the matter during the hearing.

2. The complainant or a member of the committee shall then be called upon to present the case against the LRC. Witnesses who can substantiate the case may be called upon to testify and answer questions of the LRC and the Committee.

3. If the LRC has exercised the right to be present at the hearing, he/she may be called upon to present any evidence which refutes the charges against him/her. This includes witnesses as in Subsection 3 above.

4. The LRC will not be found guilty simply for refusing to testify. Once the LRC chooses to testify, however, he/she may be cross-examined by the complainant and members of the committee, subject to the constitutional rights of the licensee.

5. Testimony that is merely cumulative or repetitious may, at the discretion of the chair administering the complaint, be excluded.

6. All parties providing testimony will be required to attest to the veracity of their statements.

E. Relevancy of Evidence:

1. The committee hearing is not a court of law and is not required to observe formal rules of evidence. Evidence that would be inadmissible in a court of law may be admissible in the hearing before the committee, if it is relevant to the case. Therefore, if the evidence offered tends to explain, clarify, or refute any of the important facts of the case, it should be considered.

2. The committee will not consider evidence or testimony for the purpose of supporting any charge that was not set forth in the notice of the hearing or that is not relevant to the issues of the case.

F. Burden of Proof

1. The burden of proving a violation of the Code of Professional Ethics for Licensed Rehabilitation Counselors is on the complainant and/or the committee.

2. Although the charge(s) need not be proved "beyond a reasonable doubt," a committee finding that an LRC has violated the Code of Professional Ethics for Licensed Rehabilitation Counselors must be supported by substantial, objective, and believable evidence.

G. Deliberation of the Committee:

1. After the hearing is completed, the committee shall meet in a closed session to review the evidence presented

and reach a conclusion. The board's legal counsel may attend the closed session to advise the committee if the committee so desires.

2. The committee shall be the sole judge of the facts and shall weigh the evidence presented and assess the credibility of the witnesses. The decision of a majority of the members of the committee present shall be the decision of the committee and the board. The chair shall vote only to break a tie or when the committee consists of three members.

3. Only members of the committee who were present throughout the entire hearing shall be eligible to vote.

H. Decision of the Committee:

1. The committee will first resolve the issue of the guilt or innocence of the LRC on each charge. Applying the burden of proof in Subsection 5 above, the committee will vote by secret ballot, unless all of the members of the Committee entitled to vote consent to an oral vote.

2. In the event the committee does not find the licensee guilty, the charges will be dismissed. If the committee finds the LRC has violated the Code of Professional Ethics for Licensed Rehabilitation Counselors, it must then determine what sanctions shall be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:500 (March 2002).

§1718. Appeals

A. Decisions of the LLPVCR Ethics Committee that a licensee has violated the Code of Professional Ethics for Licensed Rehabilitation Counselors may be appealed by the LRC found to have been in violation based on one or more of the following grounds.

1. The committee violated its policies and procedures for processing complaints of ethical violations; and/or

2. The decision of the committee was arbitrary and capricious and was not supported by the materials provided by the complainant and the licensee.

B. After the LRC has received notification that he/she has been found in violation of one or more sections of the LLPVCR Code of Professional Ethics for Licensed Rehabilitation Counselors, he/she will be given 30 days from the date written notification is sent to notify the Committee in writing via certified mail that he/she is appealing the decision.

C. An appeal must be in writing stating one or more grounds of appeal listed in Paragraphs A.1 and 2, and the reasons for the appeal.

D. The board chair will appoint a three person appeals panel consisting of at least one former board member, who is currently an LRC, with the balance of the licensees, none of whom served on the committee at the time the original decision was rendered. the board's attorney shall serve as legal advisor and have the privilege of the floor.

E. The three member appeals panel will be given copies of the materials available to the committee when it made its decision, a copy of the hearing transcript if a hearing was held, and a copy of the letter filed by the appealing licensee.

F. The decision of a majority of the members of the appeals panel shall be the final decision. The decision shall be rendered within a reasonable period of time.

G. The decision of the appeals panel may include one of the following.

1. The decision of the committee is upheld.

2. The decision of the committee is reversed and/or remanded with guidance to the committee for a new hearing. The reason for this action will be given in detail to the Committee in writing.

H. When a committee decision is reversed and/or remanded, the complainant and the LRC will be informed in writing via certified mail and additional information may be requested. The committee will then render another decision after further hearing.

I. A decision of the appeals panel to uphold the committee decision is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:501 (March 2002).

§1719. Substantial New Evidence

A. In the event substantial new evidence, which was not available to the LRC at the time of the hearing, is presented in a case in which an appeal was not filed, or in a case where a final decision has been rendered, the case may be reopened by the committee.

B. The committee will consider substantial new evidence that was unavailable at the time of the hearing and, if it is found to be substantiated and capable of exonerating an LRC whose license was revoked, the committee will reopen the case and proceed with the entire complaint process again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:501 (March 2002).

§1720. Records

A. The records of the committee regarding complaints are confidential except as provided herein.

1. All information concerning complaints against LRCs shall be confidential except that the committee may disclose such information when compelled by a validly issued subpoena or when otherwise required by law or valid court order. In addition, the committee may disclose to any appropriate organizations or individuals that an individual is under ethical investigation in cases deemed to be threats to the public welfare and only when to do so before final adjudication appears necessary to protect the public.

2. Nothing in this Section shall be construed to prevent the committee from communicating with the complainant, witnesses, potential members of fact-finding committees, or other sources of information necessary to enable the committee to carry out its investigative function.

B. Original copies of complaint records will be maintained in locked files at the board's administrative office or at an off-site location chosen by the board for a specified period of time listed below:

1. Confidential Permanent Files. Permanent files of the committee shall be confidential and shall be available only to those specifically authorized by the committee and by the chair of the board.

2. Files for Revocation. Files concerning an LRC whose license has been revoked shall be maintained indefinitely.

3. Files for Non-Violations. Except for those cases for insufficient evidence, personally identifiable information concerning an LRC who has been found not to have violated the Code of Professional Ethics for Licensed Rehabilitation Counselors shall be destroyed one year after the committee has closed the case.

4. Files for Insufficient Information. In cases where the Committee has closed a case due to evidence insufficient to sustain a complaint of ethical violation, records containing personally identifiable information shall be maintained for five years after the Committee has closed the case.

5. Files of Lesser Sanctions. In cases where the committee has found an ethical violation but where the sanction is less than revocation, records containing personally identifiable information shall be maintained for five years after the committee has closed the case.

6. Files After Death. All records containing personally identifiable information shall be destroyed one year after the commission is notified of the death of the LRC.

7. Records for Educational Purposes. Nothing in this Section shall preclude the committee from maintaining records in a form which prevents identification of the LRC so that it may be used for archival, educational, or other legitimate purposes.

C. Members of the committee will keep copies of complaint records confidential and will destroy copies of records on the sooner of the date of case closure under Section 1, the date the time for appeal has expired, or the date the member is no longer a member of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:501 (March 2002).

§1721. Legal Actions Related to Complaints

A. LRCs are required to notify the Committee if they learn of any type of legal action (civil or criminal) being filed in relation to the complaint.

B. In the event any type of legal action is filed regarding an accepted complaint, all actions related to the complaint may, at the discretion of the committee, be stayed until the legal action has been concluded.

C. If actions on a complaint are stayed, the complainant and the LRC will be notified in writing via certified mail.

D. When actions on a complaint are continued after a legal action is concluded, the complainant and the LRC will be notified in writing via certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:502 (March 2002).

Robert Gisclair
Chairman

0203#057

RULE

Department of Health and Hospitals Office of Public Health Center for Environmental Health

Sanitary Code Water Supplies (LAC 48:V.Chapter 73)

The Department of Health and Hospitals, Office of Public Health, Center for Environmental Health, repeals the Rule entitled Water Treatment Plant Operator Certification consisting of the Louisiana Administrative Code, Title 48, Part V, sections 7301 through 7335, and enact a new Rule consisting of LAC, Title 48, Part V, Sections 7301 through 7339 authorized by R.S. 40:1148. The Rule is promulgated in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

In order to be in accord with the final guidelines published by the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act, Section 1419 (42 U.S.C.A. 300g-8), and as published in the *Federal Register*, February 5, 1999 (Vol. 64, No. 24, pp. 5915-5921), and avoid the loss to the state of 20 percent of its Drinking Water Revolving Loan Fund (DWRLF) allocation, the Center for Environmental Health has adopted the following Rule.

Also, under the authority of R.S. 40:4 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) intends to amend Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. This amendment is necessary to comply with requirements of the U.S. Environmental Protection Agency Safe Drinking Water Act Amendments (SDWAA) of 1996 as published in the *Federal Register*, (Vol. 64, No. 24, pp. 5915-5921) on February 5, 1999.

In order to remove the exemption for systems serving under 500 population, as required by the Federal Operator Certification guidelines, Chapter XII (Water Supplies) has been amended also.

The following Rule amendments which could have a minimal effect on family earnings and budget, they are not expected to have any effect on family stability, functioning, parental rights, authority and responsibility for children.

Title 48

PUBLIC HEALTH GENERAL

Part V. Preventive Health Services

Subpart 21. Water and Wastewater Operator Certification

Chapter 73. Certification

§7301. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter are defined for the purposes thereof as follows.

Community Sewerage System Any sewerage system which serves multiple connections and consists of a collection and/or pumping/transport system and treatment facility.

Department the Louisiana Department of Health and Hospitals, Office of Public Health.

Person Can individual, a public or private corporation, an association, a partnership, a public body created by or pursuant to state law, the state of Louisiana, an agency or political subdivision of the state, a federally recognized Indian tribe, the United States government, a political subdivision of the United States government, and any officer, employee, or agent of one of those entities.

Operator the individual, as determined by the Committee of Certification, in attendance on site of a water supply system or sewerage system and whose performance, judgment, and direction affects either the safety, sanitary quality, or quantity of water or sewage treated or delivered.

Public Water System Ca system for the provision to the public of water for potable purposes through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:502 (March 2002).

§7303. Certification Requirements

A. The basic requirements for certification are set forth in R.S. 40:1141-1151.

B. The operator of any public water system or any community sewerage system shall hold current and valid professional certification(s) of the required category(s) at or above the level required for the total system and individual facility. Additionally, an operator shall demonstrate that, when not actually on site at the facility, he is capable of responding to that location within one hour of being notified that his presence is needed.

C. Systems operating multiple shifts are required to have a minimum of one certified operator present on each shift. Exact numbers of certified operators required may be determined by the committee of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:503 (March 2002).

§7305. Categories of Certification

A. Certifications are offered in each of the following areas (categories), of qualification:

1. water production;
2. water distribution;
3. water treatment;
4. wastewater collection;
5. wastewater treatment.

B. Water production certifications are required on all facilities. For those systems which use groundwater as a source of raw water and which do not alter the physical, chemical or bacteriological quality of the water other than simple disinfection, operators will not be required to hold certificates for treatment in addition to production.

C. Water distribution certifications are required on all portions of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of the consumer.

D. Water treatment certifications are required for all operators of facilities which use surface water as a source of raw water, as well as those groundwater systems that involve

complex treatment and/or which in some way alters the physical, chemical or bacteriological quality of the water. Water Treatment certification shall not be required for groundwater systems for which the only type of treatment employed is simple disinfection, and where the well(s) has been determined to be not under the direct influence of surface water.

E. Wastewater treatment certifications are required on all facilities which provide for the treatment of wastewater and the reduction and/or handling of sludge removed from such wastewater.

F. Wastewater collection certifications are required on all components of a sewerage system except for the sewage treatment plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:503 (March 2002).

§7307. Levels (Classes) of Certification for Types of Facilities

A. Required levels of certification for an operator, based on facility classification, are as follows:

Population Served	Facility Classification
<1,000	Class 1
1,001-5,000	Class 2
5,001-25,000	Class 3
Over 25,000	Class 4

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:503 (March 2002).

§7309. Operator Qualifications C General (Education/Experience)

A. Whereas R.S. 40:1141-1151 specifies minimum operator qualifications in years, these values have been converted to "points" for ease of integration with continuing education credits and substitutions between education and experience. Operator qualifications for the various levels of certification shall be determined by minimum point values as follows:

Certification Level	Required Points
Op-In-Training	0
Class 1	1
Class 2	2
Class 3	5
Class 4	8

NOTE: A minimum educational requirement of a High School Diploma (or G.E.D.) is applied to ALL levels of certification. Required point values for education and experience are in addition to this minimum level of education. Point value required for Classes 1 and 2 may be from experience alone although 25 percent of this value may be acquired from education credit. No more than 75 percent of the total required points for Classes 3 or 4 may be obtained from education or experience alone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:503 (March 2002).

**§7311. Operator Qualifications C Substitutions/
Assignment of Point Values**

A. Point values for education, continuing education, and experience are assigned as follows.

1. Education
 - a. Each year of formal college education (minimum of 30 semester hours) = 1 point
 - b. Each year of formal graduate level education = 1.5 points
 - c. Each semester hour (credit) for college-level courses = 0.033 point
 - d. Each 40-hour qualified, approved training course = 0.10 point
 - e. Each 8 hours of qualifying, approved continuing education = 0.02 point
 - f. Each 1 hour of qualifying, approved continuing education = 0.0025 point
2. Experience
 - a. Each year of qualifying operator experience = 1 point
 - b. Each year of qualifying related experience = 0.5 point
 - c. Each year of qualifying supervisory experience = 1.5 points

NOTE: No more than 75 percent of the total required points for any level may be obtained from education or experience alone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:504 (March 2002).

§7313. Professional Certification

A. All persons seeking professional certification must be employed or seeking employment by a water or wastewater utility.

B. Certificates must be displayed by the holder in a prominent place in the classified facility. Additionally, at such time as a certified operator is issued a certified operator identification card, the operator shall carry his identification card on their person while on duty in the classified facility. Failure to do so may be considered grounds for revocation of the certificate in accordance with R.S. 40:1145(D).

C. Certificates shall be valid only so long as the holder uses reasonable care, judgment, and knowledge in the performance of his/her duties. No certificate will be valid if obtained or renewed through fraud, deceit, or the submission of inaccurate qualification data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:504 (March 2002).

§7315. Limited Certificates

A. Only those limited certificates issued prior to the effective date of these Rules, in compliance with R.S. 40:1141-1152 remain valid, and shall remain valid only for the system in which the operator was previously employed and for the conditions of operations and duties involved on the original effective date of this Rule. Limited certificates shall be renewable upon application provided the requirements for renewal without reexamination for certificates of even grade are satisfied. Persons granted limited certificates and renewals of limited certificates shall

pay the same fees as are fixed for mandatory certificates of like grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:504 (March 2002).

§7317. Operator-in-Training

A. Operator-in-Training certificates may be granted to newly hired personnel, who have not previously been certified, or who have not held any type of certification for in excess of two years, and who do not presently qualify for a professional or provisional certificate. Such individuals may make application for the appropriate category (water, wastewater) of operator-in-training certificate. The certification officer will then begin maintaining records of all approved education, training and experience credits accumulated by the operator-in-training. An operator-in-training certificate shall be valid for a period of 24 months from the date of issue, and may be renewed in the same manner as provisional or professional certificates. Operators-in-training may not be designated as the operator of the system/facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:504 (March 2002).

§7319. Provisional Certificate

A. A provisional certificate may be issued to any applicant who successfully passes an examination. Provisional certificates shall not qualify an individual to serve as the operator of a facility.

B. A provisional certificate may be converted to a professional certificate if the certificate holder meets all qualifications and assumes the duties of an active operator of a water or wastewater system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:504 (March 2002).

§7321. Examinations C General

A. All operators wishing to become certified by the State of Louisiana, must pass an examination demonstrating they have the necessary knowledge, skills, judgement, and abilities as specified by the committee of certification. All exam questions will be validated by the committee of certification or their appointees.

B. Exams shall be conducted in the English language.

C. The committee of certification has established open examination periods for water and/or wastewater operators to be examined. They are as follows.

1. One annual open exam shall be conducted at the conclusion of the annual Louisiana Conference on Water Supply, Sewerage and Industrial Waste "Short Course," meeting which is held in various locations around the state.

2. One open exam shall be conducted at the conclusion of the Louisiana Rural Water Association Annual Conference.

3. Other open examinations may be scheduled at other locations as determined by the committee of certification based on their determination of need subject to provisions of §7305 of these Rules.

4. Application for examinations to be given following scheduled training courses, seminars, workshops, etc., (as listed in §7329 and §7331 of these Rules) will be considered on a case-by-case basis by the committee of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:504 (March 2002).

§7323. Examinations C Individual Operator Requirements

A. Individual operators must make written application to the committee of certification to take each examination or series of examinations. The application forms will be made available to the examinee prior to the exam period with ample time given to allow completion prior to the actual exam period. The operator (examinee) carries the responsibility for the accuracy of the information contained in the application.

B. Applicants for certification examinations must pay the prescribed exam fee at the conclusion of testing (see §7333 of these Rules).

C. All examinations shall be administered in the English language. Requests for examinations to be administered orally may be considered by the administrator, upon written request by an applicant, submitted at least 30 days in advance, with verifiable proof from a physician that the applicant has a medical condition temporarily preventing him from taking the examination in the conventional manner.

D. Exams shall be taken and passed in sequence from the Class 1 to the Class 4 in each category.

E. Applicants may not apply to take and may not take examinations for certification higher than one level above that for which they are currently qualified.

F. If an applicant takes an examination and fails to attain a passing grade (70 percent or higher), he must wait a minimum of 90 days before he can take another exam in the same category and level. After three failed attempts at the same examination, an applicant will be required to attend a 40-hour training course before retesting will be allowed.

G. All examinations will be graded by department personnel and retained for two years. The examinee will be notified of the results. Examinations will not be returned to the examinee, but may, upon written request, be reviewed in the Operator Certification Program Office in Baton Rouge within 30 days following receipt of the notification of results.

H. Individuals caught cheating during the operator certification examinations or found to have prejudiced these exams or applications in any way shall be entitled to an administrative hearing before the committee of certification. If the committee finds that valid grounds exist, it shall revoke the subject's current certificate, it may refuse to certify the applicant and it may reject future applications. As provided in the Administrative Procedure Act, an aggrieved party may seek judicial review of the committee of certification's action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:505 (March 2002).

§7325. Application for Certification

A. All applications for certificates shall be addressed to: Administrator, Operator Certification Program, Louisiana Department of Health and Hospitals, Office of Public Health, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810. Applications for certificates must be accompanied by the prescribed fees.

B. All initial applications for any category of either new certificates or renewal certificates received subsequent to the effective date of this Rule, shall be accompanied by a "Certification Law and Rules Examination" to be completed by the applicant as part of the application process.

C. Applicants who pass the required examinations, and meet the minimum education and experience requirements, and are actively employed by a water or wastewater system, will be notified that they may apply for the earned professional operator certification.

D. Applicants who pass an examination but do not meet the education and experience requirements will be notified of what education and/or experience and/or training is required to qualify. Such applicants, upon payment of the prescribed fee, will be issued a provisional certification in the classification(s) for which they have passed the examination(s). At whatever time the applicant qualifies, an application with the necessary fee must be submitted or re-examination may be required.

E. Individuals who have combined work experience in both water and wastewater may make written application to the certification committee for credit toward certification in either or both of the two categories. The work experience will be listed in a detailed resumé application which details the overlapping areas of work responsibility. This application will be certified by the immediate supervisor of the individual requesting certification. The committee of certification will rule on each individual application as presented. These applications will be reviewed twice a year by a screening subcommittee composed of members of the operator certification committee.

F. One individual may be designated as the operator over (several) more than one water or wastewater system or district provided that he can demonstrate that he is actively involved on a day-to-day basis in the operation of each of the systems, and is able to respond to the systems locations within one hour of notification that his presence is required.

G. Experience must be in actual water system or sewage system operation or its approved equivalent and must be in the field applying to the respective certificates. Experience as foreman or supervisor in most capacities in water and sewerage systems may be considered acceptable. Experience in purely clerical capacity, such as accounting, bookkeeping cannot be considered as acceptable experience. Experience in narrow technical capacities, such as laboratory technicians or meter readers may be considered for partial credit by the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:505 (March 2002).

§7327. Renewal and Recertification

A. Renewal Requirements. In order to qualify for renewal of certificates held in any and all classes, all operators of water and sewerage works shall enumerate,

certify and provide evidence that he/she has attended a minimal number of contact hours of approved operator training for each certificate held during the previous two-year certification period. A minimum of 16 contact hours is required for renewal of any certifications held in water categories or 8 hours per certificate whichever is the greater. Likewise, a minimum of 16 contact hours is required for renewal of any certifications held in wastewater categories. Failure to attend the required training or failure to furnish the required information shall constitute grounds for refusal to renew the certificate. Approved training is defined as the completion of any of the training courses listed in §7329. It is strongly recommended that course outlines (or lesson plans) for other proposed in-service training be submitted for approval prior to the proposed date of training.

B. Recertification. Operators for whom certification has been expired in excess of two years are not eligible to renew their license(s), and shall be required to reapply for certification under the provisions of this Rule. In such cases, applicants shall be re-examined and shall demonstrate compliance with appropriate education and experience requirements before any certificates will be issued. In those instances where an operator's license has previously been revoked by the committee, the committee shall recommend any additional requirements for recertification that are deemed appropriate, and rule on the operator's eligibility to reapply for a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:505 (March 2002).

§7329. Training-General

A. Training Courses Available. To be approved for training credit by the Administrator of the Operator Certification Program, the training courses identified in Paragraph B of this Section must meet the following general requirements.

1. The administrator must have on file a copy of the course outline of the training course, seminar, workshop, etc. to make his approval decision.

2. Information must include dates, place held, sponsoring organization, speakers/instructors and time (length of subject), and target audience (category and levels of certification addressed).

3. No blanket approvals (from year to year) will be given or implied and a separate approval must be given by the Operator Certification Program each time training is given. On doubtful courses, the administrator will bring the matter to the committee of certification for disposition. (An aggrieved applicant may apply for an administrative hearing to be conducted by a panel of the committee of certification.)

4. Operators shall be responsible to assure the sponsoring organization submitting his certified transcript of training credits earned to the administrator.

B. Training courses, short courses, technical sessions, seminars, workshops, etc., recognized by both the committee of certification and department include, but are not limited to the following:

1. annual short course of the Louisiana Conference on Water Supply, Sewerage and Industrial Wastes;

2. regional conferences of one or more days sponsored and/or co-sponsored by the Louisiana Conference on Water Supply, Sewerage and Industrial Wastes;

3. American Water Works Association Annual Conferences, technical sessions, seminars and workshops;

4. National Association of Water Companies Annual Conferences seminars and workshops;

5. Southwest Section, American Water Works Association Annual Conference, technical sessions, seminars and workshops;

6. college or university and vocational-technical sponsored water and/or wastewater courses, as approved by the certification committee;

7. Water Environment Federation Annual Conference, regional meetings, technical sessions, seminars and workshops;

8. Louisiana Water Environment Association regional meetings, technical sessions, seminars and workshops;

9. Louisiana Rural Water Association annual training and technical conference, regional meetings, technical sessions, seminars and workshops;

10. Louisiana Environmental Training Center, at University of Louisiana at Lafayette, training courses, technical sessions, seminars and workshops;

11. regional meetings, technical sessions, seminars, workshops and/or training programs, sponsored and/or co-sponsored by the Department of Health and Hospitals, or the Department of Environmental Quality;

12. water and/or wastewater operator training courses approved for certification examinations by the committee of certification;

13. short schools, technical courses, seminars, workshops and training programs sponsored by other states.

C. A water and/or wastewater organization or utility not listed above may apply to the committee of certification for recognition and approval to conduct a training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:506 (March 2002).

§7331. Examinations in Conjunction with Training Courses

A. Applicants for approved training courses may request that certification exams be conducted following the completion of the course. In order to obtain approval from the committee of certification, the applicant (sponsoring individual or organization) must comply with the following requirements and rules.

B. The applications must be submitted to: Administrator, Operator Certification Program, Louisiana Department of Health and Hospitals, Office of Public Health, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810.

C. Applications must be submitted 30 days prior to the beginning of the course.

D. No exam shall be conducted without prior written approval.

E. Blanket approval for training courses and exams will not be given by the committee of certification, i.e., each training course and each exam period must be approved according to these Rules.

F. No exam shall be approved to follow a training course consisting of less than 32 hours. An exception to this Rule

may be granted to the Louisiana Conference on Water Supply, Sewerage and Industrial Waste as this organization and its sub-organizations comprise the official training arm of the committee of certification.

G Approval will be given to conduct exams only for the classes and categories covered by the training course, i.e., for training in Class I, II, III or IV in production, treatment or distribution, or wastewater collection or treatment.

H. The classes and categories for which the course is designed must be stated in the application.

I. The applicant must submit a detailed course outline to include:

1. the goal of the training course;
2. which operators in water and/or wastewater would benefit from taking the course;
3. each subject to be covered;
4. a formal lesson plan for each subject area to be covered;
5. the number of hours covered in each subject;
6. what references will be supplied in the course;
7. what references and materials the student should bring to the course.

J. The applicant must submit the names of all instructors, and their qualifications, including their education and work experience credentials and their certification levels. Instructors shall possess, at a minimum, a "provisional" certification in the subject area covered; or, shall have completed a qualified instructor training course or equivalent; or, be specifically accepted by the committee based upon their credentials.

K. Only those examinations prepared under the auspices of the administrator and the committee of certification will be recognized for certification.

L. All examinations will be conducted and monitored by members of the staff of the department and/or members of the committee of certification. No exams will be conducted without the presence of a sufficient number of monitors approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:506 (March 2002).

§7333. Examination Fees

A. All fees for examinations shall be paid to the committee of certification.

B. Examination Fees shall be established as authorized by the Legislature, but in no case shall be less than \$5 per exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:507 (March 2002).

§7335. Certification Fees

A. Certificate fees, in addition to the examination fee, shall be:

1. collected for issuance, renewal and/or reciprocation of all classes of certificates. The amount of the certificate fee shall be as established by the legislature, but in no case shall be less than \$10 for certification in the first category in water and/or sewerage and an additional \$5 for each added category;

2. communities, municipalities, utilities and/or corporations may elect to utilize a flat fee system regarding their employees' certification. For a fee of \$50 per year for either field of water or sewerage or \$100 per year for both, all eligible operators may be certified, either initially or renewed. In addition to the flat fee, there will be a \$5 per certificate charge for each certificate issued. In the instance of the flat fee, the individual operators at each facility will be the responsibility of the principal of the organization and shall be submitted with each renewal (flat fee) payment;

3. duplicate certificates will be issued for a fee of not less than \$5 per certificate.

4. water and wastewater operator certificates will be renewed on a two-year basis, with the fees remaining at the same annual rates as are currently in effect but collected every two years.

5. fees are to be paid in the form of a check or money order payable to the Committee of Certification, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810. Failure to attend the required training or failure to furnish the required information shall constitute grounds for refusal to renew the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:507 (March 2002).

§7337. Reciprocity

A. Reciprocity shall be granted at the discretion of the committee of certification, without examination, to holders of comparable certificates issued by other states, territories, or possessions of the United States. The applicant for a certificate under the reciprocity clause must submit his application on an official application blank, obtainable from the administrator. The application must be accompanied by the appropriate fee. The applicant must submit a copy of his certificate or other proof, satisfactory to the committee of certification that he holds a certificate issued by a governmental agency of another state, territory or possession of the United States. Such certificates must have been received after passage of an examination at least equivalent to that given by the Louisiana committee of certification for the level of competency for which application is made.

B. The burden of proof to submit sufficient information for the committee of certification's consideration shall be upon the applicant. If, after receiving such an application, the committee of certification is satisfied that the applicant qualifies for a certificate, it may, at its discretion award him a certificate in the appropriate grade. A reciprocal certificate will not ordinarily be issued unless the applicant is employed, or has accepted employment, in a Louisiana water or wastewater facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:507 (March 2002).

§7339. Notification

A. Failure to receive any notices previously mentioned does not relieve the certificate holder or applicant from complying with the rules of the committee of certification. The burden is upon the certificate holder or applicant to

provide the committee of certification with a current mailing address.

B. Any request for applications, training course approvals, reciprocity, etc., and/or questions on operator certification should be addressed to: Administrator, Operator Certification Program, DHH-OPH, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:507 (March 2002).

The amendment to Chapter XII of the Sanitary Code, State of Louisiana reads as follows:

**Sanitary Code, State of Louisiana
Chapter XII (Water Supplies)**

12:003-2: Plant Supervision and Control: All public water supplies shall be under the supervision and control of a duly certified operator as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended (R.S. 40:1141-1151).

David W. Hood
Secretary

0203#080

RULE

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

Rural Health Clinics Licensing Standards
(LAC 48:1.Chapter 75)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has amended the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is amended in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 75. Licensing of Rural Health Clinics

§7501. Definitions and Acronyms

Professional Services documented on-site visits at the clinic or in locations other than the clinic, such as the patient's home, for the purpose of providing professional level skilled services. *Professional Services* include physical assessment, any of the waived clinical laboratory tests and treatment/education for the illness diagnosed when provided by a qualified professional as defined below.

Qualified Professionals one of the following professionals qualified to provide services:

- a. Physician/Doctor of Medicine (MD);
- b. Advanced Practice Registered Nurse (APRN);
- c. Licensed Physicians' Assistant (PA);

d. Licensed Social Worker/Clinical Social Worker (LCSW);

e. Licensed Clinical Psychologist (LP).

Secretary/secretary of the Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:508 (March 2002).

§7503. Licensing

A. General Provisions. Rural Health Clinics shall:

- 1. ...
- 2. meet and maintain compliance with all current DHH minimum licensing standards;
- 3. - 4. ...
- 5. The rural health clinic license shall be posted within public view in a conspicuous place within the facility.

B. - B.2.a. ...

b. Complete and submit an original rural health clinic licensing application.

B.2.c. - C.2.d. ...

D. Informal Dispute Resolution. Following each survey, the provider will have one opportunity to question citations of deficient practice through an informal dispute resolution process. Notice is sent with each statement of deficiencies and provides instructions on how to request the informal dispute resolution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:508 (March 2002).

§7505. Denial, Revocation, or Non-Renewal of License

A. The Secretary of DHH may deny an application for a license, refuse to renew a license or revoke a license when an investigation reveals that the applicant or licensee is not in conformance with or in violation of the provisions of R.S. 40:2197, provided that in all such cases, the Secretary shall furnish the applicant or licensee 30 calendar days written notice specifying the reasons for the action.

B. A rural health clinic license may be denied, revoked, or non-renewed for any of, but not limited to, the following reasons:

1. failure to meet any of the minimum standards, rules and regulations as prescribed under R.S. 40:2197;

2. conviction of a felony, as shown by a certified copy of the applicant's record of the court of conviction, or if the applicant is a firm or corporation, on any of its members or officers, or of the person designated to manage or supervise the facility; or if the supervisor of the facility is not reputable; or if the staff or a member of the staff is temperamentally or otherwise unsuited for the care of the patients in the facility. For the purposes of this Paragraph, *conviction of a felony* means and includes:

a. conviction of a criminal offense related to that person's involvement in any program under Medicare or Medicaid, since the inception of those programs;

- b. conviction of a felony relating to violence, abuse and/or neglect of a person;
- c. conviction of a felony related to the misappropriation of property belonging to another person;
- 3. failure to comply with all federal, state and local laws;
- 4. failure of the facility to protect patients/persons in the community from harmful actions of the clinic employees, including but not limited to:
 - a. health;
 - b. safety;
 - c. coercion;
 - d. threat;
 - e. intimidation;
 - f. solicitation; and
 - g. harassment;
- 5. failure to maintain adequate staff to provide necessary services to current active patients;
- 6. failure to employ qualified personnel;
- 7. failure to remain fully operational at all times for any reason other than a disaster;
- 8. failure to submit fees, including but not limited to, annual renewal fee at least 30 days prior to the license expiration date;
- 9. failure to allow entry to the rural health clinic or access to any requested records during any state or federal survey;
- 10. cruelty to patients.

C. Any involuntary termination, failure to renew, or voluntary termination of the facility's license to avoid adverse action will automatically prevent the facility, the facility owners, professional staff, administrative staff, family members and others as appropriate from applying for a RHC license, or from owning or working with a rural health clinic, for at least one year. Persons who own 5 percent or more of a facility are considered owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:508 (March 2002).

§7507. Changes/Reporting

A. - B.3.c. ...

d. use of a contract mid-level practitioner instead of the employee for any period of time greater than 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002).

§7509. Annual Licensing Renewal

A. Department of Health and Hospital Responsibilities. It is the responsibility of DHH to:

- 1. send a letter of notification of license renewal to the facility approximately 45 days prior to expiration of the license;
- 2. conduct an annual survey to assure that the facility provides quality care and adheres to licensing requirements; and
- 3. make a determination and take appropriate action regarding licensing.

B. Rural Health Clinic Responsibilities. It is the responsibility of the RHC to:

- 1. notify DHH if the renewal letter is not received in a timely manner;
- 2. complete the licensing application and obtain and submit other required data; and
- 3. submit the appropriate license fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002).

§7511. Notice and Appeal Procedures

A. Administrative Appeal. In accordance with the Administrative Procedure Act, the facility may request an administrative appeal when notice is received of denial of initial license, denial of a license renewal or revocation of the license. The request for the administrative appeal must be submitted in writing to the Department of Health and Hospitals, Office of the Secretary, within 30 days of receipt of the notice of the adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002).

§7515. Voluntary Cessation of Business

A. - A.2. ...

B. Expiration of License. Failure to renew a license prior to its expiration date shall result in non-renewal of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002).

§7517. Personnel Qualifications/Responsibilities

A. - B.1.b. ...

2. Mid-level Practitioner. The mid-level practitioner shall be appropriately licensed and credentialed as either an advanced practice registered nurse (family nurse practitioner) or physician's assistant. The mid-level practitioner(s) shall be required to maintain Advanced Cardiac Life Support (ACLS) certification to assure his/her proficiency in accepted standards of emergency care. If a facility has a current written agreement with an advanced life support provider, who can provide care within 10 minutes, then the mid-level practitioner and/or physician are exempt from this required certification.

B.2.a. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002).

§7519. Services

A. - A.2. ...

B. Diagnostic Services. The clinic must have the capacity to evaluate and make initial diagnoses on-site in order to refer the patient to the appropriate facility for treatment and/or more definitive diagnoses. RHCs shall, as a

minimum, provide basic laboratory services essential to the immediate diagnosis and treatment of the patient. This includes:

1. chemical examinations of urine by stick or tablet method, or both (including urine ketones);
2. hemoglobin or hematocrit;
3. blood glucose;
4. examination of stool specimens for occult blood;
5. pregnancy tests; and
6. primary culturing for transmittal to a certified laboratory.

C. - C.1.c. ...

2. Emergency Care. The clinic shall maintain emergency equipment, medications and personnel to provide pre-hospital advanced cardiac life support until emergency transportation can arrive and assume care of those in need of services.

C.2.a - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002).

§7521. Agency Operations

A. - A.2.d. ...

B. Agreements. Written agreements shall be clearly worded, dated, reviewed and signed by all parties. All agreements shall be updated as needed to reflect any changes in relationships, provision of services, or other pertinent information.

C. Operation Hours. A facility shall provide:

1. primary care services at least 36 hours per week. For rural health clinics located in parishes designated as priority access, mobile units and RHC's with low caseloads, the Department may waive such requirement if:
 - a. the RHC demonstrates to the satisfaction of the Health Standards Section of DHH that by providing primary care services less than 36 hours per week, patients are not denied access to care;
 - b. the Department determines that a waiver of the requirement will not endanger the health or safety of patients needing RHC services; and
 - c. a waiver granted by the Department is subject to annual review;

2. on-call qualified professional assistance for 24 hours per day, seven days per week;

3. appropriately qualified professional staff on duty during all hours of operation. Failure to do so will result in immediate adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:510 (March 2002).

§7523. Procedural Standards

A. The following processes are required for rural health clinics in Louisiana:

1. Access to Care. Rural health clinics shall:

- a. be in compliance with R.S. 40:2007 if the RHC is located within another health care provider.

A.1.b. - A.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:510 (March 2002).

§7533. Advisory Committee

A. All members of the advisory committee shall be designated in writing and approved by the governing board. The advisory committee shall be composed of two medical professionals, and at least one consumer of services, not employed by the facility. However, facility staff should attend meetings.

A.1. - A.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:510 (March 2002).

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0203#064

RULE

**Department of Insurance
Office of the Commissioner**

**Rule 10C Continuing Education
(LAC 37:XI.717 and 723)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et. seq., and under the authority of the Louisiana Insurance Code, R.S. 22:1 et. seq., the Department of Insurance hereby amends Part XI of Title 37, by amending Chapter 7, Rule Number 10, Continuing Education Programs, as required to bring it into compliance with R.S. 22:1193. J., which was enacted by Act 290 during the 2001 Regular Session of the Louisiana Legislature and made effective August 15, 2001.

Title 37

INSURANCE

Part XI. Rules

Chapter 7. Rule Number 10-Continuing Education

§717. Rule 10.10. Measurement of Credit

A. - F. ...

G. Qualified continuing education programs earning a graduate level professional designation such as CPCU, CLU, ChFC, etc., will be subject to special rules as contained in this paragraph. Licensees which successfully pass a qualified graduate level national designation program examination shall earn 24 continuing education credit hours for property-casualty courses and 16 continuing education credit hours for life-health courses.

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session, R.S. 22:1193, and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of Licensing and Compliance, LR 16:855 (October 1990), amended LR 28:510 (March 2002).

§723. Rule 10.13. Credit for Individual Study Programs

A. ...

B. Continuing education credit for individual study programs must be applied to the current license renewal and may not be carried over to subsequent license renewals. No individual study program will be certified for more than 24 continuing education credit hours for property-casualty courses or 16 continuing credit hours for life-health courses.

C. Qualified individual study program providers (example: national publishing companies) may not contract their provider status to other CE providers. The integrity of materials and testing are the responsibility of the approved provider and must be maintained under their direct control. Local CE providers may act as vendors or marketing agents of approved individual study program providers as long as the provider controls the materials and testing.

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session, R.S. 22:1193, and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of Licensing and Compliance, LR 16:855 (October 1990), amended LR 28:511 (March 2002).

J. Robert Wooley
Acting Commissioner

0203#054

RULE

**Department of Labor
Office of Regulatory Services**

Private Employment Service (LAC 40:XV.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Regulatory Services has amended Rules and Regulations governing the Private Employment Services regarding the administration of the functions of the department under the authority of R.S. 36:304(3).

All Rules and Regulations heretofore adopted by the Louisiana Department of Labor, Office of Regulatory Services, for the administration of laws pertaining to Private Employment services, including but not limited to those Rules adopted April 20, 1991, are hereby repealed in their entirety.

**Title 40
LABOR AND EMPLOYMENT**

Part XV. Private Employment Services

Chapter 1. General Provisions

§101. Definitions

Employment Service Manager Can individual designated by the employment service to conduct the general management, administration and operation of a specified private employment service (PES) office.

On-Site Consultant Can individual designated by the employment service, to conduct the general management, administration and operation of a specified private

employment service (PES) office, but does not carry the title of manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:511 (March 2002).

§103. Operational Mandates

A. A licensee must file with the Assistant Secretary a bond written by a surety company authorized to do business in this state for each licensed office in the sum of \$5,000. The Beneficiary of said bond shall be the Assistant Secretary. An approved bond form (OOL-2) must be executed by the surety company in accordance with data requested on said form and the dates of the bond must coincide with the inclusive dates of the license. Only original bonds containing surety seal will be accepted.

B. A licensee must furnish the Office of Regulatory Services with its business telephone number.

C. A licensee shall at all times conspicuously post, in the main receiving area of his/her office, the current "original" private employment service license to operate.

D. A licensee shall at all times conspicuously post, in the main receiving area of his/her office, a current copy of his/her approved applicant schedule of fees printed in not less than 30-point bold face type.

E. A licensee shall at all times conspicuously post, in the main receiving area of his/her office, a Notice stating that Copies of the Rules and Regulations Governing Private Employment Services and any supplement thereto are available for inspection upon request.

F. Each licensed service must have an individual designated as the on-site manager for that location, or an on-site consultant who has been tested. No individual may be designated as a private employment service manager at more than one location. Each manager and/or on-site consultant shall have successfully passed the private employment service examination.

G. A licensee shall agree to make all records and data pertinent to placement, available to any Office of Regulatory Services Compliance Officers or officials upon request.

H. Prior to sending an applicant on a job interview, the employment service must have a job order from the employer granting permission to the service to submit applicants for a fee, if hired. Each job order must contain the following:

- 1. date;
- 2. employer name and address;
- 3. position description; and
- 4. approximate salary.

I. Individual documentation must be executed on each interview referral.

J. Any amended fee schedule must be filed with and approved by the Assistant Secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the

Department of Labor, Office of Regulatory Services, LR 28:511 (March 2002).

§105. Limitation On Licensees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), repealed by the Department of Labor, Office of Regulatory Services, LR 28:512 (March 2002).

§107. Prohibited Conduct

A. No employment service, employment service manager, and/or consultant shall engage in the following conduct:

1. advertise or use letterheads, receipts, or other written or printed matter unless such materials contain the name of the employment service, as registered with and licensed by the assistant secretary;

2. require an applicant placed in an employer-fee-paid position to pay a fee of any kind;

3. permit an applicant to sign a power of attorney, promissory note, negotiable instrument, or assignment of wages in an amount exceeding the approved and posted fee;

4. no employment service licensee, manager or consultant shall use an alias or any other name in the course and scope of their employment other than their legal name, unless registered with the Office of Regulatory Services within 30 days from the effective date of these rules. No such request for registration received after 30 days from the effective date of these rules will be considered;

5. charge or receive a fee from an applicant prior to the actual commencement of work on a job procured by the employment service, manager, or consultant, except that where an employed applicant accepts new employment after having signed a contract but fails to report to work on the new job and instead remains with his present employer, a fee not to exceed 20 percent of the fee for permanent employment on the new job may be charged.

6. other than as described in §107.E hereinabove, an employment service shall not receive a fee from an applicant who does not commence work on a job procured by the employment service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:512 (March 2002).

§109. Application for License

A. Initial License

1. Forms Required to be Completed and Submitted

a. OOL-1 Application. The facts specified in the application must be sworn and attested before a notary. All applications must be signed by the proposed licensee.

b. OOL-2 Bond Form. In the amount of \$5000 executed by a Surety Company licensed and authorized to do business in Louisiana. Each bond must bear a surety seal and contain licensee's name, private employment service business name, trade names, if applicable and physical location.

c. Corporations shall submit a certified copy of the Articles of Incorporation, which contains the gold seal from the Louisiana Office of Secretary of State.

d. Corporations registered outside of Louisiana must furnish an original certificate of authority to operate in Louisiana, which certificate is issued by the Louisiana Office of Secretary of State.

e. Partnerships shall submit a certified copy of the Articles of Partnership, which contains the gold seal from the Louisiana Office of Secretary of State. Licensee's name must be listed in the Articles of Partnership.

2. Additional Requirements

a. Three notarized statements from character references.

b. The proposed applicant's contract must be submitted and approved by the Assistant Secretary.

c. Licensees, managers, and/or on-site consultants must pass a written examination, administered by the Office of Regulatory Services, with a score of at least 80 percent.

d. Each proposed licensee must submit a resume detailing his/her business involvement during the preceding 10 years.

e. Each proposed licensee must submit a letter stating whether or not he/she has ever been convicted of a felony or misdemeanor. If he/she has been convicted, full particulars must be given including the offense, the date, the sentence and the court in which the proceeding occurred.

f. A license shall be required for each employment service operated or advertised.

g. Each licensee shall pay a \$300 investigation fee.

h. Services that are "Exclusively Employer Fee Paid" shall submit a notarized statement attesting to same.

i. License fee shall be \$200 per year for each location.

j. License fee for an out-of-state employment service which merely advertises in the state shall be the same as the fee for employment services located in Louisiana.

k. Every license issued shall remain in force until December 31 of year of issuance, unless such license has been revoked pursuant to the provisions of this law or the licensee submit a notarized request to cancel the license.

l. Each corporation must designate an individual, to be tested and to be the licensee. If the licensee leaves the corporation, it must designate a new individual to be licensed. If designated individual is not listed in the Articles of Incorporation, the Board of Directors must furnish a notarized letter attesting to the designated individual's position within the corporation or file an amendment to the articles.

m. Each partnership must designate at least one partner to be tested and to be the licensee. If the licensee leaves the partnership it must designate a new individual to be licensed. If designated partner is not listed in the Articles of Partnership, an amendment to the Articles of Partnership must be filed listing that individual's name.

B. Renewal Licenses

1. Forms required to be completed and submitted:

a. OOL-1 Renewal Application;

b. OOL-2 Bond Form (original only) executed by Surety Company or Continuation Certificate, (original only) from Surety Company, the period of coverage must

correspond with the license year. Said bond form or continuation certificate must contain licensee's name, private employment service business name, trade name, if applicable and physical location;

c. beginning date of bond or continuation certificate must be January 1 of license year and expiration must be through December 31, of license year.

2. Additional Requirements

a. Licensees must submit their applicant contract for approval.

b. Services that are "Exclusively Employer Fee Paid" shall submit a statement affirming same.

c. Application for renewal must be received by the Office of Regulatory Services no later than the last business day of the calendar year for which the current license was issued.

d. The failure of any licensee who fails to timely renew a license shall require that the employment service office be closed.

e. Renewal fee shall be \$200 per year for each office location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:512 (March 2002).

§111. Reporting Requirements

A. Address Change

1. Any change in a licensed employment service's physical location must be reported in writing to the Office of Regulatory Services by the licensee(s) at least two weeks prior to such change.

2. A rider (original only) from the surety company affecting the new address must be submitted to the Office of Regulatory Services prior to such change.

3. Licensee(s) shall return to the Office of Regulatory Services the current original license for reissuance of updated address.

B. Closure of Employment Service

1. Licensee(s) shall notify the Office of Regulatory Services, in writing immediately upon closing an employment service location.

2. Licensee(s) shall return to the Office of Regulatory Services the current original license for proper cancellation.

C. Change of Ownership

1. Licensee(s) shall notify the Office of Regulatory Services of any change in ownership of employment service immediately. Such notification must be received 14 days prior to the actual sale.

2. Licensee(s) shall return current original license to the Office of Regulatory Services for proper cancellation.

3. Licensee(s) shall inform the Office of Regulatory Services of proposed new owner/owners' name(s) and address(es).

D. A private employment service license is not transferable and it will not authorize any individual other than the individual to whom it is issued, nor any place or

business transacted under any name, nor physical location, other than that designated in the license.

E. Change of Licensed Business Name

1. Licensee(s) must notify the Office of Regulatory Services, in writing, when changing licensed business name, prior to name change.

2. Licensee(s) must furnish the Office of Regulatory Services, a rider (original) from the surety company covering the new name.

3. Licensee(s) shall return to the Office of Regulatory Services the current original license for reissuance of updated business name.

F. The Office of Regulatory Services will not license services with deceptively similar names.

G. Change of Manager or on-site Consultant

1. Licensee (s) must notify the Office of Regulatory Services in writing, immediately when changing manager or on-site consultant.

2. Licensee (s) shall furnish the Office of Regulatory Services with new manager's and/or on-site consultant's name.

3. Licensee(s) shall send \$100 fee for each exam administered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:513 (March 2002).

§113. Examinations

A. Each individual named as a private employment service licensee, and each individual named as a private employment service manager and each individual named as an on-site consultant, shall demonstrate sufficient knowledge of the private employment service law, rules and regulations by scoring at least 80 percent on a written examination.

B. The private employment service examination will be developed, administered and scored by the Assistant Secretary, Office of Regulatory Services, or his designee.

C. Each individual to whom the private employment service examination is administered shall pay to the Assistant Secretary a fee of \$100, which shall not be refundable under any circumstance.

D. Examinations will be given within 10 days from the date of request and may be administered at the Office of Regulatory Services' Administrative Office, Baton Rouge, Louisiana, or at any Office of Regulatory Services Field Office at the convenience of the party being tested.

E. Test results will be provided on the same day that the completed examination is received by the Private Employment Service Program Compliance Officer Supervisor for scoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:513 (March 2002).

§115. Fees For Placement

A. Resume Preparation

1. An employment service may prepare an applicant's job resume upon applicant's request at a cost not to exceed the fee set in R.S. 23:111.B(1)(b). The employment service shall furnish the applicant with a copy of the prepared resume at no additional cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:514 (March 2002).

§117. Investigations

A. The Assistant Secretary, upon receipt of a complaint or upon his own motion may initiate an investigation into any alleged violations of the Employment Service Law or of these rules and regulations promulgated there under.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:514 (March 2002).

§119. Revocation

A. No new license shall be issued to any individual whose prior license has been revoked until the expiration of at least two years, and then only upon a proper showing that the reasons for the revocation have been corrected, that all other requirements for a license have been met, that the necessary examinations have been taken and passed, and that all fees have been paid. The burden of proof shall be on the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:514 (March 2002).

§121. Enforcement Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), repealed by the Department of Labor, Office of Regulatory Services, LR 28:514 (March 2002).

§123. Private Employment Services Contract

A. Applicant Contract Date: _____

1. This contract is entered into by and between _____, hereinafter referred to as the applicant and, hereinafter referred to as the Employment Service.

2. Should applicant accept employment with an employer or subsidiary to which the employment service has referred within 12 months from date of referral, applicant agrees to pay for professional services in accordance with the schedule contained in Paragraph five. This contract is

valid for a period of one year from the above date or can be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. Acceptance means agreement by applicant with an employer to begin work.

4. Schedule of Fees (Rate of Professional Service Charges Based on Projected Annual Compensation at Time of Acceptance). The method of computing applicant's projected annual compensation, shall be 52 times applicant's weekly compensation, or 12 times applicant's monthly compensation or as outlined in Paragraph 7 of this contract. These estimates are for the purpose of computing service charges and in no way guarantee the procured employment for a year.

5. Schedule of Fees

Estimated Gross Annual Compensation	
Maximum Fee	
Less than \$ 4,000	4%
\$4,000 but less than \$ 5,000	5%
\$5,000 but less than \$6,000	6%
\$6,000 but less than \$ 7,000	7%
\$7,000 but less than \$ 8,000	8%
\$8,000 but less than \$ 9,000	9%
\$9,000 but less than \$10,000	10%
\$10,000 but less than \$11,000	11%
\$11,000 but less than \$12,000	12%
\$12,000 but less than \$13,000	13%
\$13,000 but less than \$14,000	14%
\$14, 000 but less than \$15,000	15%
\$15, 000 but less than \$16,000	16%
\$16,000 but less than \$17,000	17%
\$17,000 but less than \$18,000	18%
\$18,000 but less than \$19,000	19%
\$19,000 but less than \$20,000	20%
\$20,000 but less than \$21,000	21%
\$21,000 but less than \$22,000	22%
\$22,000 but less than \$23,000	23%
\$23,000 but less than \$24,000	24%
\$24,000 but less than \$25,000	25%
\$25,000 and up shall never exceed	25%

Fees are rounded down to the nearest dollar.

6. It is agreed that applicant shall at all times have the right to refuse any employment tendered. The fee of the employment service is earned when applicant accepts employment, payable as follows except that in no case shall any portion of the fee be collected before the applicant commences work on the new job and in no case shall the full amount of the fee be mandatorily payable sooner than 30 days from the date employment begins.

Guarantee

If the position the employment service has obtained for applicant ends within 90 consecutive calendar days from date of employment, regardless of reason, the Service Charge will be reduced to 20 percent of the gross earnings of the applicant. All refunds due shall be made promptly by the employment service upon proper verification of earnings with the employer, and in no case shall the delay exceed 14 days from date verification in writing is received. The applicant shall be responsible for obtaining verification of earnings from employer. If applicant accepts a position and then remains with his present employer, he agrees to pay 20 percent of the applicable fee for the position accepted.

7. If applicant accepts a job where he/she is compensated on a straight commission, drawing account, salary plus bonus or any combination of these, he/she agrees that the employment service fee shall be based on his/her first full year's gross compensation as estimated by the employer. The fee shall be adjusted downwards or upward accordingly at the end of the first full year of employment based upon proof of actual compensation. Requests for adjustment must be made by either party in writing within 60 days following the first full year of employment or termination, whichever is sooner. Under no circumstances will overtime pay be included in gross earnings.

8. Applicant's acceptance of an introduction by the employment service shall take precedence over any previous application he may have filed with said employer.

9. Applicant hereby stipulates and agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due the employment service should it become necessary for the service to obtain counsel, a collection service, or resort to court action to collect same.

10. Applicant hereby stipulates that any agreement regarding the reimbursement of the service charge to applicant by the employer, is a separate agreement between said employer and applicant. Applicant further stipulates that regardless of any such agreement, applicant is responsible for the service charge under the conditions and terms of the contract.

11. It is understood that if any section of this contract is in conflict with the Louisiana Private Employment Service Law or the Rules and Regulations established thereunder, then the provisions of law, rule and regulations shall govern. The declaration that any section of this contract conflicts with the provisions of law shall not render the remainder of this contract null, and to that end the sections of this contract are declared severable.

12. The employment service agrees that it will not under any interpretation of this contract make more than one full service charge for any one placement.

13. The parties hereto acknowledge receipt of a copy of this contract; that they have read and understand all provisions thereof and agree to abide by its terms and conditions.

APPLICANT: _____
DATE: _____
BY: _____
PES REPRESENTATIVE: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services LR 28:514 (March 2002).

§125. PES Contract For Sitters/Nurses

A. PES Contract

1. This agreement entered into this date _____ between _____ hereinafter referred to as REGISTER and _____ hereinafter referred to as the applicant. Should I accept employment with an employer to which _____ has referred

me within twelve months from date of referral, I agree to pay a fee for professional services in accordance with the fee schedule listed in Paragraph 3.

2. This contract is valid for a period of one year from the above date or may be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. The applicant agrees to pay to _____ a fee of _____ percent of first year's gross earnings received for employment to which _____ has referred the applicant. Should case continue longer than one year, no additional fee will be charged.

4. Applicant hereby agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due _____ should it become necessary to obtain counsel, a collection service, or resort to court action.

5. Applicant hereto acknowledges receipt of a copy of this contract; and understands the foregoing contract and agree to all of its terms and conditions.

APPLICANT

DATE

REPRESENTATIVE

DATE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:515 (March 2002).

§127. Private Employment Services Contract for Applicant Escrow Accounts

A. Private Employment Services Contract

1. This contract is entered into by and between _____ hereinafter referred to as the applicant and (name of private employment service) hereinafter referred to as the employment service. Acceptance means agreement by applicant with employer to begin work.

2. Should applicant accept employment with an employer to which the employment service has referred him/her within one year from the date of this contract, the applicant agrees to pay a fee for professional services rendered in accordance with the schedule contained in Paragraph 4. This contract can be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. Applicant hereby agrees to execute a payroll check mailing agreement and a limited power of attorney authorizing the employment service to receive applicant's payroll checks, pay to itself the applicable placement fee and remit the remainder of wages to applicant as spelled out in the limited power of attorney.

4. The professional service placement fee shall be based on the applicant's projected daily wage rate, multiplied times _____ days.

5. Upon acceptance of a job, the employment service shall prepare an invoice which states the actual placement fee and place the invoice in the applicant's file. The placement fee shall be paid in strict accordance with terms of the limited power of attorney alluded to above and all files concerning the placement fee, limited power of attorney and mailing agreement shall be maintained in the applicant's file for a period of five years after the aforementioned power of attorney expires.

6. The estimates of applicant's daily wage rate found herein are for the purpose of computing service charge and in no way guarantee the procured employment for a year. The fee is earned by employment service when applicant accepts employment and is payable as follows:

a. No down payment is required! Payments will be 20 percent of gross pay of each payroll check until fee has been paid in its entirety.

Guarantee

If position employment service has obtained for applicant ends within 90 days from date of employment, regardless of reason, the service charge will be reduced to 20 percent of gross earnings of applicant. All refunds due shall be made promptly by employment service upon proper verification of earnings with employer, and in no case shall the delay exceed 14 days from applicant's request. If applicant accepts a position and then remains with his present employer, he agrees to pay 20 percent of the applicable fee for position accepted.

7. Applicant hereby stipulates and agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due the employment service should it become necessary for the service to obtain counsel, a collection service, or resort to court action to collect same.

8. It is understood that if any section of this contract is in conflict with Louisiana Private Employment Service Law, or the rules and regulations established thereunder, then the provisions of law, rule and regulations shall govern. The declaration that any section of this contract conflicts with the provisions of law shall not render the remainder of this contract null, and to that end the sections of this contract are declared severable.

9. (Name of Private Employment Service) agrees that it will not under any interpretation of this contract make more than one service charge for any one placement. The parties hereto acknowledge receipt of a copy of this contract; they have read and understand all provisions thereof and agree to abide by its terms and conditions.

SIGNATURE OF APPLICANT

DATE

SOCIAL SECURITY #

SIGNATURE OF PES REPRESENTATIVE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:515 (March 2002).

§129. Severability Clause

A. These Rules and each of their provisions are hereby declared to be severable, one from another. If any provision or item of a Rule, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the Rule which can be given effect without the invalid provision, item or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Regulatory Services, LR 28:516 (March 2002).

Gary Forster
Secretary

0203#060

RULE

**Department of Natural Resources
Office of Coastal Restoration and Management**

**Coastal Use Permit Fee Schedule
(LAC 43:I.Chapter 7)**

The Department of Natural Resources, Office of Coastal Restoration and Management, hereby amends LAC 43:I.Chapter 7 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 49:214.21 - 49:214.41.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Chapter 7. Coastal Management

Subchapter A. Definitions

§700. Definitions

Residential Coastal Use Any coastal use associated with the construction or modification of one single-family, duplex, or triplex residence or camp. It shall also include the construction or modification to any outbuilding, bulkhead, pier, or appurtenance on a lot on which there exists a single-family, duplex, or triplex residence or camp or on a water body which is immediately adjacent to such lot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.21 - 49:214.41.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 21:835 (August 1995), amended by the Office of Coastal Restoration and Management, LR 28:516 (March 2002).

Subchapter C. Coastal Use Permits and Mitigation

§723. Rules and Procedures for Coastal Use Permits

A. - C.2 ...

3. Fee Schedule

a. Effective May 1, 2002, the fee schedule of Coastal Use Permits of state concern will be divided into the two categories of residential uses and nonresidential uses.

b. The following schedule of fees will be charged for the processing and evaluation of Coastal Use Permits of state concern in the residential coastal use category.

i. A non-refundable fee shall accompany each application or request for determination submitted to the Coastal Management Division. The fee shall be \$20 for each application and \$20 for each request for determination.

ii. In addition to the non-refundable application fee, the following fees will be assessed according to the total volume of material disturbed for each permit issued.

(a). Proposed projects which involve fewer than 125 cubic yards of dredging or fill volume shall not be assessed additional fees.

(b). Proposed projects which involve 125 cubic yards of dredging and/or filling but less than 50,000 cubic yards shall be assessed at the rate of \$0.04 per cubic yard.

(c). Proposed projects which involve 50,000 cubic yards or more of dredging and/or filling shall be assessed the maximum volume disturbed fee of \$2,000.

c. The following schedule of fees will be charged for the processing and evaluation of Coastal Use Permits of state concern in the non-residential coastal use category.

i. A non-refundable fee shall accompany each application or request for determination submitted to the Coastal Management Division. The fee shall be \$100 for each application and \$100 for each request for determination.

ii. In addition to the non-refundable application fee, the following fees will be assessed according to the total volume of material disturbed for each permit issued.

(a). Proposed projects which involve more than 0 and fewer than 500 cubic yards of dredging or fill volume shall be assessed a fee of \$25.

(b). Proposed projects which involve 501 cubic yards of dredging and/or filling but less than 100,001 cubic yards shall be assessed at the rate of \$0.05 per cubic yard.

(c). Proposed projects which involve 100,001 cubic yards or more of dredging and/or filling shall be assessed the maximum volume disturbed fee of \$5,000.

d. If the appropriate fees are not included along with the coastal use permit application, the application will be considered incomplete, and returned to the applicant. The application fee and additional fees, if any, should be paid separately.

e. A coastal use permit application which has been returned to the applicant by the Coastal Management Division or withdrawn by the applicant and is subsequently resubmitted shall be subject to an additional processing fee which will consist of an application fee and a permit fee if the application has undergone substantial revisions, pursuant to Subsection D.1.a of this Section.

f. Nothing contained in Paragraph 3.a-e shall affect the right of local government and parishes with approved programs to assess fees for processing and evaluating coastal use permit applications.

g. In addition to the fees identified at §723.C.3.a, the following fees related to compensatory mitigation shall be charged when appropriate pursuant to §724:

i. compensatory mitigation processing fee (§724.D);

ii. mitigation bank initial evaluation fee, mitigation bank habitat evaluation fee, mitigation bank establishment fee, and mitigation bank periodic review fee (§724.F.3);

iii. advanced mitigation project initial evaluation fee, advanced mitigation project establishment fee, advanced mitigation post-implementation habitat evaluation fee, advanced mitigation periodic review fee (§724.G.5);

iv. compensatory mitigation variance request fee (§724.K.2.h).

C.4. - G.4.b ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.21 - 49:214.41.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:493 (August 1980), amended LR 8:519 (October 1982), amended by the Office of Coastal Restoration and Management, LR 16:625 (July 1990), amended by the Office of the Secretary, LR 21:835 (August 1995), amended by the Office of Coastal Restoration and Management, LR 28:516 (March 2002).

James R. Hanchey
Assistant Secretary

0203#069

RULE

Department of Revenue Tax Commission

Ad Valorem Tax

(LAC 61:V.309, 703, 907, 1103, 1503, 2503,
2705, 2707, 3103, 3301, and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission has amended and/or repealed Sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2002 (2003 Orleans Parish) tax year.

This Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2002. Cost indexes required to finalize these assessment tables are not available to this office until late October, 2001. The effective date of this Rule is January 1, 2002.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 3. Real and Personal Property

§309. Tax Commission Miscellaneous Forms

A. - E. ...

F. TC Form 65, Application For Special Assessment Level, should be used by certain eligible persons, 65 years of age or older, to apply annually for the special assessment level in accordance with R.S. 47:1712.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1712 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 21:186 (February 1995), amended LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 27:424 (March 2001), LR 28:517 (March 2002).

Chapter 7. Watercraft
§703. Tables C Watercraft

A. Floating Equipment C Motor Vessels

Floating Equipment C Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2001	1.001	1	94	.94
2000	1.009	2	87	.88
1999	1.028	3	80	.82
1998	1.031	4	73	.75
1997	1.040	5	66	.69
1996	1.056	6	58	.61
1995	1.073	7	50	.54
1994	1.111	8	43	.48
1993	1.142	9	36	.41
1992	1.165	10	29	.34
1991	1.179	11	24	.28
1990	1.202	12	22	.26
1989	1.235	13	20	.25

B. Floating Equipment C Barges (Nonmotorized)

Floating Equipment C Barges (Nonmotorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2001	1.001	1	97	.97
2000	1.009	2	93	.94
1999	1.028	3	90	.93
1998	1.031	4	86	.89
1997	1.040	5	82	.85
1996	1.056	6	78	.82
1995	1.073	7	74	.79
1994	1.111	8	70	.78
1993	1.142	9	65	.74
1992	1.165	10	60	.70
1991	1.179	11	55	.65
1990	1.202	12	50	.60
1989	1.235	13	45	.56
1988	1.301	14	40	.52
1987	1.356	15	35	.47
1986	1.376	16	31	.43
1985	1.389	17	27	.38
1984	1.410	18	24	.34
1983	1.448	19	22	.32
1982	1.474	20	21	.31
1981	1.543	21	20	.31

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002).

Chapter 9. Oil and Gas Properties
§907. Tables - Oil and Gas

A. ...

1. Oil, Gas and Associated Wells; Region 1 - North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells Region 1 C North Louisiana				
Producing Depths	Cost - New by Depth, per Foot		15% of Cost - New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 - 1,249 ft.	8.30	19.16	1.25	2.87
1,250 - 2,499 ft.	9.93	12.82	1.49	1.92
2,500 - 3,749 ft.	13.66	13.15	2.05	1.97
3,750 - 4,999 ft.	15.03	15.60	2.25	2.34
5,000 - 7,499 ft.	20.62	20.77	3.09	3.12
7,500 - 9,999 ft.	24.52	28.89	3.68	4.33
10,000 -12,499 ft.	36.40	35.32	5.46	5.30
12,500 -Deeper ft.	N/A	68.76	N/A	10.31

2. Oil, Gas and Associated Wells; Region 2 - South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells Region 2 - South Louisiana				
Producing Depths	Cost - New by Depth, per Foot		15% of Cost - New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 - 1,249 ft.	14.87	76.13	2.23	11.42
1,250 - 2,499 ft.	66.57	75.74	9.99	11.36
2,500 - 3,749 ft.	61.04	67.65	9.16	10.15
3,750 - 4,999 ft.	39.00	50.09	5.85	7.51
5,000 - 7,499 ft.	52.94	48.12	7.94	7.22
7,500 - 9,999 ft.	57.84	56.65	8.68	8.50
10,000 -12,499 ft.	59.21	69.07	8.88	10.36
12,500 -14,999 ft.	69.92	87.72	10.49	13.16
15,000 -17,499 ft.	96.74	113.55	14.51	17.03
17,500 -19,999 ft.	90.70	143.69	13.61	21.55
20,000 -Deeper ft.	104.69	197.77	15.70	29.67

3. Oil, Gas and Associated Wells; Region 3 - Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells Region 3 - Offshore State Waters*				
Producing Depths	Cost - New by Depth, per Foot		15% of Cost - New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 - 1,249 ft.	N/A	N/A	N/A	N/A
1,250 - 2,499 ft.	317.00	433.06	47.55	64.96
2,500 - 3,749 ft.	238.49	319.29	35.77	47.89
3,750 - 4,999 ft.	248.15	169.87	37.22	25.48
5,000 - 7,499 ft.	206.16	162.59	30.92	24.39
7,500 - 9,999 ft.	188.59	156.63	28.29	23.49
10,000 -12,499 ft.	182.24	161.96	27.34	24.29
12,500 -14,999 ft.	165.39	174.21	24.81	26.13
15,000 -17,499 ft.	161.48	215.27	24.22	32.29
17,500 -Deeper ft.	462.60	311.06	69.39	46.66

A.4. - B.1. ...

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
2001	225352	Higher	96
2000	223899	225351	92
1999	222882	223898	88
1998	221596	222881	84
1997	220034	221595	80
1996	218653	220033	76
1995	217588	218652	72
1994	216475	217587	68
1993	215326	216474	64
1992	214190	215325	60
1991	212881	214189	56
1990	211174	212880	52
1989	209484	211173	48
1988	207633	209483	44
1987	205211	207632	40
1986	202933	205210	36
1985	197563	202932	32
1984	Lower	197562	30*
VAR.	900000	Higher	50

* Reflects residual or floor rate.

B.3 - 6 [NOTE] ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), IR 27:425 (March 2001), LR 28:518 (March 2002).

Chapter 11. Drilling Rigs and Related Equipment
§1103. Drilling Rigs and Related Equipment Tables

A.1. Land Rigs

Table 1103.A Land Rigs		
Depth "0" To 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
3,000	\$316,600	\$47,500
4,000	\$374,000	\$56,100
5,000	\$442,700	\$66,400
6,000	\$511,400	\$76,700
7,000	\$589,900	\$88,500
Depth 8,000 To 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
8,000	\$671,600	\$100,700
9,000	\$789,400	\$118,400
10,000	\$1,015,200	\$152,300

Depth 11,000 To 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
11,000	\$1,240,900	\$186,100
12,000	\$1,339,700	\$201,000
13,000	\$1,396,100	\$209,400
14,000	\$1,472,400	\$220,900
15,000	\$1,608,200	\$241,200
Depth 16,000 To 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
16,000	\$1,743,900	\$261,600
17,000	\$2,026,700	\$304,000
18,000	\$2,358,500	\$353,800
19,000	\$2,651,200	\$397,700
20,000	\$2,827,000	\$424,100
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
21,000	\$3,002,800	\$450,400
25,000 +	\$3,705,800	\$555,900

A.2. - C. ...

NOTE: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

D. Well Service Rigs - Land Only (Good Condition)

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
I	72' X 125M# 75' X 150M#	6V71	127,750	19,200
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	160,125	24,000
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	192,500	28,900
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	210,875	31,600
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	269,150	40,400
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	311,500	46,700
VII	117' X 215M#	(2) 8V92 (2) 12V71	390,775	58,600

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002).

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2001	1.001	1	92	.92
2000	1.009	2	84	.85
1999	1.028	3	76	.78
1998	1.031	4	67	.69
1997	1.040	5	58	.60
1996	1.056	6	49	.52
1995	1.073	7	39	.42
1994	1.111	8	30	.33
1993	1.142	9	24	.27
1992	1.165	10	21	.24
1991	1.179	11	20	.24

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002).

Chapter 25. General Business Assets

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. ...

Table 2503.A Suggested Guidelines For Ascertainning Economic Lives of Business and Industrial Personal Property	
Business Activity/Type of Equipment	Average Economic Life in Years

Photography Equipment	10
One Hour Photoprocessing Equipment	8

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2001 = 100*
2001	1	1093.4	1.001
2000	2	1084.3	1.009
1999	3	1065.0	1.028
1998	4	1061.8	1.031
1997	5	1052.7	1.040
1996	6	1036.0	1.056
1995	7	1020.4	1.073
1994	8	985.0	1.111
1993	9	958.0	1.142
1992	10	939.8	1.165
1991	11	928.5	1.179
1990	12	910.2	1.202
1989	13	886.5	1.235
1988	14	841.4	1.301
1987	15	806.9	1.356
1986	16	795.4	1.376
1985	17	787.9	1.389
1984	18	776.4	1.410
1983	19	755.8	1.448
1982	20	742.4	1.474
1981	21	709.2	1.543
1980	22	642.8	1.703
1979	23	584.4	1.873
1978	24	534.7	2.047
1977	25	497.1	2.202
1976	26	472.1	2.318

*Reappraisal Date: January 1, 2001 - 1094.5 (Base Year)

C.1. - C.4. ...

D. Composite Multipliers

Table 2503.D Composite Multipliers 2002 (2003 Orleans Parish)								
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.85	.90	.92	.94	.95	.97	.98
2	.49	.70	.80	.85	.88	.91	.94	.96
3	.35	.53	.69	.78	.82	.87	.93	.96
4	.21	.35	.56	.69	.75	.81	.89	.93
5		.24	.45	.60	.69	.76	.85	.90
6		.21	.35	.52	.61	.72	.82	.89
7			.28	.42	.54	.67	.79	.87
8			.24	.33	.48	.61	.78	.87
9			.23	.27	.41	.56	.74	.86
10				.24	.34	.50	.70	.83
11				.24	.28	.44	.65	.80
12					.26	.37	.60	.77
13					.25	.32	.56	.74
14						.30	.52	.73
15						.28	.47	.71
16						.28	.43	.66
17							.38	.61
18							.34	.55
19							.32	.49
20							.31	.44
21							.31	.40
22								.39
23								.39
24								.41
25								.44
26								.46

Data sources for tables are:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002).

Chapter 27. Guidelines For Application, Classification and Assessment of Land Eligible To Be Assessed At Use Value

§2705. Classification

A. - B. ...

Beauregard	Jefferson Davis
Bienville	Vernon
East Feliciana	West Feliciana

C. ...

AUTHORITY NOTE: Promulgated in accordance with LSA - Constitution of 1974, Article VII, ' 18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:318 (February 1999), LR 26:510 (March 2000), LR 27:428 (March 2001), LR 28:521 (March 2002).

§2707. Map Index Table

Table 2707 Map Index Listing of General Soil Maps and Modern Soil Surveys for the State of Louisiana Published by U. S. Dept. of Agriculture, Natural Resources Conservation Service in Cooperation with Louisiana Agricultural Experiment Station			
Parish	Date (General)	Map No. (General)	Date Published or Status (Modern)
*** [See Prior Text in Acadia - Ouachita]			
Plaquemines	Dec., 1969	4-R-28742-A	March, 2001
*** [See Prior Text in Pointe Coupee - Winn]			

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 and R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:290 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:946 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:511 (March 2000), LR 27:428 (March 2001), LR 28:521 (March 2002).

Chapter 31. Public Exposure of Assessments; Appeals §3103. Appeals to the Louisiana Tax Commission

A. - K. ...

L. The commission shall take official notice without further identification of the contents of the original records and documents in possession of the commission when duly certified copies thereof are offered into evidence and made a part of the record. Evidence offered at the Board of Review is not forwarded to the Tax Commission and must be submitted by the assessor/taxpayer in accordance with filing procedures for written appeals. The commission may receive other documentary evidence in the form of copies or excerpts or that which is incorporated by reference.

M. - Form 3103.B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002).

Chapter 33. Financial Institutions

§3301. Guidelines For Ascertaining the Fair Market Value of Financial Institutions

A. - D.1. ...

2. The calculated price earnings ratio, to be used to compute bank shareholders assessments, shall not change, up or down, by more than 1.5 points from the ratio used in the previous year.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1967, R.S. 47:1968, R.S. 47:1969, R.S. 6:942, R.S. 6:943 and R.S. 6:944.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 13:249 (April 1987), amended LR 16:1064 (December 1990), LR 20:198 (February 1994), LR 28:521 (March 2002).

Chapter 35. Miscellaneous

§3501. Service Fees Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2001, and ending on June 30, 2003, in connection with services performed by the Tax Commission as follows:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002).

Malcolm B. Price, Jr.
Chairman

0203#058

RULE
Department of Social Services
Office of Family Support

FITAPC Reporting Requirements (LAC 67:III.1257)

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the department by the Louisiana Temporary Assistance to Needy Families (TANF) Block Grant, the agency aligned the FITAP regulation for reporting income changes with the federal Food Stamp Program regulation which requires the household to report only certain increases in household members' income.

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

§1257. Reporting Requirements

A. A FITAP household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$25 in unearned income.

B. Changes shall be reported within 10 days of the knowledge of the change unless the FITAP household is included in a food stamp semi-annual reporting household. The FITAP household is then subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:522 (March 2002).

Gwendolyn P. Hamilton
Secretary

0203#061

RULE

Department of Transportation and Development
Office of Weights, Measures and Standards

Violation Ticket Review Committee
(LAC 73:I.Chapter 12)

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 has amended Chapter 12 of Title 73 entitled "Violation Ticket Review Committee," in accordance with R.S. 32:389, as amended by Act 1201 of the 2001 Regular Session of the Louisiana Legislature.

Title 73
WEIGHTS, MEASURES, AND STANDARDS
Part I. Weights and Standards
Chapter 12. Violation Ticket Review Committee
§1201. Composition of Violation Ticket Review Committee

A. One representative of the DOTD Maintenance Section.

B. One representative of the DOTD Legal Section.

C. One designee of the Chief Engineer or the Chief, Maintenance Division.

D. The chairman of the committee is the Chief, Maintenance Division, or his designee.

E. The DOTD Weights and Standards Administrator or his designee shall be a non-voting member.

F. Three of four voting members present is a quorum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996) amended LR 28:522 (March 2002).

§1203. Tickets Subject to Review

A. All tickets recognized to contain mathematical error or obvious legal error; or

B. All tickets formally protested (in writing).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002).

§1205. Time Limitations

A. Payment of the fine imposed by a violation ticket is due within 30 days from the date of issuance of the ticket.

B. To receive consideration, a violation ticket must be formally protested within 30 days from the date of issuance of the ticket.

C. The Violation Ticket Review Committee must dispense with tickets within 30 working days from receipt of the request for review.

D. The DOTD Weights and Standards Administrator must report to the protestor within seven working days from the committee's decision. Said report shall fully inform the protestor of the decision of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002).

§1207. Duties of the DOTD Weights and Standards Administrator

A. Receive and assemble all formally protested violation tickets for review.

B. Investigate the circumstances, claims or allegations surrounding all violation tickets formally submitted for review.

C. Communicate with the protestor during the process and after the decision of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002).

§1209. Authorized Action

A. The Violation Ticket Review Committee is authorized to void or reduce violation tickets, or leave violation tickets intact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002).

§1211. Rights of Protesting Party

A. These rules do not impair the right of the protesting party to sue the department to recover payment of the violation ticket as provided in R.S. 32:389.

B. The protesting party will not be afforded the opportunity to personally appear before the Violation Ticket Review Committee, except as provided for in §1215 below. Only his written statement will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002).

§1213. Prescription

A. The running of prescription for collection of unpaid violation tickets is not interrupted by filing of the protest.

B. The running of prescription for suing the department to recover monies paid for a violation ticket is not interrupted by filing of the protest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002).

§1215. Reconsideration by Violation Ticket Review Committee

A. The decision of the Violation Ticket Review Committee may be reconsidered, either upon request of the protestor or upon motion of a member of the Violation Ticket Review Committee. Such request must be made within 30 days of the date of the notice of the decision of the first hearing. Additional information must be provided at second review. Should the protestor request that he be allowed to personally appear before the committee, he may be allowed by the Committee to do so at the hearing on reconsideration.

B. Following conclusion of the committee's final review and within 30 days of the issuance of the report required by Paragraph A of §1205, the department shall notify the protestor of his right to appeal to the Review Panel established by Act 1201 of the 2001 Regular Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002).

§1216. Consideration by Review Panel

A. The protesting party may request in writing a review conducted by the Review Panel comprised of five members appointed as follows:

1. one member of the Review Panel shall be appointed by the secretary of the Department of Transportation and Development;

2. two members shall be appointed by the Louisiana Motor Transport Association;

3. one member shall be appointed by the Chairman of the House Committee on Transportation, Highways and Public Works; and

4. one member shall be appointed by the Chairman of the Senate Committee on Transportation, Highways and Public Works.

B. The members of the Review Panel shall select a Chairman by majority vote.

C. The Protestor must make his written request for review within 30 days of his notification of final decision by the Violation Ticket Review Committee. The Protestor must include in his correspondence a request for personal appearance.

D. The review panel shall be convened upon the motion of the chairman a minimum of every 60 days. The department shall provide all information necessary or required concerning the tickets reviewed by the Review Panel. The protestor, upon his request, may appear at the meetings of the Review Panel.

E. The Review Panel is authorized to void or reduce violation tickets, or leave violation tickets intact. The decision of the Review Panel shall be binding upon the Department and shall supersede the decision of the Violation Ticket Review Committee.

F. A majority of the Review Panel constitutes a quorum and a majority vote of the Review Panel is needed to effect a decision.

G. The Protestor shall be notified of the final decision of the Review Panel within seven days from the date of the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002).

§1217. Record-Keeping

All actions of the Violation Ticket Review Committee and the Review Panel which require monetary adjustment of Violation Tickets shall be recorded on computer and reported to the DOTD Financial Services Section. All records shall be maintained in accordance with the Public Records Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002).

Kam K. Movassaghi, P.E., Ph.D
Secretary

0203#066

RULE

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

**Oyster Harvest Area Grid System
(LAC 76:VII.519)**

The Wildlife and Fisheries Commission does hereby establish an oyster harvest area grid system. This is being done under the authority of R.S. 56:430.1.

Title 76

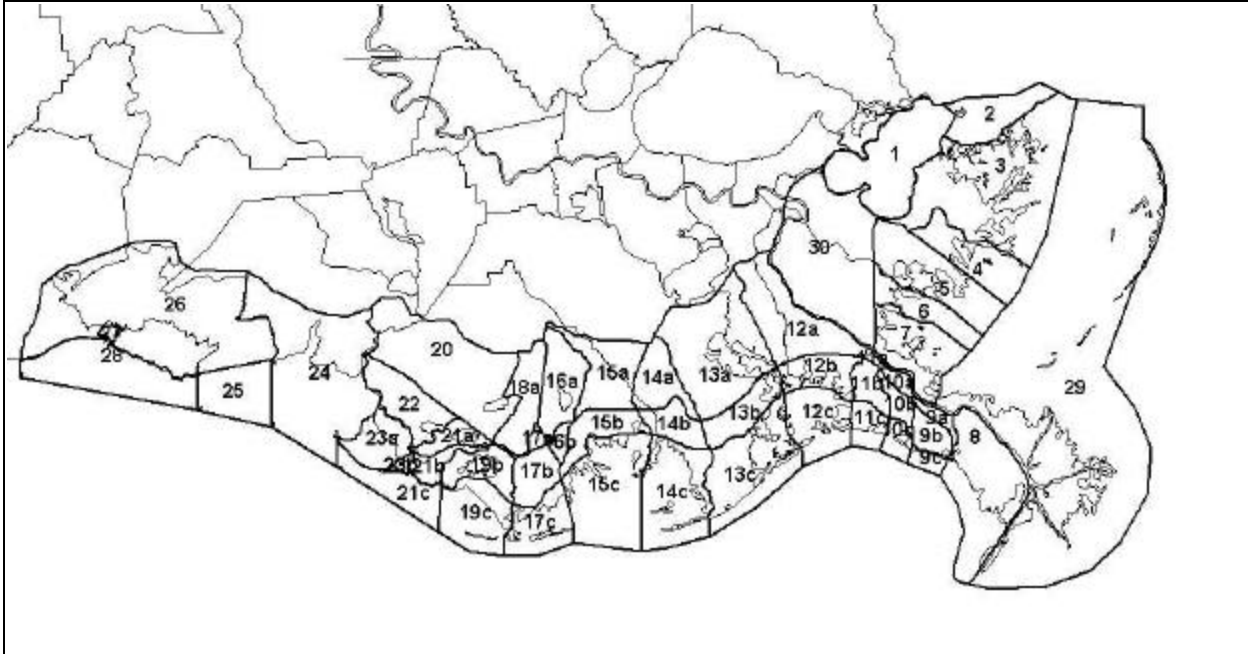
WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§519. Establishment of an Oyster Harvest Area Grid System

A. For the purpose of submission of oyster leaseholder production information, as required in R.S. 56:430.1, the oyster harvest area grid system is established as those grid areas detailed on the map which is attached hereto and made a part hereof.



AUTHORITY NOTE: Promulgated in accordance with R.S. 56:430.1.B.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:524 (March 2002).

0203#079

James H. Jenkins, Jr.
Secretary

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Establishment of Promotion Score Range

The State Civil Service Commission will hold a public hearing on April 10, 2002 to consider the following rule proposals. The hearing will begin at 9:00 a.m. and be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana. The Rules below will be considered for adoption at the meeting. Individuals who wish to comment on these proposals may do so at the public hearing or by writing to the Director of State Civil Service at Post Office Box 94111, Baton Rouge, LA 70804-9111. If special accommodations are needed, please notify us prior to this meeting.

This rule expands the concept embodied in the certifiable score rule 8.4(d) which authorizes probational and job appointments of applicants who attain scores in a specified range in lieu of requesting and working a certificate of eligibles to use in promotional situations. The purpose is to shorten the time to fill a vacancy and improve efficiency by streamlining administrative processes and reducing paperwork. The certifiable score concept has worked quite successfully for probational and job appointments. This new promotion score rule will greatly benefit Civil Service and all Departments.

Proposed New Rule

8.20(g). The Director may establish a range of promotion scores for certain jobs and, without issuing a certificate, permit competitive promotion of permanent state employees who have attained a score within that range.

Proposed Rule Amendment

If proposed new rule 8.20(g) is adopted, rule 8.20(a) must be amended by adding a phrase (indicated in bold below) to accommodate the new rule.

Current Rule

8.20 Promotion

Subject to the provisions of Rules 8.9(a) and 8.9(c), each promotion shall be made by appointing one of the eligibles within the five highest final grade groups on a promotional certificate issued by the director following competitive examination; or by the designation of a permanent employee for noncompetitive promotion and authorization thereof by the director.

Proposed Amended Rule

8.20(a) Except as provided in paragraph (g) below, and subject to the provisions of Rules 8.9(a) and 8.9(c).

Explanation

This rule is similar to the certifiable score rule 8.4 (d) which authorizes probational and job appointments of applicants who attain scores in a specified range in lieu of requesting and working a certificate of eligibles. The

purpose is to shorten the time to fill a vacancy and improve efficiency by streamlining administrative processes and reducing paperwork. The certifiable score concept has worked quite successfully for probational and job appointments. This new promotion score rule will greatly benefit Civil Service and all departments.

Allen H. Reynolds
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Establishment of Promotion Score Range

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only direct costs associated with implementing these rules are the costs of publishing them which total \$204. There are no other significant costs or savings to state or local governmental units as a result of these Rule changes.

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 and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Allen H. Reynolds
Director
0203#051

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
Business and Marketing Course Offerings
(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, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed changes of the Business and Marketing course offerings contained in Bulletin 741, *Louisiana Handbook for School Administrators* Standards 2.105.26, 2.105.27, and 2.105.32C will revise current course offerings, bringing them in-line with current industry standards.

**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 LR 27:694, 695 (May 2001), LR 27:815 (June 2001), LR 27:1005 (July 2001), LR 27:1181, 1182, 1183 (August 2001), LR 27:1512 (September 2001), LR 27: 1674 (October 2001), LR 27:1832, 1833 1840 (November 2001), LR 27:2086, 2095 (December 2001), LR 28:269, 272 (February 2002), LR 28:

Proposed Policy

Business Education

2.105.26 Business Education course offerings shall be as follows:

Course Title	Recommended Grade Level	Unit(s)
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business English	12	1
Business Law	11-12	1/2
Computer Multimedia Presentations	11-12	1/2
Cooperative Office Education (COE)	12	3
Desktop Publishing	11-12	1
Economics	11-12	1
Entrepreneurship	11-12	1
Financial Math	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I	10-12	1-3
Lodging Management II	11-12	1-3
Principles of Business	9-12	1
Telecommunications	10-12	1/2
Word Processing	11-12	1

Keyboarding and Keyboarding Applications shall be a prerequisite to Administrative Support Occupations, Business Computer Applications, Business Communications, Business English, Computer Multimedia Presentations, Telecommunications and Word Processing. Level I courses shall be prerequisite to Level II courses.

Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding/Keyboarding Applications and one of the following: ASO or Word Processing or BCA, and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may be required by the individual school system.

English I, II, III are prerequisites to Business English. BCA or Word Processing is prerequisite to Computer Multimedia Presentations. Computer Literacy or Computer Technology is prerequisite to Telecommunications.

General Cooperative Education

2.105.27 General cooperative education course offerings shall be as follows:

Course Title	Recommended Grade Level	Unit(s)
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3

General Cooperative Education courses shall be limited to students who meet the specific prerequisites and requirements of one of the specialized cooperative education programs.

Marketing Education

2.105.32 Marketing education course offerings shall be as follows:

Course Title	Recommended Grade Level	Unit(s)
Advertising and Sales Promotion	11-12	1
Cooperative Marketing Education I	11-12	3
Cooperative Marketing Education II	12	3
Entrepreneurship	11-12	1
Marketing Management	11-12	1
Marketing Research	11-12	1
Principles of Marketing I	9-12	1
Principles of Marketing II	10-12	1
Retail Marketing	11-12	1
Tourism Marketing	11-12	1

Keyboarding or being enrolled in Keyboarding simultaneously is a prerequisite for Advertising and Sales Promotion, Entrepreneurship, Research Marketing and Tourism Marketing. Principles of Management I and II and another advanced Marketing class is a prerequisite for Marketing Management. English I and II is a prerequisite for Marketing Research. Principles of Marketing or one other marketing course is a prerequisite for Cooperative Marketing Education I.

* * *

Interested persons may submit written comments until 4:30 p.m., May 9, 2002, 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 C Business
and Marketing Course Offerings**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision will change business and marketing course offerings. This change will bring them up-to-date with current industry standards. There will be no implementation costs (savings) to 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 by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes are being requested to bring current Business and Marketing course offerings in-line with industry demands. In aligning our course offerings with national standards, it will strengthen the link between secondary and postsecondary institutions. It will assist business and marketing students in attaining vocational skills for the workplace.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employers could have a larger, trained qualified pool from which to select employees.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0203#028

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators Attendance Compulsory School Age (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, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Legislation was enacted during the 2001 Regular Session of the Legislature that changes the compulsory school attendance age in Louisiana from 7 to 17 years of age to 7 to 18 years of age. Students who have attained the age of 7 years shall attend a public or private day school or participate in an approved home study program until they reach the age of 18 years. However, a student between the ages of 17 and 18 years of age may withdraw from school prior to graduation with the written consent of his parent, tutor, or legal guardian.

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 LR 27:694, 695 (May 2001), LR 27:815 (June 2001), LR 27:1005 (July 2001), LR 27:1181, 1182, 1183 (August 2001), LR 27:1512 (September 2001), LR 27: 1674 (October 2001), LR 27:1832, 1833 1840 (November 2001), LR 27:2086, 2095 (December 2001), LR 28:269, 272 (February 2002), LR 28:

Attendance

1.055.00 Students who have attained the age of 7 years shall attend a public or private day school or participate in an approved home study program until they reach the age of 18 years. However, a student between the ages of 17 and 18 years of age may withdraw from school prior to graduation with the written consent of his parent, tutor, or legal guardian.

Refer to R.S. 17:221.

Interested persons may submit written comments until 4:30 p.m., May 9, 2002, 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 Attendance Compulsory School Age

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Students are required to remain in school one year longer, until the age of 18. The estimated costs to state and local governmental units to keep these students in school one year longer is approximately \$36,230,345. The effect to the local education agencies would be an increase in state funding through the MFP. In addition, the locals would have to provide local funds to pay the local portion of the cost of educating these students

The long-term effects of providing increased education could offset some of the costs incurred through the MFP. To the extent that this policy reduces the number of dropouts, it is possible that these students may not end up in the custody of the Department of Corrections and there could be a reduction of state general fund expenditures in that given year. Also, further educating a student may reduce the chances of that person's depending on state federal assistance programs such as welfare and the receipt of food stamps.

At this time it is not known how much of the total costs will be borne by the state or by the local education agencies. Also, it cannot be determined how much of these costs will be offset by the possible savings mentioned above. The cost to print and mail the rule change is approximately \$500.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collection as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Students will be required to stay in school until the age of 18 rather than being allowed to drop out by the age of 17. Long-term economic benefits could accrue as a result of having a more highly educated workforce. An exact fiscal impact cannot be determined at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

A more highly educated and highly skilled workforce may result from the rule change. Students who stay in school one year longer may become more employable than they would be had they dropped out of school. This would result in fewer low wage jobs and fewer citizens who are dependent on social services.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0203#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators C Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems (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, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). At its January 2002 meeting, the State Board of Elementary and Secondary Education revised the Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems: Participation in the LEAP 21. These guidelines provide guidance and clarification to Bulletin 741, Standards 2.026.06, 2.026.08, and 2.026.09 as they relate to the participation of students transferring into the public schools from nonpublic schools and home schooling. Specific language was added to clarify the transfer policy as it relates to students with disabilities and their requirements to be eligible for special education waivers, appeals, and override as outlined in the High Stakes Testing Policy.

**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

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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 LR 27:694, 695 (May 2001), LR 27:815 (June 2001), LR 27:1005 (July 2001), LR 27:1181, 1182, 1183 (August 2001), LR 27:1512 (September 2001), LR 27: 1674 (October 2001), LR 27:1832, 1833 1840 (November 2001), LR 27:2086, 2095 (December 2001), LR 28:269, 272 (February 2002), LR 28:

Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems: Participation in the LEAP 21

Students in grades 5 and 9 transferring to the public school system from any in-state nonpublic school or any home schooling program, or any Louisiana resident transferring

from any out-of-state school shall be required to take the 4th or 8th grade LEAP 21 English Language Arts and Mathematics Tests and score at the *approaching basic* or above achievement level. The following guidelines shall apply:

1. Students may take LEAP 21 at either the spring or summer administration prior to enrollment. It is the responsibility of the parent to contact the district test coordinator to register for the test.

2. The nonpublic school and parent (or home schooling parent) is responsible for providing the district test coordinator, at least 10 working days prior to the testing date, any documentation required for requested standard testing accommodations.

3. Students with disabilities who have a current 1508 evaluation will participate in on-level LEAP 21 testing. Promotion decisions for these students will adhere to those policies as outlined in the High-Stakes Testing Policy for students with disabilities participating in on-level testing.

4. School systems may charge a fee for the testing of nonpublic and home schooling students. This testing fee shall be refunded upon the student's enrollment in that public school system the semester immediately following the testing.

5. Students who participate in the Spring administration and score at the *unsatisfactory* achievement level are eligible to retake the LEAP 21 at the summer administration.

6. Local school systems shall offer LEAP 21 summer remediation to nonpublic/home schooling 4th and 8th grade students who score at the *unsatisfactory LEAP 21* achievement level. School systems may charge a fee, not to exceed \$100 per student, for this attendance. This summer remediation fee shall be refunded upon the student's enrollment in that public school system the semester immediately following summer remediation.

7. Students who score at the *unsatisfactory* achievement level are not required to attend summer school offered by the local school system to be eligible to take the Summer retest (Refer to the High-Stakes Testing Policy for exceptions.)

8. Only those students who score at the *unsatisfactory* achievement level after participation in both the Spring and Summer administration of the LEAP 21 and who attend the summer school offered by the local school system are eligible for the appeals process or the policy override, provided all criteria are met. (Refer to the High-Stakes Testing Policy.)

9. Students with disabilities who have a current 1508 evaluation are eligible for a special education waiver only if they have attended summer remediation and taken the summer retest.

10. Students who participate in the spring administration only or summer administration only and score at the *unsatisfactory* achievement level are not eligible for the appeals process, special education waiver, or the policy override. These students are not eligible to take The Iowa Tests for placement purposes.

11. Students transferring into local school systems after the LEAP 21 Summer retest but prior to February 15 are required to take the state selected form of The Iowa Tests for grade placement, if the student has not taken LEAP 21.

12. Students taking The Iowa Tests are not eligible for either a retest, special education waiver, or the appeals process. These students may be eligible for the policy override based upon a decision by the School Building Level Committee (SBLC).

* * *

Interested persons may submit written comments until 4:30 p.m., May 9, 2002, 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 C Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There should be no additional implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should 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 should be no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0203#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators C Passing Score on the GED (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, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The new GED 2002 will have a different scoring system from the present score referenced in Bulletin 741. The standard for passage is not changed; only the reference to a specific score as the minimum standard for passage of the GED.

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 LR 27:694, 695 (May 2001), LR 27:815 (June 2001), LR 27:1005 (July 2001), LR 27:1181, 1182, 1183 (August 2001), LR 27:1512 (September 2001), LR 27: 1674 (October 2001), LR 27:1832, 1833 1840 (November 2001), LR 27:2086, 2095 (December 2001), LR 28:269, 272 (February 2002), LR 28:

Passing Score on the GED

1.124.0. To complete the General Educational Development (GED) Test successfully, a student must earn the minimum standard score approved by the governing bodies of the American Council on Education.

* * *

Interested persons may submit written comments until 4:30 p.m., May 9, 2002, 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 C Passing Score on the GED**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The estimated implementation costs to State and local government units is the cost to print the advertisement 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 or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no costs and/or economic benefits to directly affected persons or non-governmental groups. The standard for passing the GED has not changed, but a student must earn the minimum standard score approved by the governing bodies of the American Council on Education.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment.

Marilyn J. Langley
Deputy Superintendent
Management and Finance
0203#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel Policy for Add-On of Secondary Certification (Grades 7-12) to an Existing Certificate at Another Level (LAC 28:I.903)

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 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903. The new certification structure provided conditions under which Early Childhood (PK-3), Elementary (Grades 1-6), and Middle School (Grades 4-8) could be added to certificates at another level, but did not address Secondary (Grades 7-12) endorsements. This policy provides the conditions under which Secondary (Grades 7-12) certification can be added to an existing certificate at another level.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), (15); R.S. 17:7.(6); R.S. 17:10; R.S. 17:22.(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:

Policy for Add-On of Secondary Certification (Grades 7-12) to an Existing Certificate at Another Level

A person certified to teach up to and including Grade 8 may add secondary certification (grades 7-12) by meeting the following requirements:

1. content coursework to equal 31 semester hours of credit for a primary certification area; and
2. three semester hours of credit in a methodology course in the primary area of certification.

Once certified at the secondary level, a teacher has the following options for adding additional secondary (Grades 7-12) endorsements.

1. For certification areas designated as primary and/or secondary teaching focus areas, pass the designated PRAXIS exam or complete 19 semester hours.

2. For all other secondary certification areas, adhere to Bulletin 746 guidelines.

* * *

Interested persons may submit comments until 4:30 p.m., May 9, 2002, to Nina Ford, State 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 746C Louisiana Standards for State Certification of School Personnel Policy for Add-On of Secondary Certification (Grades 7-12) to an Existing Certificate at Another Level

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy will decrease testing expenses for undergraduate program elementary education certification candidates by requiring one less PRAXIS exam.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0203#022

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel Policy for All-Level (K-12) Certification Areas (LAC 28:I.903)

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 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903. The proposed policy provides a new certification structure for the All-Level (K-12) certification areas.

Title 28
EDUCATION

Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), (15); R.S. 17:7.(6); R.S. 17:10; R.S. 17:22.(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002),LR 28:

Policy for All-Level (K-12) Certification Areas

There are five All-Level (K-12) certification areas. The following requirements for certification apply to these five certification areas, as follows.

1. Art K-12. The Art K-12 undergraduate education program adheres to the All-level Certification Structure, requiring a specialty of 36 semester hours of coursework in Art.

For admission to an alternate program for Art K-12 certification, candidates must have successfully completed a minimum of 36 semester hours of coursework in Art.

For an Art K-12 endorsement (add-on) to an existing certificate, the candidate must successfully complete 36 semester hours of coursework in Art.

2. Dance K-12. The Dance K-12 undergraduate education program adheres to the All-level Certification Structure, requiring a specialty of 36 semester hours of coursework in Dance.

For admission to an alternate program for Dance K-12 certification, candidates must have successfully completed a minimum of 36 semester hours of coursework in Dance.

For a Dance K-12 endorsement (add-on) to an existing certificate, the candidate must successfully complete 36 semester hours of coursework in Dance.

3. Foreign Language K-12. The Foreign Language K-12 undergraduate education program adheres to the All-Level Certification Structure, requiring a specialty of 36 semester hours of coursework in a foreign language. If the language is French, at least 12 hours must be earned through

a two-semester residence in a university abroad or through two summers of intensive immersion study on a Louisiana university campus, an out-of-state university, or abroad.

For admission to an alternate program for Foreign Language K-12 certification, candidates must have successfully completed a minimum of 36 semester hours of coursework in a foreign language. If the language is French, at least 12 semester hours must be earned through a two-semester residence in a university abroad or through two summers of intensive immersion study on a Louisiana university campus, an out-of-state university, or abroad.

For a Foreign Language K-12 endorsement (add-on) to an existing certificate, the candidate must successfully complete 36 semester hours of coursework in a foreign language. If the language is French, at least 12 hours must be earned through a two-semester residence in a university abroad or through two summers of intensive immersion study on a Louisiana university campus, an out-of-state university, or abroad.

4. Health and Physical Education K-12. The Health and Physical Education K-12 undergraduate education program adheres to the All-level Certification Structure, requiring a specialty of 37 semester hours of coursework in Health and Physical Education.

For admission to an alternate program for Health and Physical Education K-12 certification, candidates must have successfully completed a minimum of 37 semester hours of coursework in Health and Physical Education.

For a Health and Physical Education K-12 endorsement (add-on) to an existing certificate, the candidate must successfully complete 37 semester hours of coursework in Health and Physical Education.

5. Vocal Music and/or Instrumental Music K-12. The Vocal Music and/or Instrumental Music K-12 undergraduate education program adheres to the All-level Certification Structure, requiring a specialty of 50 semester hours of coursework in Vocal Music and/or Instrumental Music.

For admission to an alternate program for Vocal Music and/or Instrumental Music K-12 certification, candidates must have successfully completed a minimum of 50 semester hours of coursework in Vocal Music and/or Instrumental Music.

There is no option for a Vocal Music and/or Instrumental Music K-12 endorsement (add-on) to an existing certificate.

All-Level (K-12) Certification Areas (Approved for Notice of Intent January 2002)

All-Level Undergraduate Program Structure		Art	Dance	Foreign Language	Health and Physical Education	Vocal and/or Instrumental Music
General Education Coursework	English	6 hours	6 hours	6 hours	6 hours	6 hours
	Mathematics	6 hours	6 hours	6 hours	6 hours	6 hours
	Sciences	9 hours	9 hours	9 hours	9 hours	9 hours
	Social Studies	6 hours	6 hours	6 hours	6 hours	6 hours
	Arts	3 hours	3 hours	3 hours	3 hours	3 hours
FOCUS AREA		36 semester hours of Art Coursework	36 semester hours Dance Coursework	36 semester hours Foreign Language Coursework*	37 semester hours H&PE Coursework	50 hours Vocal Music and/or Instrumental Music
Knowledge of the Learner and the Learning Environment (These hours may be integrated into other areas when developing new courses)	Child Development, Adolescent Psychology, Educational Psychology, The Learner with Special Needs, Classroom Organization and Management, and Multicultural Education NOTE: All areas should address needs of the regular and the exceptional child and should be provided across all certification categories (PK-3, 1-6, 4-8, and 7-12)	18 hours Emphasis across all certification categories	18 hours Emphasis across all certification categories	18 hours Emphasis across all certification categories	18 hours Emphasis across all certification categories	18 hours Emphasis across all certification categories
Methodology and Teaching	Reading	3 hours	3 hours	3 hours	3 hours	3 hours
	Teaching Methodology	6 hours	6 hours	6 hours	6 hours	6 hours
	Student teaching**	9 hours	9 hours	9 hours	9 hours	9 hours
Flexible Hours for the University's Use***		22 hours	22 hours	22 hours	21 hours	8 hours
TOTAL HOURS		124 hours	124 hours	124 hours	124 hours	124 hours

*If foreign language is French, at least 12 hours must be earned through a two-semester residence in a university abroad or through two summers of intensive immersion study on a Louisiana university campus, an out-of-state university, or abroad.

**Students must spend a minimum of 270 clock hours in student teaching, with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis.

***In addition to the student teaching experience, students should be provided actual teaching experience (in addition to observations) in classroom settings during the sophomore, junior, and senior years within schools with varied socioeconomic and cultural characteristics. It is recommended that pre-service teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

Interested persons may submit comments until 4:30 p.m., May 9, 2002, to Nina Ford, State 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 746C Louisiana Standards for
State Certification of School Personnel Policy for All-
Level (K-12) Certification Areas**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This policy will not change costs and/or economic benefits for directly affected persons or non-government groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0203#019

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel Policy for Secondary (Grades 7-12)
Certification: Primary and Secondary Teaching Focus Areas with No PRAXIS Exam (LAC 28:I.903)

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 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903. This policy prescribes conditions under which candidates can enter alternate programs and/or add endorsements if pursuing primary and/or secondary teaching focus areas (Grades 7-12) for which no PRAXIS exam has been validated for use in Louisiana.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), (15); R.S. 17:7.(6); R.S. 17:10; R.S. 17:22.(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:

Policy for Secondary (Grades 7-12) Certification: Primary/Secondary Teaching Focus Areas with No PRAXIS Exam

There are six Primary and/or Secondary Teaching Focus Areas for Grades 7-12, certification for which there is no PRAXIS examination. The following requirements for certification apply to these six certification areas, as follows.

1. Vocational Agriculture. This has been approved as an undergraduate program primary teaching focus area.

For admission to an alternate program for secondary (grades 7-12) certification, candidates must have successfully completed a minimum of 31 semester hours in technical agriculture courses.

There is no endorsement (add-on) option for Vocational Agriculture.

2. Distributive Education. For undergraduate programs, this has been approved as both a primary and a secondary teaching focus area.

For admission to an alternate program for secondary (grades 7-12) certification, candidates must have successfully completed a minimum of 31 semester hours in technical courses, to include marketing, merchandising, management, accounting, and business law, but not to

exceed 3 semester hours each of accounting and business law. For certification purposes, candidates must also have a minimum of 2000 hours (one year) of work experience in distributive occupations, a portion of which can be satisfied through a university-sponsored practicum or supervised work experience, for credit.

For an endorsement (add-on) of Distributive Educative to a valid secondary teaching certificate, candidate must have 19 semester hours of technical coursework; and 2,000 hours of work experience in distributive occupations, a portion of which can be satisfied through a university-sponsored practicum or supervised work experience, for credit.

3. Earth Science. For undergraduate programs, this has been approved as both a primary and a secondary teaching focus area.

For admission to an alternate program for secondary (grades 7-12) certification, candidates must have successfully completed a minimum of 31 semester hours of science coursework, to include at least 19 hours in earth science, 3 hours in physical geology, and 3 hours in historical geology.

For an endorsement (add-on) of Earth Science to a valid secondary teaching certificate, a candidate must have 19 semester hours of earth science coursework.

4. Environmental Science. For undergraduate programs, this has been approved as both a primary and a secondary teaching focus area.

For admission to an alternate program for secondary (grades 7-12) certification, candidates must have successfully completed a minimum of 31 semester hours in science courses, to include at least 12 hours of biology, 6 hours of chemistry, and 3 hours of geology or earth science.

For an endorsement (add-on) of Environmental Science to a valid secondary teaching certificate, a candidate must have 19 semester hours of science coursework, to include 12 hours of biology and 6 hours of chemistry.

5. Industrial Arts Education. For undergraduate programs, this has been approved as a primary teaching focus area.

For admission to an alternate program for secondary (grades 7-12) certification, candidates must have successfully completed a minimum of 31 semester hours of technical coursework.

There is no endorsement (add-on) option for Industrial Arts Education.

6. Journalism. For undergraduate programs, this has been approved as a secondary teaching focus area.

There is no alternate program option for Journalism.

For an endorsement (add-on) of Journalism to a valid secondary teaching certificate, a candidate must have 19 semester hours of journalism coursework.

* * *

Interested persons may submit comments until 4:30 p.m., May 9, 2002, to Nina Ford, State 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 746C Louisiana Standards
for State Certification of School Personnel
Policy for Secondary (Grades 7-12) Certification:
Primary and Secondary Teaching Focus Areas
with No PRAXIS Exam**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This policy will not change costs and/or economic benefits for directly affected persons or non-government groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0203#020

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel
PRAXIS Examination Requirements for all Elementary Education Certification Candidates
(LAC 28:I.903)

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 746C Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903. Effective October 1, 2002, the content PRAXIS examination requirement for both undergraduate and alternate program elementary education candidates (Grades 1-6) is Test #0014 (Elementary School: Content Knowledge). This requirement replaces the prior combination requirement of Tests #0011 (Elementary Education Curriculum, Instruction, and Assessment) and #0012 (Elementary Education: Content Area Exercises) for undergraduate program completers.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

**§903. Teacher Certification Standards and Regulations
Bulletin 746**

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), (15); R.S. 17:7.(6); R.S. 17:10; R.S. 17:22.(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:

PRAXIS Examination Requirement

For All Elementary Education Certification Candidates Effective October 1, 2002, the content PRAXIS examination requirement for both undergraduate and alternate program elementary education candidates (Grades 1-6) is Test #0014 (Elementary School: Content Knowledge). This requirement replaces the prior combination requirement of Tests #0011 (Elementary Education Curriculum, Instruction, and Assessment) and #0012 (Elementary Education: Content Area Exercises).

In addition, the PRAXIS Pre-Professional Skills Tests plus Test #0522 (Principles of Learning and Teaching: Grades K-6) continue as requirements for all elementary education certification candidates.

Elementary education certification candidates who, prior to October 1, 2002, successfully completed either Test #0011 or #0012, but failed to complete the combined requirement of both tests, may opt for either of the following:

- (1) Complete the combination requirement of #0011 and #0012 by passing the missing test; or
- (2) Complete the #0014 PRAXIS requirement.

* * *

Interested persons may submit comments until 4:30 p.m., May 9, 2002, to Nina Ford, State 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 746C Louisiana Standards for
State Certification of School Personnel
PRAXIS Examination Requirements for all Elementary Education
Certification Candidates**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This policy will decrease testing expenses for undergraduate program elementary education certification candidates by requiring one less PRAXIS exam.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0203#021

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 996—Louisiana Standards for Approval of Teacher Education Programs (LAC 28:XLV.Chapter 1-11)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the repeal of all existing rules pertaining to Bulletin 996, Louisiana Standards for Approval of Teacher Education Programs, and the adoption of new rules governing the accreditation policies and procedures for teacher education units in the state. Although the changes to Bulletin 996 are extensive, the intent of the law has not changed. Because teacher education units in the state are going through a redesign process to verify evidence of student learning, changes to Bulletin 996 will reflect the redesign efforts.

Title 28 EDUCATION

PART XLV. Bulletin 996—Standards for Approval of Teacher Education Programs

Chapter 1. Introduction

§101. Guidelines

A. Bulletin 996 is intended to guide higher education institutions in their development and review of teacher education programs, to guide visiting committees in their evaluations, and to inform all interested persons of the Louisiana standards for teacher preparation programs and the procedures for program evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§103. The Partnership Agreement

A. In September 1999, the State Board of Elementary and Secondary Education (SBESE) authorized Cecil J. Picard, State Superintendent of Education, to sign the partnership agreement between the State and the National Council for Accreditation of Teacher Education (NCATE). Implementation began in 2000 with visits to Louisiana institutions of higher education. Binding until 2004, the NCATE/State Partnership Agreement formalizes current practice and provides the State greater input into the review process. The State Board of Elementary and Secondary Education and the State Department of Education are committed to ensuring that the teachers in Louisiana meet high standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§105. Protocol

A. Bulletin 996 contains three parts that are vital to the Teacher Preparation Program Approval Process. Part One includes the Protocol and the Protocol Addendum for First/Probation/Continuing Accreditation for Professional Education Units in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§107. NCATE 2000 Standards C May 11, 2000

A. Bulletin 996 contains the National Council for Accreditation of Teacher Education standards (NCATE 2000 Standards: May 11, 2000). The standards selected for state program approvals are identical to the standards prescribed by the National Council for the Accreditation of Teacher Education (NCATE 2000 Standards: May 11, 2000). These standards focus on the overall quality of the professional education unit, with emphases on policies, procedures, candidates, assessment, field experiences, clinical practice, governance, administration, staffing, and resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§109. State Supplement

A. Bulletin 996 contains the Louisiana State Supplement Standards for Teacher Preparation Program Approval, standards that are unique to Louisiana education initiatives. Although particular sections of this Bulletin are addressed specifically to the institution or to the visiting committee, it is important for the visiting committee to be familiar with the directions given to the institution, and vice versa. Study and observance of Bulletin 996 by all concerned will greatly facilitate the state program approval and national unit accreditation processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Chapter 3. Protocol C State Requirements

§301. Adoption of NCATE Standards by Reference

A. The state has adopted the standards prescribed by the National Council for the Accreditation of Teacher Education (NCATE 2000 Standards: May 11, 2000). These standards are available on the NCATE website (www.ncate.org) and from the National Council for the Accreditation of Teacher Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§303. First/Continuing/Probation Accreditation for State Program Approval for Professional Education Units in the State of Louisiana

A. Dates of Visit

1. First/Continuing

a. Institutions receive copies of the regulations governing the approval of teacher preparation programs. The regulations require the institution to notify the department of intent to seek approval not less than one year prior to the year in which current state approval will end.

b. Visits are scheduled from Saturday through Wednesday noon. The Louisiana Department of Education must agree upon the date of the visit.

B. Timelines

1. First/Continuing

a. In Accordance to NCATE Timelines

b. All teacher preparation programs have received the current approval regulations and certification regulations.

C. Preconditions

1. First
a. For state-only visits, preconditions #1-10 are sent to the LSDE approximately 18 months prior to the on-site visit.

2. First/Continuing/Probation

a. For state approval preconditions #11 and #12 must be met.

D. Program Review Documents (Program review documents required)

1. First/Probation

a. Two copies of each program review must be submitted to the LSDE at the same time they are submitted to NCATE. For a state-only visit, two copies should be submitted to LSDE.

b. The state coordinates program reviews by national professional education associations with guidelines that have been approved by the Specialty Area Studies Board.

c. A copy of the national review also must be sent to the LSDE. The information will be made available to the Louisiana State Board of Elementary and Secondary Education for review, if requested.

2. Continuing

a. Two copies of each program review and one copy of the national review should be sent to the LSDE. This information will be made available to the Louisiana State Board of Elementary and Secondary Education for review, if requested.

E. Standards

1. First/Continuing/Probation

a. NCATE standards and the Louisiana State Supplement Standards apply to the professional education unit, as per Louisiana State Board of Elementary and Secondary Education.

F. Institutional Report

3. First/Probation

a. The institution responds to NCATE/state standards. For state only visits, a copy of the institutional report, undergraduate and graduate catalog are sent to each member of the State team and to the state consultant.

b. The institutional report must address, in addition to NCATE requirements, the specific Louisiana requirements.

4. Continuing

a. The institution must send one copy of the institutional report to each member of the state team and to the state consultant. The institutional report must address NCATE requirements (if applicable) and the specific Louisiana requirements.

G. Previsit

1. First/Continuing/Probation

a. The state chair meets with LSDE consultants and the institution's unit head and/or designee to plan for the visit. This previsit occurs at the institution within 60 days of the visit.

b. The state chair and state consultant should have received a copy of the institution's report(s) prior to the previsit.

H. Team Members (Joint)

1. First/Continuing/Probation

a. A team is selected from Louisiana's Board of Examiners (BOE) by the coordinator of teacher preparation program approval and the Section Administrator of Teacher Certification and Higher Education. Louisiana regulations require that team members represent a broad background and experience in education. The team must include representatives of Louisiana Education Authorities (LEAs), higher education, and the LSDE and must represent geographic, gender and racial diversity. The institution is given the opportunity to request the withdrawal of any team member for good cause. The Department approves or denies the request.

I. Team Size

1. First/Continuing/Probation

a. The total number of team members will be determined jointly by NCATE, (if applicable) and/or by the LSDE, based on the number of programs to be reviewed. All Louisiana members will be voting members of the team. The state consultant will not vote but will have full rights otherwise.

J. Team Chairs

1. First/Continuing/Probation

a. The coordinator for teacher preparation program approval and the Section Administrator of Certification and Higher Education appoints the state co-chair. The state co-chair will be responsible for coordinating the writing of the section of the report on Louisiana requirements, based on information provided by Louisiana team members. The written report will be submitted to the NCATE chair and to the state consultant.

K. Team Decisions

1. First/Continuing/Probation

a. For NCATE/State visits, the Louisiana team members will determine if the specific Louisiana standards have been met and will determine the weaknesses to be cited and recorded for each standard. The team generally uses a consensus process.

b. For state-only visits, the Louisiana team members will vote on both NCATE and state standards to determine if the unit has met standards and if not, the weaknesses to be cited.

L. Team Expenses

1. First /Continuing/Probation

a. The institution is required to cover all travel and maintenance expenses for the members of the Louisiana BOE.

M. Team Training

1. First/Continuing/Probation

a. Louisiana members have successfully completed an LBOE training session in the past six years.

N. Other Team Participants

1. First/Continuing/Probation

a. The state consultant's expenses are covered by the LSDE.

O. On-Site Visit

1. First/Continuing/Probation

a. The NCATE template for on-site visits guides the conduct of the visit as outlined in the *Handbook for First Accreditation Visits* and the *Handbook for Continuing Accreditation Visits*.

b. The state format for an exit interview includes providing information on the rating of the standards with weaknesses cited. This is done to alert institution officials as to what the written report will contain. The exit interview is not a time for discussion or debate on the rating of standards.

c. For a state-only visit, an exit conference is held before the team departs on Wednesday. The state chair and the state consultant from the LSDE conduct it. The unit head, unit visit coordinator and the president and/or provost may also attend.

P. BOE Team Report

1. First/Continuing/Probation

a. For NCATE/state visits, the state co-chair will compile the state section of the report. A draft of the state report will be mailed to each state member and the state consultant for review and to the institution for its review of any factual errors.

b. For state-only visits, the state chair will compile the entire report. A draft of the team report will be mailed to each team member and the state consultant for review and to the institution for its review of any factual errors. The unit has approximately five days to respond in writing.

c. After receiving the unit's response and making appropriate changes, if necessary, the chair submits the final report, including state standards if joint visit, to LSDE, which then sends two copies of the report to the institution and NCATE (if applicable).

Q. Institutional Rejoinder

1. First/Continuing/Probation

a. The institution must submit two copies of its BOE report rejoinder, addressing all applicable standards, to the LSDE. The institution may, as appropriate, send a written state report rejoinder to the LSDE.

R. Final Action Report

1. First/Continuing/Probation

a. The LSBESE reviews the institutional report and any institutional rejoinders and/or responses. The LSBESE makes the final decision on the approval of the teacher preparation programs (unit) at that institution. The Louisiana Unit Accreditation Board (LUAB) meets to recommend the action to be taken, based on the report and the rejoinder, and LSDE staff takes the action recommendation to LSBESE. The actions that the Board can take include full approval, provisional approval, probationary approval, or denial of approval for the unit. A letter from the Section Administrator of Teacher Certification and Higher Education to the head of the education unit conveys final Board action, with a copy to the president of the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§305. Protocol Addendum for Change in State Status of NCATE Accredited Teacher Education Units in Louisiana

A. As a result of action taken by the NCATE Executive Board in October of 1999, an addendum has been included with the State of Louisiana's Partnership Protocol, to reflect actions to be taken by NCATE and the state when a "change

in state status" occurs for an NCATE accredited teacher education unit.

1. Notification

a. The state will provide to NCATE a copy of the teacher education standards that describe how status of programs will be determined.

b. Within 30 days, the state will provide NCATE notification of a "change in state status" affecting a Louisiana NCATE-accredited institution.

c. Supporting documentation, pertaining to the decision that leads to a "change in state status," will be provided to NCATE, pending approval by the State Board of Elementary and Secondary Education.

d. As with all institutional actions by the Louisiana State Board of Elementary and Secondary Education, public notice will be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Chapter 5. Preconditions for Teacher Preparation Program Approval

§501. Requirements of Preconditions

A. The preconditions for teacher preparation program approval are required to assure that any education unit undergoing review has met fundamental criteria that undergird the State's and NCATE's standards for accreditation. An education unit should submit its preconditions report to the Louisiana Department of Education and to NCATE office, if simultaneously pursuing national accreditation, within 18 months of its planned program approval visit. State Department personnel and, in the case of national approval, NCATE staff will advise the unit if any additional documentation is required to complete the preliminary process for program approval. Once the preconditions process is complete with notification from the Louisiana Department of Education and/or NCATE, the institution should begin its preparation toward State and/or national accreditation of its teacher preparation program.

B. The state entered into a partnership agreement with the National Council for Accreditation of Teacher Education (NCATE) effective through Fall 2004 to conduct joint state program approval and NCATE unit accreditation reviews. The state has adopted and is incorporating by reference preconditions 1-9 prescribed by NCATE. These standards are available from the NCATE website (www.ncate.org) or from the National Council for Accreditation of Teacher Education.

C. Preconditions #10, #11, and #12 must be met by education units seeking approval.

1. Precondition #10. The institution is an equal opportunity employer and does not discriminate on the basis of race, sex, color, religion, age or handicap (consistent with Section 702 of Title VII of the Civil Rights Act of 1964, which deals with exemptions for religious corporations, with respect to employment of individuals with specific religious convictions).

a. Documentation required:

i. A copy of the institution's official action pledging compliance with nondiscriminatory laws and practice.

2. Precondition #11. Under state legislative authority R.S. 17:7(6), as amended, the unit complies with the

qualifications and requirements for the certification of teachers established by the State Board of Elementary and Secondary Education.

a. Documentation required:

i. teacher education handbooks (faculty and student) or university catalog that publishes the unit's policies and procedures regarding but not limited to the following:

- (a). procedures for student evaluation and counseling upon First entry into the institution;
- (b). 2.20 average on a 4.00 scale as a condition for entrance into a teacher education program;
- (c). passage of standardized test for entry into teacher education;
- (d). experiences in schools of varied socioeconomic and cultural characteristics;
- (e). instruction on child discipline and the prevention of disruptive behavior in schools;
- (f). reading courses (three hours for secondary and nine hours for elementary);
- (g). a minimum of 270 clock hours in student teaching with 180 hours of actual teaching;
- (h). a substantial part of 180 hours of actual student teaching on an all day basis;
- (i). 2.50 cumulative grade point average at graduation; and
- (j). evaluation criteria of faculty and timeframes.

3. Precondition #12. The teacher education unit must meet the BESE requirements for certification for each program area offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Chapter 7. NCATE 2000 Unit Standards

§701. Partnership Agreement

A. The state entered into a partnership agreement with the National Council for Accreditation of Teacher Education (NCATE) effective through Fall 2004 to conduct joint state program approval and NCATE unit accreditation reviews. The state has adopted and is incorporating by reference the standards prescribed by NCATE. These standards are available from the NCATE website (www.ncate.org) or from the National Council for Accreditation of Teacher Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Chapter 9. Louisiana State Supplement for Teacher Preparation Program Approval

§901. Introduction

A. Each teacher preparation program seeking approval from the Louisiana State Board of Elementary and Secondary Education (LSBESE) is required to incorporate and adhere to the NCATE standards and to track closely the NCATE accreditation process. Each Louisiana university is required to develop a report describing how the unit is addressing the six key state initiatives as identified and delimited in the Louisiana State Supplement for Teacher Preparation Program Approval. It is the responsibility of the teacher preparation program to prepare and present a clear description of how it is responding to each of the Louisiana Standards.

B. The rubrics, as listed, develop a continuum of quality regarding a beginning teacher's ability to meet effectively the requirements of the five domains in *The Louisiana Components of Effective Teaching*. The integration of the Louisiana Content Standards is to be evidenced in the teacher education curricula of each teacher education unit. Each teacher education program must show evidence of integration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Chapter 11. The Components of Effective Teacher Preparation

Subchapter A. Standard AC Candidates Provide Effective Teaching for All Students

§1101. Planning

A. Candidates and/or Graduates of the Teacher Education Program Provide Effective Instruction and Assessment for All Students

1. The teacher education program provides candidates¹ and/or graduates² with knowledge and skills in the following planning processes: specifying learner outcomes, developing appropriate activities which lead to the outcomes, planning for individual differences, identifying materials and media for instruction, specifying evaluation strategies for student achievement, and developing Individualized Education Plans (IEPs) as needed.

Unacceptable	Acceptable	Target
Candidates recognize the components of planning and know that they are expected to meet the learning needs of each student.	Candidates demonstrate knowledge of the steps in developing plans to meet the learning needs of each student.	Candidates and/or graduates develop and implement plans as needed to meet the learning needs of each student.

¹Candidates. Individuals admitted to or enrolled in programs for the First preparation of teachers. Candidates are distinguished from students in P-12 school.

²Graduates. Individuals admitted to or enrolled in programs for the advanced preparation of teachers, teachers continuing their professional development, or other professional school personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1103. Management

A. The teacher education program provides candidates and graduates with knowledge and skills in the management component, which includes maintaining an environment conducive to learning, maximizing instructional time, and managing learner behavior.

Unacceptable	Acceptable	Target
Candidates understand various approaches to classroom/behavior management.	Candidates create a positive learning environment, maximize instructional time, and manage learner behavior.	Candidates and graduates create a positive learning environment, maximize instructional time, and manage learner behavior, making adjustments as necessary to meet the learning needs of each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1105. Instruction

A. The teacher education program provides candidates and graduates with skills for delivering effective instruction, presenting appropriate content, providing for student involvement, and assessing and facilitating student growth.

Unacceptable	Acceptable	Target
Candidates recognize the components of instruction that meet the learning needs of each student.	Candidates demonstrate use of instructional components that meet the learning needs of each student.	Candidates and graduates demonstrate effective instruction that results in positive learning outcomes for each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2., R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1107. Curriculum

A. The teacher education curricula provide candidates and graduates with knowledge and skills to effectively incorporate the Louisiana Content Standards in instructional delivery.

Unacceptable	Acceptable	Target
Candidates understand the basic components of the Louisiana Content Standards.	Candidates demonstrate knowledge of the Louisiana Content Standards in lessons for each content area they are preparing to teach.	Candidates and graduates implement instruction and assessment reflective of content standards, local curricula, and each student's needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1109. Curriculum-Reading (Specifically but not Exclusively for K - 3 Teachers)

A. The teacher education program provides candidates and graduates with knowledge and skills in the curriculum process.

Unacceptable	Acceptable	Target
Candidates understand the elements of a balanced approach to reading instruction.	Candidates use a balanced approach to reading instruction and assessment in K-3 classrooms.	Candidates and graduates effectively use a balanced approach to reading instruction and assessment in K-3 classrooms to impact learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1111. Curriculum Mathematics (Specifically but not exclusively for K- 3 teachers)

A. The teacher education program provides candidates and graduates with knowledge and skills in the curriculum process.

Unacceptable	Acceptable	Target
Candidates understand the elements of reform mathematics.	Candidates use reform mathematics content and pedagogy in providing instruction.	Candidates and graduates effectively use reform mathematics content and pedagogy in instruction and assessment, including the use of manipulatives and/or the application of content to real life situations, resulting in improved student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1113. Technology

A. The teacher education program provides candidates with skills to plan and deliver instruction that integrates a variety of software, applications, and related technologies appropriate to the learning needs of each student.

Unacceptable	Acceptable	Target
Candidates understand how to use technology.	Candidates create and use instruction and assessment that integrate technology into the curriculum.	Candidates and graduates effectively integrate technology into the curriculum with instruction and assessment that result in improved student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1115. Professional Development

A. The teacher education program provides candidates and/or graduates with information and skills for planning professional self-development.

Unacceptable	Acceptable	Target
No evidence exists that candidates were exposed to the need for ongoing professional development.	Candidates plan and pursue professional development activities required by the university and/or First employing school system.	Graduates develop an individualized professional development plan based upon their self assessment, reflection, and long term professional goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1117. School Improvement

A. The teacher education program provides candidates and/or graduates with preparatory experiences in school improvement that includes taking an active role in school decision-making and creating relevant partnerships.

Unacceptable	Acceptable	Target
Candidates understand the processes of school improvement.	Candidates review and are familiar with school improvement efforts at the school and district levels.	Graduates participate in school improvement efforts by serving on committees and forming partnerships with community groups.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Subchapter B. Standard BC Candidates and/or Graduates of Teacher Education Programs Participate in the Accountability and Testing Process

§1119. School and District Accountability System

A. The Teacher Education Program provides candidates and/or graduates with knowledge and skills regarding the utilization of the Louisiana School and District Accountability System (LSDAS).

Unacceptable	Acceptable	Target
Candidates understand the basic components of the LSDAS.	Candidates investigate documents, data, and procedures used in LSDAS.	Graduates take an active role in the school growth process as related to the LSDAS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1121. Testing

A. The teacher education program provides candidates and/or graduates with information on the Louisiana Educational Assessment Program (LEAP 21) to enhance their testing and measurement practices related to learning and instruction.

Unacceptable	Acceptable	Target
Candidates understand the basic components of the Louisiana Educational Assessment Program (LEAP 21).	Candidates plan and implement instruction that correlates with LEAP 21.	Graduates interpret LEAP 21 test data and apply results to impact student achievement positively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Subchapter C. Standard C -- The Teacher Education Unit Engages in Program Development

§1123. Plans and Goals

A. The long-range strategic plans and goals of the teacher education unit are consistent with and are an integral part of the institution's long-range strategic plans and goals.

Unacceptable	Acceptable	Target
The long-range strategic plans and goals of the teacher education program are consistent with the institution's long range plans and goals.	The institution's long-range plans and goals support the long-range strategic plans and goals of the teacher education program.	The long-range strategic plans and goals of teacher education are an integral part of the institution's long range plans and goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Subchapter D. Standard DC The Teacher Education Unit Adheres to Faculty Load Policies and Assignments

§1125. Faculty Teaching Workload

A. The load for faculty teaching each semester/quarter generally does not exceed 12 semester/quarter hours for undergraduate courses, 9 semester/quarter hours for graduate courses, and an appropriate proration for a combination of undergraduate and graduate courses.

Unacceptable	Acceptable	Target
The workload policy of the institution allows faculty to participate in teaching (including P12 teaching), scholarship, advisement, and service.	The workload policy of the institution encourages faculty involvement in teaching (P-12), scholarship, advisement, and service.	The workload policy of the institution provides incentives for faculty to make significant contributions to the schools (P-12), scholarly literature, and service to the university and community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Subchapter E. Standard EC The Teacher Education Unit has Appropriate Instructional Support and Facilities for Quality Operation

§1127. Teacher Education Unit

A. Teacher education programs are conducted in a physical plant designed and appropriately maintained for efficient delivery of instruction.

Unacceptable	Acceptable	Target
The Teacher Education Unit has insufficient resources, facilities, and equipment (when compared to other professional units on campus or similar units at other universities) making it difficult to meet standards and deliver instruction.	The Teacher Education Unit has sufficient resources and facilities to prepare candidates to deliver instruction effectively, and to meet standards.	The Teacher Education Unit has exemplary resources, facilities, and equipment. For example, the Unit has an outstanding physical facility to accommodate state-of-the-art teaching and learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Subchapter F. Standard FC The Teacher Education Unit Offers a Program of Collaborative Field Services

§1131. Collaboration

A. The Unit collaborates with higher education faculty, school personnel, and other members of the professional community to design, deliver, and revise effective programs

for the preparation of school personnel and to improve the quality of instruction in the schools.

Unacceptable	Acceptable	Target
The Teacher Education Unit works with the LEAs.	The Teacher Education Unit develops collaborative relationships with the LEAs.	The Teacher Education Unit maintains collaborative, diversified, and sustained working relationships with the LEAs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Chapter 13. Identifications of Acronyms

§1301. Acronyms

A. Listed below are the full identifications of acronyms used in this publication:

- ACTC*American College Test;
- AFTC*American Federation of Teachers;
- BOEC*Board of Examiners;
- BORC*Board of Regents;
- CEOC*Chief Executive Officer;
- K-3C*Kindergarten through 3rd Grade;
- LEAP 21C*Louisiana Educational Assessment Program for the 21st century;
- LSBESE*Louisiana State Board of Elementary and Secondary Education;
- LSDASC*Louisiana School and District Accountability System. *LSDAS*'s intent is to establish a systematic approach to assessing instructional effectiveness of schools and districts based primarily upon student achievement;
- LSDEC*Louisiana State Department of Education;
- LUABC*Louisiana Unit Accreditation Board;
- NCATEC*National Council for the Accreditation of Teacher Education;
- NEAC*National Education Association;
- P-12C*Pre-kindergarten through 12th Grades;
- UABC*Unit Accrediting Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Interested persons may submit comments until 4:30 p.m., May 9, 2002, to Nina Ford, State 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 996—Louisiana Standards for Approval of Teacher Education Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy will not change costs and/or economic benefits for directly affected persons or non-government groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0203#029

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation (LAC 28:XLIX.101, 349, 2523, 2911, 3307, 3309, 3313, and Chapter 34)

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 revisions to §§101, 349, 2523, 2911, 3307, 3309, 3313, and Chapter 34 of Bulletin 1196, *Louisiana Food and Nutrition Programs, Policies of Operation*. Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. These revisions to Bulletin 1196: 1. incorporate the major Federal and State policy changes as a result of the Federal revision of the Child and Adult Care Food Program Financial Management Instruction 796-2, Revision 3, effective May 14, 2001; 2. add audit requirements in the Bulletin for the Summer Food Service Program and the Child and Adult Care Food Program (omitted through oversight); 3. strengthen Louisiana Department of Education (LDE) administrative procedures for compliance with federal audit requirements; and 4. transfer the Child Nutrition Program Appeals Procedures from LAC 28:I.943, where initially adopted, to Part XLIX, Chapter 34 of the LAC.

Title 28

EDUCATION

Part XLIX. Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation

§101. Responsibility

A. The board adopted rules and regulations for the operation of the Louisiana Child Nutrition Program. The purpose of the program is to enable child care institutions to integrate a nutritious food service with organized child care services for enrolled children. The rules and regulations are the same as those established in 7 CFR Parts 210-245 for the operation of the Child Nutrition Program.

B. The responsibility for the administration, operation, and supervision of Child Nutrition Programs (CNP) is vested in the educational authorities that are responsible for all other phases of the school program. A CNP must be well planned, organized, and administered on national, state, and local levels if it is to function as an integral part of the total school program. It is important to operate an efficient, high-quality food service unit that meets the nutritional needs of children and provides an educational activity center for the school and community. The goals of the CNP will be met when these principles are applied by those in authority. The responsibilities of administrators are discussed below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2100 (December 2001), LR 28:

§349. Recordkeeping for RCCIs and Boarding Schools

A. - B.12.a. ...

b. If a participating RCCI or boarding school has Federal expenditures of less than \$300,000 in a fiscal year, it shall annually report the amount expended, as a recipient or a subrecipient, in each federal award to the Louisiana Department of Education, to ensure compliance with federal audit requirements. The report will include, at a minimum, the name of each federal award for which the RCCI or boarding school expended funds, the Catalog of Federal Domestic Assistance (CFDA) Number for each award, if known, and the total expenditures in each award for the fiscal year. The report is to be submitted on a form that can be obtained from the Louisiana Department of Education and is due within 60 calendar days from the close of the RCCI or boarding school's fiscal year.

c. Circular A-133 Subpart A §105 defines recipient or subrecipient. The main criteria for determining if an RCCI or boarding school is a recipient or a subrecipient of Federal funds is compliance with federal program requirements as a criteria of receiving and expending the Federal funds.

13. - 14.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2120 (December 2001), amended LR 28:

§2523. Audit Requirements for the Summer Food Service Program

A. Refer to §333 for specific audit requirements that also apply to approved, participating sponsoring institutions.

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's federal expenditures are less than \$300,000 in a fiscal year, that sponsoring institution shall annually report the amount expended, as a recipient or a subrecipient, in each federal award to the Louisiana Department of Education, to ensure compliance with federal audit requirements. The report will include, at a minimum, the name of each federal award for which the sponsoring institution expended funds, the Catalog of Federal Domestic Assistance (CFDA) Number for each award, if known, and the total expenditures in each award for the fiscal year. The report is to be submitted on a form that can be obtained from the Louisiana Department of Education and is due within 60 calendar days from the close of the sponsoring institution's fiscal year.

1. Circular A-133 Subpart A §105 defines recipient or subrecipient. The main criteria for determining if a sponsoring institution is a recipient or a subrecipient of federal funds is compliance with federal program requirements as a criteria of receiving and expending the federal funds.

C. While a sponsoring institution that does not meet the annual expenditure threshold of \$300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§2911. Audit Requirements for the Child and Adult Care Food Program

A. Refer to §333 for specific audit requirements that also apply to approved, participating sponsoring institutions.

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's federal expenditures are less than \$300,000 in a fiscal year, that sponsoring institution shall annually report the amount expended, as a recipient or a subrecipient, in each federal award to the Louisiana Department of Education, to ensure compliance with federal audit requirements. The report will include, at a minimum, the name of each federal award for which the sponsoring institution expended funds, the Catalog of Federal Domestic Assistance (CFDA) Number for each award, if known, and the total expenditures in each award for the fiscal year. The report is to be submitted on a form that can be obtained from the Louisiana Department of Education and is due within 60 calendar days from the close of the sponsoring institution's fiscal year.

1. Circular A-133 Subpart A §105 defines recipient or subrecipient. The main criteria for determining if a sponsoring institution is a recipient or a subrecipient of Federal funds is compliance with Federal program requirements as a criteria of receiving and expending the federal funds.

C. While a sponsoring institution that does not meet the annual expenditure threshold of \$300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§3307. Management Plan and Administrative Budget Approval

A. - B.8. ...

C. Deferred Compensation Plan Approval. In order to pay less than the budgeted salary for any FDCH sponsor employee as approved by the State Agency in the sponsor's current application/agreement, the sponsor must submit a written deferred compensation plan to the State Agency and receive written state agency approval.

1. The following items shall be included in the requested deferred compensation plan:

- a. purpose of the deferral;
- b. procedures to accrue the salary and/or fringe benefits;

- c. beginning and ending dates;
- d. date payment(s) are to be made;
- e. names of affected employees;
- f. maximum amount to be deferred per individual;
- g. tax liability acknowledgement for the individual and the sponsor;
- h. a compliance assurance statement; and
- i. written employee agreement.

2. If a deferred compensation plan is approved, the funds for each salary and/or benefits being deferred must be deposited, at the time of deferral, into a restricted account and can be used only to liquidate the deferred compensation for the specific employee whose compensation or benefits were deferred.

3. If compensation is not given by the sponsor for program labor, the labor is a donation and cannot be charged to the FDCH program.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 27:2209 (December 2001), amended LR 28:

§3309. Sponsor Administrative Operations

A. - A.1.f. ...

2. Salary may not be accrued unless the sponsor has a deferred compensation plan approved by the State Agency.

B. - H.1.a. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 27:2210 (December 2001), amended LR 28:

§3313. Audit/Review

A. - A. 1. ...

2. Reporting to the Louisiana Department of Education. If a participating sponsor's federal expenditures are less than \$300,000 in a fiscal year, that sponsor shall annually report the amount expended, as a recipient or a subrecipient, in each federal award to the Louisiana Department of Education. The report will include, at a minimum, the name of each federal award for which the sponsor expended funds, the Catalog of Federal Domestic Assistance (CFDA) number for each award, if known, and the total expenditures in each award for the fiscal year. The report is to be submitted on a form that can be obtained from the Louisiana Department of Education and is due within 60 calendar days from the close of the sponsor's fiscal year.

a. Circular A-133 Subpart A §105 defines recipient or subrecipient. The main criteria for determining if a sponsor is a recipient or a subrecipient of federal funds is compliance with federal program requirements as a criteria of receiving and expending the Federal funds.

b. While a sponsoring institution that does not meet the annual expenditure threshold of \$300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 27:2213 (December 2001), amended LR 28:

Chapter 34. Louisiana Child Nutrition Programs Appeals Procedures

§3401. Purpose

A. 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).

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§3403. Service

A. 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.

B. Service upon an institution's authorized representative, officer, or agent constitutes service upon that institution.

C. 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.

1. 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.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§3405. Notice of Proposed Action

A. 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.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§3407. Request for Appeal

A. 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.

B. The Request for Appeal shall contain the following information:

1. 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;

2. a statement specifying which of the following two forms of appeal an institution seeks:

a. a review of the records with the right to submit additional written information to dispute the proposed action; or

b. 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;

3. a statement as to the relief or remedy the institution seeks from the appeal.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§3409. Appeals on the Record; Submissions

A. 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.

B. 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.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§3409. Notice and Time of Hearing

A. 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.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§3411. Effect of Appeal Upon Agency Actions

A. 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.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§3413. Default

A. 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.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§3415. EvidenceC Order of Hearing

A. 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.

1. 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.

2. Unduly repetitious evidence, whether testimonial or documentary, shall be excluded when such exclusion will not materially prejudice the rights of a party.

3. 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.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§3417. Hearing Conduct and Decorum

A. 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.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§3419. Decision, Judicial Review, Records

A. 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.

B. 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.

C. 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.

D. 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, LR 28:

Interested persons may submit comments until 4:30 p.m., May 9, 2002 to Nina Ford, State 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 1196C Louisiana Food and Nutrition Programs, Policies of Operation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated costs (savings) to state or local governmental units. This is a revision of *Bulletin 1196*, which has incorporated all federal and state policy changes that have already been implemented by the approved participating sponsoring institutions. There will be no costs due to the fact that the amended documents will be on the website and can be downloaded.

The State Board of Elementary and Secondary Education estimated cost for printing this policy change and first page of fiscal and economic impact statement in the Louisiana Register is approximately \$108. Funds are currently budgeted for this purpose.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collection 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 costs or economic benefits to directly affect persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0203#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1196C Louisiana Food and Nutrition Programs,
Policies of Operation C Procurement Systems
(LAC 28:XLIX.1503 and 2515)

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 revisions to §1503 and §2515 of Bulletin 1196, *Louisiana Food and Nutrition Programs, Policies of Operation*. Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. These revisions will incorporate all federal and state policy changes which have already been implemented by the School Food Authorities.

Title 28

EDUCATION

Part XLIX. Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation

§1503. Procurement Systems

A. - A.5.f.i.(b). ...

(c). The financial and technical resources of the bidder are not adequate.

(d). There is evidence of noncompliance with public policy (EEO, EPA, etc.).

A.5.f.ii. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2183 (December 2001), LR 28:

§2515. Records

A. ...

B. The annual deadline for Summer Food Service Program sponsor applications is April 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2203 (December 2001), amended LR 28:

Interested persons may submit comments until 4:30 p.m., May 9, 2002 to: Nina Ford, State 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 1196C Louisiana Food
and Nutrition Programs, Policies of
OperationC Procurement Systems**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated costs (savings) to state or local governmental units. This is a revision of *Bulletin 1196*, which has incorporated all federal and state policy changes that have already been implemented by the school food authorities. There will be no costs due to the fact that the Bulletin will be on the website and can be downloaded.
The State Board of Elementary and Secondary Education estimated cost for printing this policy change and first page of fiscal and economic impact statement in the Louisiana Register is approximately \$108. Funds are currently budgeted for this purpose.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated effect on revenue collection 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 costs or economic benefits to directly affect persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Marlyn J. Langley Deputy Superintendent Management and Finance 0203#030	H. Gordon Monk Staff Director Legislative Fiscal Office
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NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1963C Louisiana State Arts Content Standards
(LAC 28:LI.Chapters 1-9)

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 revision of Bulletin 1963, *Louisiana Arts Content Standards*. The revised Bulletin 1963 will be printed in codified format as Part LI of the *Louisiana Administrative Code* and reference to this bulletin will be repealed from LAC 28:I.930.C. The *Louisiana Arts Content Standards* will align the curriculum with desired changes to promote a more relevant arts education curriculum for all students. The *Louisiana Arts Content Standards* will be disseminated to local school districts following publication. The standards and benchmarks therein will be used to guide curriculum development for all arts education courses. Implementation

of the guidelines set forth in the *Louisiana Arts Content Standards* will improve educational practices and coherence in the local art education programs.

Title 28

EDUCATION

Part LI. Louisiana Arts Content Standards

Chapter 1. General Provisions

§101. Introduction

A. The arts, dance, theatre arts, visual arts, and music are fundamental to the intellectual, social, emotional, and physical development of Louisiana students for the twenty-first century. The arts draw on a range of intelligence and learning styles not addressed in most educational environments.

B. Students of the arts are encouraged to use their imaginations, to develop personal discipline, and to find multiple solutions to problems. They learn to respond to events and experiences with confidence and to communicate their feelings and viewpoints through appropriate creative outlets.

C. Business demands workers who possess an ability to communicate, to be flexible, and to diagnose problems and find creative solutions. The arts preceded speech as man's first language; they assist in the development of the skills of communication and the integration of basic skills of reading, writing, science, and mathematics. These skills help students shape their lives, their communities, and their nation. The arts make all subjects come alive.

D. The Louisiana Arts Content Standards bring together the basic content of the four disciplines of dance, theatre arts, visual arts, and music into one common set of standards essential for a comprehensive arts education. The twenty-first century, the age of information, will require more from the next generation of students. The relevance of education in a rapidly changing society will depend on converging the aims of education and the workforce for well-rounded, educated students who will be productive members of society. The arts will assist in the achievement of these aims with the implementation of these rigorous and challenging content standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§103. Standards of Arts Education

A. Creative Expression. Creative expression is the ability to imagine, organize and interpret ideas for expression in the process of creating and producing art forms which involve inspiration, analysis, and problem solving.

1. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organization abilities and imagination.

B. Aesthetic Perception. Aesthetic perception is the ability to observe, understand, and respond to ideas, experiences and the unique characteristics of natural and created environments, and to make informed judgments about the meaning of the arts.

1. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for commonalities and differences.

C. Historical Perspective and Cultural Perception. Historical perspective and cultural perception is the ability to recognize the arts as a reflection of individual and cultural expression and to appreciate the aspects of history and human experience.

1. Standard. Students develop historical perspective and cultural perception by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

D. Critical Analysis. Critical analysis is the ability to interpret, analyze and synthesize the performing and visual arts to form judgments based on sufficient and appropriate criteria.

1. Standard. Students make informed verbal and written observations about the arts by developing critical analysis skills through the study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR

§105. Definitions

*Assessment*Ca process through which evidence is gathered in a range of content areas to determine both a student's understanding and the ability to apply that understanding.

*Benchmark*Ca broad statement of process and/or content that is used as a reference to develop curricula and to assess student progress.

*Content Area*Ca field of study or branch of knowledge formally referred to as a subject area or discipline.

*Content Standard*Ca description of what students should know and be able to do through subject matter, knowledge, proficiencies, etc., gained as a result of their education.

*Focus*Ca statement describing the importance of a content strand.

*Foundation Skills*Cprocesses that are common to all areas and levels of education and are intended to suggest methods and objectives of instructional strategies.

*Framework*Ca document for a content area that reflects national standards and provides a guiding vision of its content and purpose.

*Integrated*Crefers to combining the elements across the various content areas or frameworks.

*Interdisciplinary*Crefers to combining the elements across the various content areas or frameworks.

*Performance Standards*Crefers to the level of knowledge or proficiency students should manifest as a result of their education.

*Strands*Ccategories within particular content areas, which may vary from discipline to discipline. *Strands* are interrelated and should be integrated rather than taught in isolation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Chapter 3. Dance
Subchapter A. Creative Expression

§301. Focus

A. Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

1. Standard. Students develop creative expression through the application of knowledge, ideas, skills, and organizational abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§303. Benchmarks K-4

A. In grades K–4, what students should know and be able to do includes:

CE-1D-E1	Use kinesthetic awareness, proper use of space, and the ability to move safely	(2,5)
CE-1D-E2	Identify and explore basic skills, the elements of dance (space, time and energy) and dance vocabulary	(2)
CE-1D-E3	Recognize that dance is a way to create and communicate ideas and feelings	(1)
CE-1D-E4	Discuss and explore the process of making a dance	(1, 2, 3, 5)
CE-1D-E5	Execute improvised and set movement patterns with concentration and focus individually and in groups	(2,5)
CE-1D-E6	Explore the relationship among dance, other arts, and disciplines outside the arts	(3,4)
CE-1D-E7	Explore technical dimensions of dance individually and collaboratively such as performance space, accompaniment, current technology, and set design	(1, 3, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§305. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

CE-1D-M1	Demonstrate self-monitoring and effective use of space	(2,5)
CE-1D-M2	Recognize and explore the dance elements and vocabulary to increase basic skills and knowledge	(2)
CE-1D-M3	Demonstrate the ability to use dance as a language and means of communication	(1, 2, 4, 5)

CE-1D-M4	Recognize and demonstrate the concepts of improvisation, choreography, and different dance structures such as canon and unison	(2, 4, 5)
CE-1D-M5	Perform dance compositions informally and formally	(1, 4, 5)
CE-1D-M6	Identify and discuss relationships among dance, other arts, and disciplines outside the arts	(3, 4, 5)
CE-1D-M7	Use technical dimensions of dance individually and collaboratively	(1, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§307. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

§309. Creative Expression C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Use kinesthetic awareness, proper use of space and the ability to move safely; (2, 5)	Demonstrate self-monitoring and effective use of space; (2, 5)	Incorporate kinesthetic awareness, use of space and self-evaluation to refine performance skills; (2, 4, 5)
Benchmark 2	Identify and explore basic skills, the elements of dance (space, time, and energy) and dance vocabulary; (2)	Recognize and explore the dance elements and vocabulary to increase basic skills and knowledge; (2)	Utilize and expand dance vocabulary and develop technical skills; (2, 4)
Benchmark 3	Recognize that dance is a way to create and communicate ideas and feelings; (1)	Demonstrate the ability to use dance as a language and means of communication; (1, 2, 4, 5)	Utilize dance as an expression of individual ideas and feelings; (1, 2, 5)
Benchmark 4	Discuss and explore the process of making a dance; (1, 2, 3, 5)	Recognize and demonstrate the concepts of improvisation, choreography, and different dance structures such as canon and unison; (2, 4, 5)	Incorporate the concepts of improvisation, choreography and dance structures into dance compositions; (1, 2, 4, 5)
Benchmark 5	Execute improvised and set movement patterns with concentration and focus individually and in groups; (2, 5)	Perform dance compositions informally and formally; (1, 4, 5)	Present and evaluate movement studies designed to display skills and techniques; (1, 2, 4)
Benchmark 6	Explore the relationship among dance, other arts, and disciplines outside the arts; (3, 4)	Identify and discuss relationships among dance, other arts, and disciplines outside the arts; (3, 4, 5)	Present a multi-disciplinary dance project; (3, 4, 5)
Benchmark 7	Explore technical dimensions of dance individually and collaboratively such as performance space, accompaniment, current technology, and set design. (1, 3, 5)	Use technical dimensions of dance individually and collaboratively. (1, 3, 4, 5)	Manipulate technical dimensions of dance individually and collaboratively. (1, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Subchapter B. Aesthetic Perception

§321. Focus

A. The study of aesthetics, or the philosophy of the arts, supplies the individual with a structure for analyzing, interpreting, and responding to the arts. An understanding of aesthetics empowers the individual to make informed personal interpretations of artistic expressions and to develop an awareness of the concepts and ideas of others.

CE-1D-H1	Incorporate kinesthetic awareness, use of space and self-evaluation to refine performance skills	(2, 4, 5)
CE-1D-H2	Utilize and expand dance vocabulary and develop technical skills	(2, 4)
CE-1D-H3	Utilize dance as an expression of individual ideas and feelings	(1, 2, 5)
CE-1D-H4	Incorporate the concepts of improvisation, choreography, and dance structures into dance compositions	(1, 2, 4, 5)
CE-1D-H5	Present and evaluate movement studies designed to display skills and techniques	(1, 2, 4)
CE-1D-H6	Present a multi-disciplinary dance project	(3, 4, 5)
CE-1D-H7	Manipulate technical dimensions of dance individually and collaboratively	(1, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

The individual questions concepts, weighs evidence and information, examines intuitive reactions, and develops personal conclusions about the values in works of art.

1. Standard. Students will develop aesthetic perception through the knowledge of art forms and respect for commonalities and differences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§323. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

AP-2D-E1	Recognize and respond to sensory and emotional experiences in dance	(1, 4)
AP-2D-E2	Recognize and respond to ideas and creations of others through the study of dance	(1, 4)
AP-2D-E3	Understand there are many choices available in the creative process of choreography	(1, 3, 4)
AP-2D-E4	Discuss the thoughts and feelings created by the works of choreographers	(1,3)
AP-2D-E5	Recognize that there are differences between styles of dance	(2, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§325. Benchmarks 5-8

A. In grades 5–8, what students should know and be able to do includes:

AP-2D-M1	Utilize dance vocabulary and elements of dance for responding to the aesthetic qualities of works of dance	(1, 2, 4)
AP-2D-M2	Recognize and communicate that the concept of beauty differs from culture to culture	(1, 4)
AP-2D-M3	Identify and explore the meaning of dance and choreography to culture and environment	(1, 3, 4)
AP-2D-M4	Communicate new ideas, possibilities, options, and situations pertaining to the world of dance	(1, 3, 4)
AP-2D-M5	Identify, reflect, and distinguish differences among styles of dance	(1, 2, 3, 4)

§329. Aesthetic PerceptionC Grade Cluster

Grade Cluster	K–4	5–8	9–12
Benchmark 1	Recognize and respond to sensory and emotional experiences in dance; (1, 4)	Utilize dance vocabulary and elements of dance for responding to the aesthetic qualities of works of dance; (1, 2, 4)	Use an expanded dance vocabulary when responding to the aesthetic qualities of dance; (1, 2, 4)
Benchmark 2	Recognize and respond to the ideas and creations of others through the study of dance; (1, 4)	Recognize and communicate that the concept of beauty differs from culture to culture; (1, 4)	Analyze the unique characteristics of dance as it reflects the quality of everyday life in various cultures; (1, 2, 3, 4)
Benchmark 3	Understand there are many choices available in the creative process of choreography; (1, 3, 4)	Identify and explore the meaning of dance and choreography to culture and environment; (1, 3, 4)	Use descriptors, analogies, and other metaphors to express the impact of dance on our senses, intellects, and emotions; (1, 4)
Benchmark 4	Discuss the thoughts and feelings created by the works of choreographers; (1, 3)	Communicate new ideas, possibilities, options, and situations pertaining to the world of dance; (1, 3, 4)	Assimilate and communicate the multiple possibilities and options available in dance; (1, 3, 4, 5)
Benchmark 5	Recognize that there are differences between styles of dance. (2, 3, 4)	Identify, reflect and distinguish differences among styles of dance. (1, 2, 3, 4)	Question/weigh evidence and information, examine intuitive reaction, and draw personal conclusions about dance. (1, 2, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§327. Benchmarks 9–12

A. In grades 9–12, what students should know and be able to do includes:

AP-2D-H1	Use an expanded dance vocabulary when responding to the aesthetic qualities of dance	(1, 2, 4)
AP-2D-H2	Analyze the unique characteristics of dance as it reflects the quality of everyday life in various cultures	(1, 2, 3, 4)
AP-2D-H3	Use descriptors, analogies, and other metaphors to express the impact of dance on our senses, intellects, and emotions	(1, 4)
AP-2D-H4	Assimilate and communicate the multiple possibilities and options available in dance	(1, 3, 4, 5)
AP-2D-H5	Question/weigh evidence and information, examine intuitive reaction, and draw personal conclusions about dance	(1, 2, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Subchapter C. Historical Perspective and Cultural Perception

§331. Focus

A. Historical and cultural perception is the vehicle for understanding works of art in time and place. The arts

survive through times of interruption and neglect; they outlive governments, creed, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

1. Standard. Students will develop historical perspective and cultural perception by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§333. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

HP-3D-E1	Explore and discuss that dance throughout history is a record of human experience	(3, 4)
HP-3D-E2	Observe and recognize the styles of dance in various cultures	(3, 4, 5)
HP-3D-E3	Introduce great dance works, innovators, and performers who have shaped history	(4, 5)
HP-3D-E4	Identify and explore dance careers throughout history	(3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§335. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

HP-3D-M1	Recognize and explore the role of dance in various cultures	(3, 4)
HP-3D-M2	Classify and distinguish between different dance styles from historical, contemporary, and cultural perspectives	(1, 2, 4)
HP-3D-M3	Explore and discuss the influences of great dance works, innovators, and performers who have shaped history	(2, 3, 4)
HP-3D-M4	Recognize current career opportunities in dance	(3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§337. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

HP-3D-H1	Identify and analyze universal themes and values of various cultures as they are exhibited in dance	(1, 5)
HP-3D-H2	Analyze and categorize styles as they relate to cultural, social, political, and economic environments	(2, 3, 4, 5)
HP-3D-H3	Compare and contrast current dance trends and creators with those of the past	(2, 3, 4)
HP-3D-H4	Present the career components of dance production	(1, 2, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§339. Historical Perspective and Cultural PerceptionC Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Explore and discuss that dance throughout history is a record of human experience; (3, 4)	Recognize and explore the role of dance in various cultures; (3, 4)	Identify and analyze universal themes and values of various cultures as they are exhibited in dance; (1, 5)
Benchmark 2	Observe and recognize the styles of dance in various cultures; (3, 4, 5)	Classify and distinguish between different dance styles from historical, contemporary, and cultural perspectives; (1, 2, 4)	Analyze and categorize styles as they relate to cultural, social, political, and economic environments; (2, 3, 4, 5)
Benchmark 3	Introduce great dance works, innovators and performers who have shaped history; (4, 5)	Explore and discuss the influences of great dance works, innovators, and performers who have shaped history; (2, 3, 4)	Compare and contrast current dance trends and creators with those of the past; (2, 3, 4)
Benchmark 4	Identify and explore dance careers throughout history. (3, 4)	Recognize current career opportunities in dance. (3, 4)	Present the career components of dance production. (1, 2, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Subchapter D. Critical Analysis

§345. Focus

A. Critical analysis is the process of inquiry associated with an individual’s knowledge of the arts. Communication about the arts in a structured way provides the individual with means to observe, describe, analyze, and make critical, reasoned judgments about the form and content of the arts.

1. Standard. Students will make informed judgments about the arts by developing critical analysis skills through study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§347. Benchmarks K-4

A. In grades K–4, what students should know and be able to do includes:

CA-4D-E1	Observe and identify the basic movements in dance	(1, 4)
CA-4D-E2	Identify basic examples of the dance elements in various dance experiences	(1, 4)
CA-4D-E3	Explore and discuss sequence in a performance	(1, 2)
CA-4D-E4	Recognize basic differences in the processes of creating, performing, and observing dance	(4, 5)
CA-4D-E5	Communicate individual feelings toward the dance experience	(1, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§349. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

CA-4D-M1	Recognize the content and expression of various dance styles	(1, 4)
CA-4D-M2	Recognize and identify how elements of dance communicate the choreographic intent	(1, 2)
CA-4D-M3	Describe the use of aesthetic principles such as unity, contrast, continuity, and climax in dance	(1, 2, 4)
CA-4D-M4	Compare and contrast the differing roles in the process of creating, performing, and observing dance	(1, 2, 5)
CA-4D-M5	Apply dance vocabulary in dance critiques	(1, 2, 3, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§351. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

CA-4D-H1	Develop a criterion for forming personal preferences and opinions of dance styles	(1, 2, 3, 4, 5)
CA-4D-H2	Describe and demonstrate the choreographic intent of dance	(1, 2)
CA-4D-H3	Apply aesthetic principles and choreographic criteria to critique dance	(1, 2, 3, 4)
CA-4D-H4	Use aesthetic principles and factors to establish individual attitudes toward creating, performing, and observing dance	(1, 2, 4, 5)
CA-4D-H5	Expand the ability to communicate and justify aesthetic responses to the dance experience	(1, 2, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§353. Critical Analysis C Grade Cluster

Grade Cluster	K–4	5–8	9–12
Benchmark 1	Observe and identify the basic movements in dance; (1, 4)	Recognize the content and expression of various dance styles; (1, 4)	Develop a criterion for forming personal preferences and opinions of dance styles; 1, 2, 3, 4, 5)
Benchmark 2	Identify basic examples of the dance elements in various dance experiences; (1, 4)	Recognize and identify how elements of dance communicate the choreographic intent; (1, 2)	Describe and demonstrate the choreographic intent of dance; (1, 2)
Benchmark 3	Explore and discuss sequence in a performance; (1, 2)	Describe the use of aesthetic principles such as unity, contrast, continuity, and climax in dance; (1, 2, 4)	Apply aesthetic principles and choreographic criteria to critique dance; (1, 2, 3, 4)
Benchmark 4	Recognize basic differences in the processes of creating, performing, and observing dance; (4, 5)	Compare and contrast the differing roles in the process of creating, performing, and observing dance; (1, 2, 5)	Use aesthetic principles and factors to establish individual attitudes toward creating, performing, and observing dance; (1, 2, 4, 5)
Benchmark 5	Communicate individual feelings toward the dance experience. (1, 5)	Apply dance vocabulary in dance critiques. (1, 2, 3, 5)	Expand the ability to communicate and justify aesthetic responses to the dance experience. (1, 2, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Chapter 5. Music
Subchapter A. Creative Expression

§501. Focus

A. Creative Expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

1. Students develop creative expression through the application of knowledge, ideas, skills, and organizational abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§503. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

CE-1M-E1	Recognize and imitate simple melodies and rhythmic patterns using voice, musical instruments, or other sound sources	(1, 3, 4)
CE-1M-E2	Identify basic notational symbols and vocabulary that convey precise musical meanings	(1, 2, 3, 4)
CE-1M-E3	Perform, improvise, and compose simple musical ideas	(2, 3, 4)
CE-1M-E4	Explore basic elements of music using voice, musical instruments, electronic technology, or available media	(3)
CE-1M-E5	Participate in organized activities including singing, playing, and movement	(1, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§509. Creative Expression C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize and imitate simple melodies and rhythmic patterns using voice, musical instruments, or other sound sources; (1, 3, 4)	Identify and perform melodic and rhythmic patterns using voice, musical instruments, or other sound sources, both individually and in ensembles; (1, 3, 4, 5)	Create and improvise advanced musical forms using voice, musical instruments, or other sound sources, both individually and in ensembles; (1, 2, 3, 4, 5)
Benchmark 2	Identify basic notational symbols and vocabulary that convey precise musical meanings; (1, 2, 3, 4)	Interpret notational symbols and vocabulary that convey precise musical meanings; (1, 2, 3, 4)	Apply with technical accuracy notational symbols and vocabulary that convey precise musical meanings; (1, 2, 3, 4)
Benchmark 3	Perform, improvise, and compose simple musical ideas; (2, 3, 4)	Improvise; perform, and compose written music; (2, 3, 4)	Improvise, perform, and compose advanced compositions; (2, 3, 4)

§505. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

CE-1M-M1	Identify and perform melodic and rhythmic patterns using voice, musical instruments, or other sound sources, both individually and in ensembles	(1, 3, 4, 5)
CE-1M-M2	Interpret notational symbols and vocabulary that convey precise musical meanings	(1, 2, 3, 4)
CE-1M-M3	Improvise, perform, and compose written music	(2, 3, 4)
CE-1M-M4	Identify and demonstrate elements of music, using voice, musical instruments, electronic technology, or other available media	(1, 3, 4)
CE-1M-M5	Participate in organized activities including singing, playing, and movement	(1, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§507. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

CE-1M-H1	Create and improvise advanced musical forms using voice, musical instruments, or other sound sources, both individually and in ensembles	(1, 2, 3, 4, 5)
CE-1M-H2	Apply with technical accuracy notational symbols and vocabulary that convey precise musical meanings	(1, 2, 3, 4)
CE-1M-H3	Improvise, perform, and compose advanced compositions	(2, 3, 4)
CE-1M-H4	Interpret and apply elements of music using preferred medium of performance	(1, 3, 4)
CE-1M-H5	Perform in musical ensembles using a preferred performance medium	(1, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Grade Cluster	K-4	5-8	9-12
Benchmark 4	Explore basic elements of music using voice, musical instruments, electronic technology, or available media; (3)	Identify and demonstrate elements of music, using voice, musical instruments, electronic technology, or other available media; (1, 3, 4)	Interpret and apply elements of music using preferred medium of performance; (1, 3, 4)
Benchmark 5	Participate in organized activities including singing, playing, and movement. (1, 5)	Perform in organized activities including singing, playing, and movement. (1, 5)	Perform in musical ensembles using a preferred performance medium. (1, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Subchapter B. Aesthetic Perception

§515. Focus

A. The study of aesthetics, or the philosophy of the arts, supplies the individual with a structure for analyzing, interpreting, and responding to the arts. An understanding of aesthetics empowers the individual to make informed personal interpretations of artistic expressions and to develop an awareness of the concepts and ideas of others. The individual questions concepts, weighs evidence and information, examines intuitive reactions, and develops personal conclusions about the values in works of art.

1. Standard. Students will develop aesthetic perception through the knowledge of art forms and respect for commonalities and differences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§517. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

AP-2M-E1	Use simple music vocabulary to discuss individual work and the works of others	(1, 4)
AP-2M-E2	Develop and communicate an awareness of ideas and creations of others through the study of music	(1, 4, 5)
AP-2M-E3	Develop an awareness of how music is used in daily life, in the workplace, and within the community	(1, 4, 5)
AP-2M-E4	Explore various choices available in the creative processes of music	(1, 3, 4)
AP-2M-E5	Participate in elementary inquiry into the basic question "What is music?"	(1, 3)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§519. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

AP-2M-M1	Use expanded music vocabulary to interpret the aesthetic qualities of musical compositions	(1, 2, 3, 4)
AP-2M-M2	Recognize different concepts of beauty in various cultures	(1, 4, 5)
AP-2M-M3	Identify and explore music and the roles of musicians in differing cultures and environments	(1, 3, 4, 5)
AP-2M-M4	Examine traditional and technological options as they pertain to creative processes in music	(1, 3, 4)
AP-2M-M5	Identify, reflect, and distinguish differences in the elements of music as heard in musical works	(1, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§521. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

AP-2M-H1	Use advanced music vocabulary to respond to aesthetic qualities of music	(1, 2, 3, 4)
AP-2M-H2	Analyze the unique characteristics of music used for different purposes in various cultures	(1, 2, 3, 4, 5)
AP-2M-H3	Express the impact of music on intellect and emotion	(1, 3, 4, 5)
AP-2M-H4	Compare and contrast traditional and technological options available for artistic expression in music	(1, 2, 3, 4)
AP-2M-H5	Articulate intuitive reactions and draw personal conclusion about musical works	(1, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§523. Aesthetic Perception C Grade Cluster

Grade Cluster	K–4	5–8	9–12
Benchmark 1	Use simple music vocabulary to discuss individual’s work and the works of others; (1, 4)	Use expanded music vocabulary to interpret the aesthetic qualities of musical compositions; (1, 2, 3, 4)	Use advanced music vocabulary to respond to aesthetic qualities of music; (1, 2, 3, 4)
Benchmark 2	Develop and communicate an awareness of ideas and creations of others through the study of music; (1, 4, 5)	Recognize different concepts of beauty in various cultures; (1, 4, 5)	Analyze the unique characteristics of music used for different purposes in various cultures; (1, 2, 3, 4, 5)
Benchmark 3	Develop an awareness of how music is used in daily life, in the workplace, and within the community; (1, 4, 5)	Identify and explore music and the roles of musicians in differing cultures and environments; (1, 3, 4, 5)	Express the impact of music on intellect and emotion; (1, 3, 4, 5)
Benchmark 4	Explore various choices available in the creative processes of music; (1, 3, 4)	Examine traditional and technological options as they pertain to creative processes in music; (1, 3, 4)	Compare and contrast traditional and technological options available for artistic expression in music; (1, 2, 3, 4)
Benchmark 5	Participate in elementary inquiry into the basic question “What is music?” (1, 3)	Identify, reflect, and distinguish differences in the elements of music as heard in musical works. (1, 3, 4)	Articulate intuitive reactions and draw personal conclusion about musical works. (1, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Subchapter C. Historical Perspective and Cultural Perception

§533. Focus

A. Historical and cultural perception is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creed, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

1. Standard. Students will develop historical perspective and cultural perception by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq. **HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§535. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

HP-3M-E1	Recognize musical styles representative of various cultures	(1, 3, 4)
HP-3M-E2	Explore and discuss the development of music within historical and cultural contexts	(1, 3, 4)
HP-3M-E3	Recognize musical instruments of various cultures	(1, 2)
HP-3M-E4	Recognize the roles of musicians in various cultures	(1, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§537. Benchmarks 5-8

A. In grades 5–8, what students should know and be able to do includes:

HP-3M-M1	Identify characteristics of musical styles representative of historical periods and cultures	(1, 2, 3, 4)
HP-3M-M2	Compare and contrast the characteristics of music within historical and cultural contexts	(1, 2, 3, 4)
HP-3M-M3	Identify specific uses of musical instruments in various cultures	(1, 3, 4)
HP-3M-M4	Explore and discuss the roles of musicians in various cultures	(1, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§539. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

HP-3M-H1	Compare and contrast musical styles that represent various historical periods and cultures	(1, 2, 3, 4)
HP-3M-H2	Analyze the role of music as it fulfills societal needs within historical and cultural contexts	(1, 2, 3, 4, 5)
HP-3M-H3	Compare and contrast uses of musical instruments in various cultures	(1, 2, 3, 4)
HP-3M-H4	Compare and contrast the roles of prominent musicians within various cultures	(1, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§541. Historical Perspective and Cultural PerceptionC Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize musical styles representative of various cultures; (1, 3, 4)	Identify characteristics of musical styles representative of historical periods and cultures; (1, 2, 3, 4)	Compare and contrast musical styles that represent various historical periods and cultures; (1, 2, 3, 4)
Benchmark 2	Explore and discuss the development of music within historical and cultural contexts; (1, 3, 4)	Compare and contrast the characteristics of music within historical and cultural contexts; (1, 2, 3, 4)	Analyze the role of music as it fulfills societal needs within historical and cultural contexts; (1, 2, 3, 4, 5)
Benchmark 3	Recognize musical instruments of various cultures; (1, 2)	Identify specific uses of musical instruments in various cultures. (1, 3, 4)	Compare and contrast uses of musical instruments in various cultures; (1, 2, 3, 4)
Benchmark 4	Recognize the roles of musicians in various cultures. (1, 3, 4)	Explore and discuss the roles of musicians in various cultures. (1, 3, 4)	Compare and contrast the roles of prominent musicians within various cultures. (1, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Subchapter D. Critical Analysis

§547. Focus

A. Critical analysis is the process of inquiry associated with an individual’s knowledge of the arts. Communication about the arts in a structured way provides the individual with means to observe, describe, analyze, and make critical, reasoned judgments about the form and content of the arts.

1. Students will make informed judgments about the arts by developing critical analysis skills through study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§549. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

CA-4M-E1	Develop an awareness of musical elements, forms, and styles through participation in musical experiences	(1, 2, 3, 5)
CA-4M-E2	Demonstrate behavior appropriate for varied musical environments	(1, 3, 4, 5)
CA-4M-E3	Explore music as a part of celebrations, ceremonies, and other special occasions	(1, 2, 3, 4, 5)
CA-4M-E4	Identify relationships among music, other art forms, and disciplines outside the arts	(1, 3, 4)
CA-4M-E5	Identify elements of music through listening activities	(1, 2, 3)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§551. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

CA-4M-M1	Analyze musical experiences with regard to fundamental elements, forms, and styles	(1, 2, 3, 4)
CA-4M-M2	Demonstrate and discuss behavior appropriate for varied musical environments	(1, 3, 4, 5)
CA-4M-M3	Recognize and identify the purpose and appropriateness of music in relation to celebrations, ceremonies, and events	(1, 2, 3, 4, 5)
CA-4M-M4	Investigate relationships among music, other art forms, and disciplines outside the arts	(1, 2, 3, 4)
CA-4M-M5	Explore elements of music through listening to a variety of musical examples	(1, 2, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§553. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

CA-4M-H1	Utilize appropriate vocabulary to communicate informed judgments about musical experiences	(1, 2, 3, 4,)
CA-4M-H2	Experience and evaluate behavior appropriate for varied musical environments	(1, 2, 3, 4, 5)
CA-4M-H3	Analyze appropriateness of music choices as they relate to purpose	(1, 2, 3, 4, 5)
CA-4M-H4	Identify commonalities and differences among music, other art forms, and disciplines outside the arts	(1, 2, 3, 4)
CA-4M-H5	Analyze elements of music through listening to a variety of musical examples	(1, 2, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§555. Critical Analysis C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Develop an awareness of musical elements, forms, and styles through participation in musical experiences; (1, 2, 3, 5)	Analyze musical experiences with regard to fundamental elements, forms, and styles; (1, 2, 3, 4)	Utilize appropriate vocabulary to communicate informed judgments about musical experiences; (1, 2, 3, 4,)
Benchmark 2	Demonstrate behavior appropriate for varied musical environments; (1, 3, 4, 5)	Demonstrate and discuss behavior appropriate for varied musical environments; (1, 3, 4, 5)	Experience and evaluate behavior appropriate for varied musical environments; (1, 2, 3, 4, 5)
Benchmark 3	Explore music as a part of celebrations, ceremonies, and other special occasions; (1, 2, 3, 4, 5)	Recognize and identify the purpose and appropriateness of music in relation to celebrations, ceremonies, and events; (1, 2, 3, 4, 5)	Analyze appropriateness of music choices as they relate to purpose; (1, 2, 3, 4, 5)
Benchmark 4	Identify relationships among music, other art forms, and disciplines outside the arts; (1, 3, 4)	Investigate relationships among music, other art forms, and disciplines outside the arts; (1, 2, 3, 4)	Identify commonalities and differences among music, other art forms, and disciplines outside the arts; (1, 2, 3, 4)
Benchmark 5	Identify elements of music through listening activities. (1, 2, 3)	Explore elements of music through listening to a variety of musical example. (1, 2, 3, 4)	Analyze elements of music through listening to a variety of musical examples. (1, 2, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Chapter 7. Theatre Arts

Subchapter A. Creative Expression

§701. Focus

A. Creative Expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

1. Standard. Students develop creative expression through the application of knowledge, ideas, skills, and organizational abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§703. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

CE-1TH-E1	Explore and identify various emotions in interpersonal settings	(1, 4)
CE-1TH-E2	Interact in group situations and show differentiation of roles through experimentation and role playing	(1, 2, 3, 4, 5)
CE-1TH-E3	Identify and exhibit physical and emotional dimensions of characterization through experimentation and role playing	(1, 2, 4, 5)
CE-1TH-E4	Create story lines for improvisation	(1, 2, 3, 4)
CE-1TH-E5	Explore technical dimensions of the dramatic form individually and collaboratively such as theatrical space, scenery, costuming, make-up	(1, 2, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§705. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

CE-1TH-M1	Explore self-expression and various emotions individually and in groups	(1, 4, 5)
CE-1TH-M2	Demonstrate role playing in single and interpersonal relationships	(1, 2, 4, 5)
CE-1TH-M3	Demonstrate performance techniques, both physically and vocally, appropriate to a variety of characters	(1, 2, 4)
CE-1TH-M4	Create scripts from improvisational activities	(1, 2, 3, 4, 5)
CE-1TH-M5	Use technical dimensions of the dramatic form individually and collaboratively such as theatrical space, scenery, costuming, set design, make-up	(1, 2, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S.17.24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§707. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

CE-1TH-H1	Develop intrapersonal skills as an individual and as a performer	(1, 2)
CE-1TH-H2	Practice group performance dynamics that enhance characterization and interpret psychological motivation	(1, 2, 4, 5)
CE-1TH-H3	Demonstrate performance methods, styles, and techniques	(1, 2, 3, 4)
CE-1TH-H4	Write scripts for classroom, stage, and media performance, using various forms of technology	(1, 2, 3, 4)

CE-1TH-H5	Manipulate technical dimensions of the dramatic form individually and collaboratively such as theatrical space, scenery, set design and construction, costuming, make-up, properties, lights, sound, multimedia and management	(1, 2, 3, 4, 5)
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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§709. Creative Expression C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Explore and identify various emotions in interpersonal settings; (1, 4)	Explore self-expression and various emotions individually and in groups; (1, 4, 5)	Develop intrapersonal skills as an individual and as a performer; (1, 2)
Benchmark 2	Interact in group situations and show differentiation of roles through experimentation and role playing; (1, 2, 3, 4, 5)	Demonstrate role playing in single and interpersonal relationships; (1, 2, 4, 5)	Practice group performance dynamics that enhance characterization and interpret psychological motivation; (1, 2, 4, 5)
Benchmark 3	Identify and exhibit physical and emotional dimensions of characterization through experimentation and role playing; (1, 2, 4, 5)	Demonstrate performance techniques, both physically and vocally, appropriate to a variety of characters; (1, 2, 4)	Demonstrate performance methods, styles, and techniques; (1, 2, 3, 4)
Benchmark 4	Create story lines for improvisation; (1, 2, 3, 4)	Create scripts from improvisational activities; (1, 2, 3, 4, 5)	Write scripts for classroom, stage, and media performance, using various forms of technology; (1, 2, 3, 4)
Benchmark 5	Explore technical dimensions of the dramatic form individually and collaboratively such as theatrical space, scenery, costuming, make-up. (1, 2, 3, 4, 5)	Use technical dimensions of the dramatic form individually and collaboratively such as theatrical space, scenery, costuming, set design, make-up. (1, 2, 3, 4, 5)	Manipulate technical dimensions of the dramatic form individually and collaboratively such as theatrical space, scenery, set design and construction, costuming, make-up, properties, lights, sound, multimedia and management. (1, 2, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Subchapter B. Aesthetic Perception

§719. Focus

A. The study of aesthetics, or the philosophy of the arts, supplies the individual with a structure for analyzing, interpreting, and responding to the arts. An understanding of aesthetics empowers the individual to make informed personal interpretations of artistic expressions and to develop an awareness of the concepts and ideas of others. The individual questions concepts, weighs evidence and information, examines intuitive reactions, and develops personal conclusions about the values in works of art.

1. Students will develop aesthetic perception through the knowledge of art forms and respect for commonalities and differences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§721. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

AP-2TH-E1	Recognize and respond to sensory and emotional experiences	(1, 2, 4)
AP-2TH-E2	Respond to others in dramatic activities	(1, 3, 5)
AP-2TH-E3	Practice the basics of listening and responding to demonstrate audience etiquette	(1, 4, 5)
AP-2TH-E4	Explore relationships among the theatre, other arts, and disciplines outside the arts	(1, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§723. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

AP-2TH-M1	Recognize and discuss individual differences in sensory and emotional perceptions	(1, 2, 3, 4)
AP-2TH-M2	Recognize individual and group roles in the collaborative and creative process of drama	(1, 4, 5)
AP-2TH-M3	Recognize and respond to cultural differences displayed in conventional and unconventional roles, productions, and performances	(1, 3, 4, 5)
AP-2TH-M4	Describe relationships among theatre, other arts, and disciplines outside the arts	(1, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§725. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

AP-2TH-H1	Analyze and discuss character transformation and character relationships	(1, 2, 3, 4, 5)
AP-2TH-H2	Discuss and respond to drama and multimedia with social and artistic discipline	(1, 2, 3, 4, 5)
AP-2TH-H3	Construct social and personal meaning from informal and formal productions such as addressing theme, purpose, and point of view	(1, 2, 4)
AP-2TH-H4	Integrate relationships among theatre, other arts, and disciplines outside the arts	(1, 2, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§727. Aesthetic PerceptionC Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize and respond to sensory and emotional experiences ; (1, 2, 4)	Recognize and discuss individual differences in sensory and emotional perceptions; (1, 2, 3, 4)	Analyze and discuss character transformation and character relationships; (1, 2, 3, 4, 5)
Benchmark 2	Respond to others in dramatic activities; (1, 3, 5)	Recognize individual and group roles in the collaborative and creative process of drama; (1, 4, 5)	Discuss and respond to drama and multimedia with social and artistic discipline; (1, 2, 3, 4, 5)
Benchmark 3	Practice the basics of listening and responding to demonstrate audience etiquette; (1, 4, 5)	Recognize and respond to cultural differences displayed in conventional and unconventional roles, productions, and performances; (1, 3, 4, 5)	Construct social and personal meaning from informal and formal productions such as addressing theme, purpose, and point of view; (1, 2, 4)
Benchmark 4	Explore relationships among the theatre, other arts, and disciplines outside the arts. (1, 3, 4, 5)	Describe relationships among theatre, other arts, and disciplines outside the arts. (1, 3, 4)	Integrate relationships among theatre, other arts, and disciplines outside the arts. (1, 2, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Subchapter C. Historical Perspective and Cultural Perception

§737. Focus

A. Historical and cultural perception is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creed, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

1. Standard. Students will develop historical perspective and cultural perception by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§739. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

HP-3TH-E1	Recognize and discuss the differences in various cultures	(1, 2, 4, 5)
HP-3TH-E2	Recognize and recall the language of theatre arts	(1, 2, 4)
HP-3TH-E3	Recognize characters and situations in literature and media from various historical periods	(1, 4)
HP-3TH-E4	Recognize basic types and forms of theatre and communication arts, which includes media and technology	(1, 4)
HP-3TH-E5	Recognize and identify universal themes reflected in various cultures	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§741. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

HP-3TH-M1	Describe relationships between artistic expression and artistic choices in various cultures	(1, 2, 3, 4, 5)
HP-3TH-M2	Identify and use terminology and language appropriate to theatrical periods, environments, situations, and characters	(1, 3, 4)
HP-3TH-M3	Describe characters and situations within literary, cultural, and historical contexts	(1, 3, 4)
HP-3TH-M4	Describe patterns, types, and trends in communication and theatre arts, which includes media and technology	(1, 3, 4)
HP-3TH-M5	Identify and discuss ways in which theme has been revealed and developed in various cultures	(1, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§743. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

HP-3TH-H1	Analyze through a historical perspective the form and content of cultural works	(1, 2, 3, 4, 5)
HP-3TH-H2	Apply cultural and historical information to support period costumes, scripted scenes, scenery, and make-up	(1, 2, 3, 4)
HP-3TH-H3	Demonstrate a knowledge of theatre history and dramatic literature	(1, 3, 4)
HP-3TH-H4	Compare and contrast patterns, types, methods, styles, and trends in communication and theatre arts, which includes media and technology	(1, 2, 3, 4)
HP-3TH-H5	Analyze the universality of theme, situation, and motivation across cultures and time	(1, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§745. Historical Perspective and Cultural PerceptionC Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize and discuss the differences in various cultures; (1, 2, 4, 5)	Describe relationships between artistic expression and artistic choices in various cultures; (1, 2, 3, 4, 5)	Analyze through a historical perspective the form and content of cultural works; (1, 2, 3, 4, 5)
Benchmark 2	Recognize and recall the language of theatre arts; (1, 2, 4)	Identify and use terminology and language appropriate to theatrical periods, environments, situations, and characters; (1, 3, 4)	Apply cultural and historical information to support period costumes, scripted scenes, scenery, and make-up; (1, 2, 3, 4)
Benchmark 3	Recognize characters and situations in literature and media from various historical periods; (1, 4)	Describe characters and situations within literary, cultural, and historical contexts; (1, 3, 4)	Demonstrate a knowledge of theatre history and dramatic literature; (1, 3, 4)
Benchmark 4	Recognize basic types and forms of theatre and communication arts, which includes media and technology; (1, 4)	Describe patterns, types, and trends in communication and theatre arts, which includes media and technology; (1, 3, 4)	Compare and contrast patterns, types, methods, styles, and trends in communication and theatre arts, which includes media and technology; (1, 2, 3, 4)
Benchmark 5	Recognize and identify universal themes reflected in various cultures. (1, 4)	Identify and discuss ways in which theme has been revealed and developed in various cultures. (1, 4, 5)	Analyze the universality of theme, situation, and motivation across cultures and time. (1, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Subchapter D. Critical Analysis

§757. Focus

A. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to observe, describe, analyze, and make critical, reasoned judgments about the form and content of the arts.

1. Standard. Students will make informed judgments about the arts by developing critical analysis skills through study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§759. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

CA-4TH-E1	Recognize and respond to basic media experiences such as stage, radio, film, and electronic media	(1, 3, 4)
CA-4 TH-E2	Describe personal observations of scripts and performances	(1, 3, 4)
CA-4 TH-E3	Identify the differences among reality, fantasy, role playing, and media representation	(1, 4)
CA-4 TH-E4	Recognize the function of the artist in creating works of art	(1, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§761. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

CA-4TH-M1	Demonstrate an understanding of the basic principles and elements of media communication	(1, 2, 3, 4)
CA-4 TH-M2	Participate in a critique of scripts, performances and productions	(1, 2, 4)
CA-4 TH-M3	Identify levels and dimensions of characterization	(1, 2, 4)
CA-4 TH-M4	Recognize and identify theatre careers and representative theatre artists in various cultures and historical periods	(1, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§765. Critical Analysis C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize and respond to basic media experiences such as stage, radio, film, and electronic media; (1, 3, 4)	Demonstrate an understanding of the basic principles and elements of media communication; (1, 2, 3, 4)	Analyze how performers/ presenters use movement, voice, language, and technical elements for communication; (1, 2, 3, 4, 5)
Benchmark 2	Describe personal observations of scripts and performances; (1, 3, 4)	Participate in a critique of scripts, performances and productions; (1, 2, 4)	Select, analyze, and interpret the various aspects of theatrical works, performances, and productions; (1, 2, 3, 4, 5)
Benchmark 3	Identify the differences among reality, fantasy, role playing, and media representation; (1, 4)	Identify levels and dimensions of characterization; (1, 2, 4)	Question motivation from the perspective of the character in a given situation; (1, 4, 5)
Benchmark 4	Recognize the function of the artist in creating works of art. (1, 4, 5)	Recognize and identify theatre careers and representative theatre artists in various cultures and historical periods. (1, 4, 5)	Identify and compare the careers, lives, works, and influence of representative theatre artists in various cultures and historical periods. (1, 2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Chapter 9. Visual Arts
Subchapter A. Creative Expression

§901. Focus

A. Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and

§763. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

CA-4 TH-H1	Analyze performers/presenters how use movement, voice, language, and technical elements for communication	(1, 2, 3, 4, 5)
CA-4 TH-H2	Select, analyze, and interpret the various aspects of theatrical works, performances, and productions	(1, 2, 3, 4, 5)
CA-4 TH-H3	Question motivation from the perspective of the character in a given situation	(1, 4, 5)
CA-4 TH-H4	Identify and compare the careers, lives, works, and influence of representative theatre artists in various cultures and historical periods	(1, 2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

1. Students develop creative expression through the application of knowledge, ideas, skills, and organizational abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§903. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

CE-1VA-E1	Explore and identify imagery from a variety of sources and demonstrate visual representation	(1, 2)
CE-1VA-E2	Explore techniques and technologies for visual expression and communication	(2, 3)
CE-1VA-E3	Use art vocabulary and the elements and principles of design to communicate the language of art	(1, 2)
CE-1VA-E4	Explore and identify art careers across the disciplines and cultures	(2, 4)
CE-1VA-E5	Work individually and as a group member in a responsible and productive manner	(1, 5)
CE-1VA-E6	Understand relationships among the arts and other disciplines outside the arts	(4)
CE-1VA-E7	Maintain an individual journal or sketchbook	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§905. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

CE-1VA-M1	Demonstrate art methods and techniques in visual representations based on research of imagery	(1, 2)
CE-1VA-M2	Select and apply media, techniques, and technology to visually express and communicate	(1, 2)
CE-1VA-M3	Use the elements and principles of design to visually express individual ideas	(1, 2)
CE-1VA-M4	Communicate knowledge of art concepts and relationships among various cultures, disciplines, and art careers	(2, 4)
CE-1VA-M5	Produce ideas for art productions while engaging in both individual and group activities	(1, 5)
CE-1VA-M6	Identify the relationships between the arts and other disciplines through art production	(4)
CE-1VA-M7	Maintain a sketchbook or journal and develop a portfolio	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§907. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

CE-1VA-H1	Produce works of art that successfully convey a central thought based on ideas, feelings, and memories	(1, 2)
CE-1VA-H2	Apply a variety of media techniques, technologies, and processes for visual expression and communication	(2, 3)
CE-1VA-H3	Recognize and utilize individual expression through the use of the elements of design while exploring compositional problems	(1, 2)
CE-1VA-H4	Produce a visual representation of ideas derived through the study of various cultures, disciplines, and art careers	(2, 4)
CE-1VA-H5	Produce imaginative works of art generated from individual and group ideas	(1, 5)
CE-1VA-H6	Produce works of art that describe and connect art with other disciplines	(4)
CE-1VA-H7	Maintain a sketchbook or journal and develop a portfolio	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§909. Creative Expression C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Explore and identify imagery from a variety of sources and demonstrate visual representation; (1, 2)	Demonstrate art methods and techniques in visual representations based on research of imagery; (1, 2)	Produce works of art that successfully convey a central thought based on ideas, feelings, and memories; (1, 2)
Benchmark 2	Explore techniques and technologies for visual expression and communication; (2, 3)	Select and apply media, techniques, and technology to visually express and communicate; (1, 2)	Apply a variety of media techniques, technologies, and processes for visual expression and communication; (2, 3)
Benchmark 3	Use art vocabulary and the elements and principles of design to communicate the language of art; (1, 2)	Use the elements and principles of design to visually express individual ideas; (1, 2)	Recognize and utilize individual expression through the use of the elements of design while exploring compositional problems; (1, 2)
Benchmark 4	Explore and identify art careers across the disciplines and cultures; (2, 4)	Communicate knowledge of art concepts and relationships among various cultures, disciplines, and art careers; (2, 4)	Produce a visual representation of ideas derived through the study of various cultures, disciplines, and art careers; (2, 4)
Benchmark 5	Work individually and as a group member in a responsible and productive manner; (1, 5)	Produce ideas for art productions while engaging in both individual and group activities; (1, 5)	Produce imaginative works of art generated from individual and group ideas; (1, 5)
Benchmark 6	Understand relationships among the arts and other disciplines outside the arts; (4)	Identify the relationships between the arts and other disciplines through art production; (4)	Produce works of art that describe and connect art with other disciplines; (4)

Grade Cluster	K-4	5-8	9-12
Benchmark 7	Maintain an individual journal or sketchbook. (1, 4)	Maintain a sketchbook or journal and develop a portfolio. (1, 4)	Maintain a sketchbook or journal and develop a portfolio. (1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Subchapter B. Aesthetic Perception

§919. Focus

A. The study of aesthetics, or the philosophy of the arts, supplies the individual with a structure for analyzing, interpreting, and responding to the arts. An understanding of aesthetics empowers the individual to make informed personal interpretations of artistic expressions and to develop an awareness of the concepts and ideas of others. The individual questions concepts, weighs evidence and information, examines intuitive reactions, and develops personal conclusions about the values in works of art.

1. Standard. Students will develop aesthetic perception through the knowledge of art forms and respect for commonalities and differences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§921. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

AP-2VA-E1	Develop skills in using basic art vocabulary, including the elements of design, to critique individual work and that of others	(1, 5)
AP-2VA-E2	Recognize and respond to concepts, such as beauty and taste, which are determined by culture and differ from person to person	(1, 5)
AP-2VA-E3	Discuss and identify the role and status of the artist and how art is used in daily life, in the workplace, and within the community	(3, 4, 5)
AP-2VA-E4	Recognize and respond to the difference between judgment and preference in art	(2, 3)
AP-2VA-E5	Participate in elementary inquiry into the basic question "What is art?"	(1, 2, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§923. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

AP-2VA-M1	Use art elements, principles of design, and art vocabulary for responding to the aesthetic qualities of a work of art	(1, 3)
AP-2VA-M2	Develop and communicate an awareness of the ideas and creations of others, and recognize that concepts, like beauty and taste, differ by culture	(1, 5)
AP-2VA-M3	Identify and explore the meaning of art and the role of artists in their culture and environment	(3, 4, 5)
AP-2VA-M4	Illustrate awareness of new ideas, possibilities, options, and situations pertaining to the art world	(2, 3)
AP-2VA-M5	Identify, reflect, and distinguish differences of images, symbols, and sensory qualities seen in a work of art and in those in nature	(1)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§925. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

AP-2VA-H1	Use an expanded art/design vocabulary when responding to the aesthetic qualities of a work of art	(1, 3)
AP-2VA-H2	Analyze unique characteristics of art as it reflects the quality of everyday life in various cultures	(1, 5)
AP-2VA-H3	Use descriptors, analogies, and other metaphors to describe interrelationships observed in works of art, nature, and the total environment	(3, 4, 5)
AP-2VA-H4	Compare and contrast the multiple possibilities and options available for artistic expression	(2, 3)
AP-2VA-H5	Question/weigh evidence and information, examine intuitive reactions, and draw personal conclusions about works of art	(1)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§927. Aesthetic Perception C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Develop skills in using basic art vocabulary, including the elements of design, to critique individual work and that of others; (1, 5)	Use art elements, principles of design, and art vocabulary for responding to the aesthetic qualities of a work of art; (1, 3)	Use an expanded art/design vocabulary when responding to the aesthetic qualities of a work of art; (1, 3)
Benchmark 2	Recognize and respond to concepts, such as beauty and taste, which are determined by culture and differ from person to person; (1, 5)	Develop and communicate an awareness of the ideas and creations of others, and recognize that concepts, like beauty and taste, differ by culture; (1, 5)	Analyze unique characteristics of art as it reflects the quality of everyday life in various cultures; (1, 5)
Benchmark 3	Discuss and identify the role and status of the artist and how art is used in daily life, in the workplace, and within the community; (3, 4, 5)	Identify and explore the meaning of art and the role of artists in their culture and environment; (3, 4, 5)	Use descriptors, analogies, and other metaphors to describe interrelationships observed in works of art, nature, and the total environment; (3, 4, 5)
Benchmark 4	Recognize and respond to the difference between judgment and preference in art; (2, 3)	Illustrate awareness of new ideas, possibilities, options, and situations pertaining to the art world; (2, 3)	Compare and contrast the multiple possibilities and options available for artistic expression; (2, 3)
Benchmark 5	Participate in elementary inquiry into the basic question "What is art?" (1, 2, 3, 4, 5)	Identify, reflect, and distinguish differences of images, symbols, and sensory qualities seen in a work of art and in those in nature. (1)	Question/weigh evidence and information, examine intuitive reactions, and draw personal conclusions about works of art. (1)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Subchapter C. Historical Perspective and Cultural Perception

§937. Focus

A. Historical and cultural perception is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creed, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

1. Students will develop historical perspective and cultural perception by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§939. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

HP-3VA-E1	Recognize and identify works of art by subjects, cultures, and time periods	(1, 2)
HP-3VA-E2	Express how visual symbols communicate a universal language	(1, 4, 5)
HP-3VA-E3	Explore and discuss art images from the past and the present	(1, 3, 4)
HP-3VA-E4	Identify media used in works of art throughout history	(2, 3)
HP-3VA-E5	Describe ways the visual arts are used in daily life	(1, 2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§941. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

HP-3VA-M1	Recognize and classify works of art by their style, theme, time period, and culture	(1, 2)
HP-3VA-M2	Understand how works of art cross historical, geographical, and political boundaries	(1, 4, 5)
HP-3VA-M3	Recognize the significance of themes, symbols, and ideas in art that convey messages from the past and present	(1, 3, 4)
HP-3VA-M4	Analyze and identify media and techniques used by artists throughout history	(2, 3)
HP-3VA-M5	Recognize individual artistic expression and cultural influences to understand the arts within the community	(1, 2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§943. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

HP-3VA-H1	Categorize specific styles and periods of art as they relate to various cultural, political, and economic conditions	(1, 2)
HP-3VA-H2	Analyze how works of art cross geographical, political, and historical boundaries	(1, 4, 5)
HP-3VA-H3	Compare and contrast ways art has been used as a means of communication throughout history	(1, 2, 3, 4)
HP-3VA-H4	Analyze materials, technologies, media, and processes of the visual arts throughout history	(2, 3)
HP-3VA-H5	Identify the roles of artists who have achieved recognition and their influences on the community	(1, 2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§945. Historical Perspective and Cultural Perception C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize and identify works of art by subjects, cultures, and time periods; (1, 2)	Recognize and classify works of art by their style, theme, time period, and culture; (1, 2)	Categorize specific styles and periods of art as they relate to various cultural, political, and economic conditions; (1, 2)
Benchmark 2	Express how visual symbols communicate a universal language; (1, 4, 5)	Understand how works of art cross historical, geographical, and political boundaries; (1, 4, 5)	Analyze how works of art cross geographical, political, and historical boundaries; (1, 4, 5)
Benchmark 3	Explore and discuss art images from the past and the present; (1, 3, 4)	Recognize the significance of themes, symbols, and ideas in art that convey messages from the past and present; (1, 3, 4)	Compare and contrast ways art has been used as a means of communication throughout history; (1, 2, 3, 4)
Benchmark 4	Identify media used in works of art throughout history; (2, 3)	Analyze and identify media and techniques used by artists throughout history; (2, 3)	Analyze materials, technologies, media, and processes of the visual arts throughout history; (2, 3)
Benchmark 5	Describe ways the visual arts are used in daily life. (1, 2, 4, 5)	Recognize individual artistic expression and cultural influences to understand the arts within the community. (1, 2, 4, 5)	Identify the roles of artists who have achieved recognition and their influences on the community. (1, 2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Subchapter D. Critical Analysis

§955. Focus

A. Critical analysis is the process of inquiry associated with an individual’s knowledge of the arts. Communication about the arts in a structured way provides the individual with means to observe, describe, analyze, and make critical, reasoned judgments about the form and content of the arts.

1. Students will make informed judgments about the arts by developing critical analysis skills through study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§957. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

CA-4VA-E1	View works of art, express an opinion, and justify individual viewpoints	(1, 2, 3)
CA-4VA-E2	Work individually and/or collectively to identify symbols and images in art and other core curricula	(2, 3, 5)
CA-4VA-E3	Identify works of art by media, subject matter, and culture	(2, 3)
CA-4VA-E4	Relate individual and collective knowledge and experiences to works of art in forming opinions	(1, 2, 3, 4)
CA-4VA-E5	Express personal feelings or interpretations about works of art and explain negative or positive comments	(1,2)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§959. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

CA-4VA-M1	Observe works of art and describe through visual, verbal, or written avenues how artists use the design elements and principles	(1, 2, 3)
CA-4VA-M2	Work individually and/or collectively to analyze/interpret symbols and images for meaning, purpose, and value in art and other core curricula	(2, 3, 5)
CA-4VA-M3	Classify the style, period, media, and culture in works of art	(2, 3)
CA-4VA-M4	Discuss how culture influences artists' use of media, subject matter, symbols, and themes in relation to works of art	(1, 2, 3, 4)
CA-4VA-M5	Develop interpretations about works of art and explain negative or positive comments while respecting the views of others	(2, 3, 5)

§963. Critical Analysis C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	View works of art, express an opinion, and justify individual viewpoints; (1, 2, 3)	Observe works of art and describe through visual, verbal, or written avenues how artists use the design elements and principles; (1, 2, 3)	Translate knowledge of the design elements and principles to communicate individual ideas; (1, 2, 3)
Benchmark 2	Work individually and/or collectively to identify symbols and images in art and other core curricula; (2, 3, 5)	Work individually and/or collectively to analyze/interpret symbols and images for meaning, purpose, and value in art and other core curricula; (2, 3, 5)	Work individually and/or collectively to compare and contrast symbols and images in the visual arts within historical periods and in other core curricula; (2, 3, 4)
Benchmark 3	Identify works of art by media, subject matter, and culture; (2, 3)	Classify the style, period, media, and culture in works of art; (2, 3)	Compare and contrast the processes, subjects, and media of the visual arts; (2, 3)
Benchmark 4	Relate individual and collective knowledge and experiences to works of art in forming opinions; (1, 2, 3, 4)	Discuss how culture influences artists' use of media, subject matter, symbols, and themes in relation to works of art; (1, 2, 3, 4)	Analyze how specific works are created and how they relate to cultures and to historical periods; (1, 2, 3, 4)
Benchmark 5	Express personal feelings or interpretations about works of art and explain negative or positive comments. (1, 2)	Develop interpretations about works of art and explain negative or positive comments while respecting the views of others. (2, 3, 5)	Select and analyze a work of art and give a personal interpretation of that work based on information researched. (2, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

§961. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

CA-4VA-H1	Translate knowledge of the design elements and principles to communicate individual ideas	(1, 2, 3)
CA-4VA-H2	Work individually and/or collectively to compare and contrast symbols and images in the visual arts within historical periods and in other core curricula	(2, 3, 4)
CA-4VA-H3	Compare and contrast the processes, subjects, and media of the visual arts	(2, 3)
CA-4VA-H4	Analyze how specific works are created and how they relate to cultures and to historical periods	(1, 2, 3, 4)
CA-4VA-H5	Select and analyze a work of art and give a personal interpretation of that work based on information researched	(2, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Interested persons may submit comments until 4:30 p.m., May 9, 2002, to Nina Ford, State 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 1963C Louisiana State Arts Content Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of changes will cost the State Department of Education \$12,615. The items included in this cost are formatting the document (\$250), codification of the document (\$1,725), running the document in the *Louisiana Register* (\$9,936), publication of the document (\$554), and dissemination of the document (\$150).

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)

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0203#049

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Control of Emission of Organic Compounds
Calcasieu Parish (LAC 33:III.Chapter 21)(AQ219A)

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 regulations, LAC 33:III.2103, 2104, 2115, 2122, 2123, 2125, 2143, and 2153 (Log #AQ219A).

Proposed rule AQ219 was previously published in the *Louisiana Register* on July 20, 2001, and affected the parishes of Beauregard, Calcasieu, Cameron, and Jefferson Davis. Upon further evaluation of air quality monitoring data for the area, and after review and consideration of comments

received, AQ219 was withdrawn on October 20, 2001. The rule being proposed by this rulemaking, AQ219A, is applicable to Calcasieu Parish only and addresses comments received on the previous proposed rule. This rule is also being proposed as a revision to the Louisiana State Implementation Plan (SIP).

This proposed rule revision affects Calcasieu Parish by lowering applicability thresholds in selected sections of Chapter 21. These sections regulate storage of volatile organic compounds, crude oil and condensate, waste gas disposal, fugitive emission control for ozone nonattainment areas, organic solvents, vapor degreasers, graphic arts (printing) by rotogravure and flexographic processes, and VOC emissions from wastewater. The broad effect of the rule will be to bring under the enforcement umbrella some smaller facilities that were covered at a higher threshold. Calcasieu Parish experienced ozone exceedance days during the years 1998, 1999, and 2000. Four or more exceedances during any consecutive three-year period constitute a violation of the ozone National Ambient Air Quality Standard (NAAQS). In accordance with activated contingency measures established in the approved air quality Maintenance Plan for Calcasieu Parish, a control strategy must be developed and appropriate control measures implemented in an effort to maintain Calcasieu's current attainment designation and to protect air quality in the area. The basis and rationale for this proposed rule are to continue achieving compliance with the NAAQS for ozone in Calcasieu Parish to protect the air quality of the state of Louisiana.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. 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 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

A. - D.4.d. ...

E. Vapor Loss Control System. A vapor loss control system consists of a gathering system capable of collecting the volatile organic compound (VOC) vapors and a vapor disposal system capable of processing such organic vapors. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

1. The vapor loss control system shall reduce inlet emissions of total volatile organic compounds by 95 percent or greater.

2. Notwithstanding Paragraph E.1 of this Section, if the vapor loss control system was installed on or before December 31, 1992, then the vapor loss control system shall reduce inlet emissions of total volatile organic compounds by 90 percent or greater.

3. The specifications and requirements in Paragraph E.1 or 2 of this Section do not apply during periods of planned routine maintenance. Periods of planned routine maintenance of the vapor loss control system, during which

the vapor loss control system does not meet the specifications of Paragraph E.1 or 2 of this Section, as applicable, shall not exceed 240 hours per year.

F. - I.6. ...

7. records of planned routine maintenance performed on the vapor loss control system, including the duration of each time the vapor loss control system does not meet the specifications of Paragraph E.1 or 2 of this Section, as applicable, due to the planned routine maintenance. Such records shall include the information specified as follows:

a. the first time of day and date the requirements of Subsection E of this Section were not met, at the beginning of the planned routine maintenance; and

b. the first time of day and date the requirements of Subsection E of this Section were met, at the conclusion of the planned routine maintenance.

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), repromulgated LR 16:27 (January 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, 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 26:2452 (November 2000), LR 28:

§2104. Crude Oil and Condensate

A. Applicability. This Section applies to any oil and gas production facility (SIC Code 1311), natural gas processing plant (SIC Code 1321), or natural gas transmission facility (SIC Code 4922) that has a potential to emit more than 50 Tons Per Year (TPY) of flash gas to the atmosphere in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, and West Baton Rouge or more than 100 TPY of flash gas to the atmosphere in any other parish.

B. - C.1. ...

2. For facilities in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, and West Baton Rouge with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent or reduced to a potential to emit of less than 50 TPY.

3. For facilities in parishes other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, and West Baton Rouge with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent, or reduced to a potential to emit of less than 100 TPY.

D. - D.3. ...

E. Compliance Schedule. For equipment located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, compliance shall be achieved as soon as practicable, but no later than September 1, 1998. For equipment located in the parish of Calcasieu with a potential to emit less than 100 TPY, compliance shall be achieved as soon as practicable, but no later than [date to be inserted one year from promulgation]. For all other facilities compliance shall be achieved as soon as practicable, but no later than May 1, 1999.

F. - G5. ...

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 23:1497 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2115. Waste Gas Disposal

Any waste gas stream containing VOCs from any emission source shall be controlled by one or more of the applicable methods set forth in Subsections A-G of this Section. This Section shall apply to all waste gas streams located at facilities that have the potential to emit 50 TPY or more of VOCs in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, or 100 TPY or more of VOCs in any other parish. This Section does not apply to waste gas streams that must comply with a control requirement, meet an exemption, or are below an applicability threshold specified in another section of this Chapter. This Section does not apply to waste gas streams that are required by another federal or state regulation to implement controls that reduce VOCs to a more stringent standard than would be required by this Section.

A. - H.1. ...

a. it can be demonstrated that the waste gas stream is not a part of a facility that emits, or has the potential to emit, 50 TPY or more of VOCs in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge or 100 TPY or more of VOCs in any other parish;

H.1.b. - I.5. ...

J. Compliance. All facilities affected by this Section shall be in compliance as soon as practicable but in no event later than [date to be inserted one year from promulgation].

J.1. - M. Waste Gas Stream ...

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 16:960 (November 1990), LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 19:317 (March 1993), LR 22:1212 (December 1996), LR 24:21 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2122. Fugitive Emission Control for Ozone

Nonattainment Areas and Specified Parishes

A. - A.1. ...

2. This Section is applicable to sources in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge.

3. The requirements of this Section shall be effective for sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge starting January 1, 1996.

4. The requirements of this Section shall be effective for sources located in the parish of Calcasieu starting January 1, 2003.

5. When the provisions of this Section are effective, process units to which this Section applies that are also

subject to the provisions of LAC 33:III.2121 will not be required to comply with the provisions of LAC 33:III.2121.

A.6. - 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 26:2453 (November 2000), LR 28:

Subchapter B. Organic Solvents

§2123. Organic Solvents

A. - D.5. ...

6. Surface coating facilities on any property in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes that when controlled have a potential to emit, at maximum production, a combined weight (total from the property) of VOCs less than 10 tons in any consecutive 12 calendar months are exempt from the provisions of Subsection C of this Section. Surface coating facilities on any property in parishes other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge that when uncontrolled have a potential to emit a combined weight of VOCs less than 100 pounds (45 kilograms) in any consecutive 24-hour period are exempt from the provisions of Subsection C of this Section.

D.7. - 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 26:2453 (November 2000), LR:28

Subchapter C. Vapor Degreasers

§2125. Vapor Degreasers

A. - C.2.j. ...

D. Exemptions. Except as required in this Subsection, a vapor degreaser emitting 100 pounds (45 kilograms) or less of VOCs in any consecutive 24-hour period (uncontrolled) is exempt from the provisions of this Section provided the total emissions from all the vapor degreasers at the facility combined are less than 100 tons/year of VOCs, uncontrolled. If these two conditions are not met, the provisions of this Section must apply. For Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes, the requirements of this Section apply to all solvent metal cleaners, except as stated in this Subsection.

D.1. - G ...

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 16:962 (November 1990), LR 18:1122 (October 1992), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR:28

Subchapter H. Graphic Arts

§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes

A. Control Requirements. No person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, or flexographic printing facility having a potential to emit 50 TPY or more of VOCs in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, or having a potential to emit 100 TPY or more of VOCs in any other parish, unless VOC emissions are controlled by one of the methods in Paragraphs A.1-5 of this Section. Once a facility is subject to the provisions of this Section, it remains so regardless of future variations in production.

A.1. - 5. ...

B. Applicability Exemption. A rotogravure or flexographic printing facility that has the potential to emit, at full production (8760 hours per year basis), a combined weight of VOCs of less than 50 TPY (in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge) or 100 TPY (in any other parish), calculated from historical records of actual consumption of ink, is exempt from the provisions of Subsections A and C of this Section and need only comply with Subsection D of this Section.

C. - D.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 16:964 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 28:

Subchapter M. Limiting Volatile Organic Compound Emissions From Industrial Wastewater

§2153. Limiting VOC Emissions From Industrial Wastewater

A. - H.5. ...

I. Parishes and Compliance Schedules. For the affected facilities in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes, any person who is the owner or operator of an affected source category within a plant shall be in compliance with these regulations no later than November 15, 1996. If an additional affected VOC wastewater stream is generated as a result of a process change, the wastewater shall be in compliance with this Section upon initial startup or by November 15, 1998, whichever is later, unless the owner or operator demonstrates to the administrative authority* that achieving compliance will take longer. If this demonstration is satisfactory to the administrative authority*, compliance shall be achieved as expeditiously as

practicable, but in no event later than three years after the process change. An existing wastewater stream that becomes an affected VOC wastewater stream due to a process change must be in compliance with this Section as expeditiously as practicable, but in no event later than three years after the process change.

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 26:2453 (November 2000), LR 28:

A public hearing on the proposed rule and the SIP revision will be held on April 24, 2002, 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. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. 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. Persons commenting should reference this proposed regulation by AQ219A. Such comments must be received no later than May 1, 2002, 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) 765-0389 or by e-mail to patsyd@deq.state.la.us. 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 AQ219A.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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: Control of Emission of
Organic Compounds C Calcasieu Parish**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no costs or savings to state or local governmental units as a result of this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated 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)**

The exact impact this rule will have on a facility will vary. Many of these facilities are already regulated by the federal SOCM (Synthetic Organic Chemical Manufacturing Industry) regulations or by federal or state MACT (Maximum Achievable Control Technology) regulations, so the proposed rule will have no effect at all.

In the case of the Fugitive Emissions control rule, those directly affected facilities are already required to perform regular monitoring. The proposed rule will not change monitoring intervals, only the enforcement threshold. When leaks are discovered they are generally fixed regardless of the regulatory threshold because leakage represents waste (monetary loss) and can potentially create a toxic situation or result in a fire hazard.

The department does not have information on the number or percent of facilities that will be affected by the proposed rule. However, the department believes that, on the whole, compliance costs will not be excessive. No other cost information is available.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no effect on competition since all facilities must follow the same rules. There is no estimated effect on employment.

James H. Brent, Ph.D.
Assistant Secretary
0203#039

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment**

**Control of Emissions of Nitrogen Oxides (NO_x)
(LAC 33:III.2201)(AQ224)**

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 regulations, LAC 33:III.2201 (Log #AQ224).

This proposed revision of LAC 33:III.Chapter 22, Control of Emissions of Nitrogen Oxides, lowers the regulatory threshold for lean-burn internal combustion engines in the Baton Rouge Nonattainment Area from 1500 to 320 horsepower. The proposed rule also revises the definitions for *peaking service* and *cap* and ensures that the allowance trading program is consistent with LAC 33:III.605 and 607. The regulatory threshold for lean-burn internal combustion engines located in the Baton Rouge Nonattainment Area is being revised in order to meet Reasonably Available Control Technology (RACT) requirements for NO_x emissions in the ozone nonattainment parishes. This rule is also being proposed as a revision to the Louisiana State Implementation Plan (SIP). The basis and rationale for this proposed rule are to protect air quality in Louisiana and to comply with the NAAQS for ozone.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. 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 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. - A.3. ...

B. Definitions. Unless specifically defined in this Subsection or in LAC 33:III.111 or 502, the words, terms, and abbreviations in this Chapter shall have the meanings commonly used in the field of air pollution control. For purposes of this Chapter only, the following definitions shall supersede any definitions in LAC 33:III.111 or 502.

* * *

CapCa system for demonstrating compliance whereby an affected facility, a subset of affected sources at an affected facility, or a group of affected facilities under common control are operated to stay below a mass emission rate expressed as mass per unit of time. The allowable mass emission rate is calculated by adding the allowable emissions for each affected point source. The allowable emission is the product of the source's average hourly heat input in MMBtu/hour (not to exceed any applicable permit limitations) based on the highest consecutive 30-day period during the ozone seasons of 2000 and 2001 and the applicable factor in Paragraph D.1 of this Section.

* * *

Peaking ServiceCa stationary gas turbine that is operated intermittently to produce energy. To be in peaking

service, the annual electric output (MW-hour) for the affected point source shall be less than the product of 2500 hours and the MW rating of the turbine.

* * *

Trading Allowances—the tons of NO_x emissions that result from over-controlling, permanently reducing the operating rate of, or permanently shutting down, an affected point source located within the Baton Rouge Nonattainment Area or the Region of Influence. The allowances are determined in accordance with LAC 33:III.607.C and from the emission factors required by Subsection D of this Section for the affected point source and the enforceable emission factor assigned by the owner or operator in accordance with Subsection E of this Section. Baseline emissions shall be the lower of actual emissions or adjusted allowable emissions, as defined in LAC 33:III.605. Trading allowances will be granted only for reductions that are real, quantifiable, permanent, and federally enforceable. NO_x reductions that are used in a facility-wide averaging plan cannot also be used in a trading plan.

* * *

C. - C.3. ...

- a. rich-burn engines with a rating of less than 300 horsepower (Hp);
- b. lean-burn engines with a rating of less than 320 Hp in the Baton Rouge Nonattainment Area; and
- c. lean-burn engines with a rating of less than 1500 Hp in the Region of Influence;

C.4. - 20. ...

D. Emission Factors

1. The following table lists NO_x emission factors that shall apply to affected point sources located at affected facilities in the Baton Rouge Nonattainment Area or the Region of Influence:

NO _x Emission Factors		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Electric Power Generating System Boilers:		
Coal-fired	>= 80 MMBtu/Hour	0.21 pound/MMBtu
Number 6 Fuel Oil-fired	>= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Industrial Boilers	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Process Heater/Furnaces:		
Ammonia Reformers	>= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines:		
Peaking Service, Fuel Oil-fired	>= 10 MW	0.30 pound/MMBtu
Peaking Service, Gas-fired	>= 10 MW	0.20 pound/MMBtu
All Others	>= 10 MW	0.16 pound/MMBtu ^b
Stationary Internal Combustion Engines:		
Lean-burn (Region of Influence)	>= 1500 Hp	4g/Hp-hour
Lean-burn (Baton Rouge Nonattainment Area)	>= 320 Hp	4g/Hp-hour
Rich-burn	>= 300 Hp	2g/Hp-hour

^a all factors are based on the higher heating value of the fuel.

^b equivalent to 42 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

D.2. - 2.c. ...

3. For affected point sources in an electric power generating system, the emission factors from Subsection D of this Section shall apply as the mass of NO_x emitted per

unit of heat input (pound NO_x per MMBtu), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a ton per day or a pound per hour cap provided that monitoring is installed, calibrated, maintained, and

operated to demonstrate compliance with the cap. The cap for a facility or for multiple facilities under common control is calculated by adding the products of the factor from Paragraph D.1 of this Section and the average hourly heat input in MMBtu/hour (not to exceed any applicable permit limitations) based on the highest consecutive 30-day period during the ozone seasons of 2000 and 2001 for each affected point source as follows:

Equation D-1

$$Cap (tpd) = 0.012 \times \sum_{i=1}^N (R_{li} \times HI_i)$$

Where:

- HI_i = the average hourly heat input based on the highest consecutive 30-day period during the ozone seasons of 2000 and 2001 of each point source (MMBtu/hour)
- I = each point source included in the cap
- N = the total number of point sources included in the cap
- R_{li} = the limit for each point source from Subsection D of this Section (pound NO_x/MMBtu)

4. For all other affected point sources, the emission factors from Subsection D of this Section shall apply as the mass of NO_x emitted per unit of heat input (pound NO_x per MMBtu), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a cap as detailed in Paragraph D.3 of this Section provided a system, approved by the department, is installed, calibrated, maintained, and operated to demonstrate compliance.

D.5. - 9. ...

E. Alternative Plans

1. Facility-Wide Averaging Plan. A facility-wide averaging plan is established in this Chapter for single affected facilities and multiple affected facilities that are owned or operated by the same entity. For sources located within the Baton Rouge Nonattainment Area or the Region of Influence, an owner or operator of one or more affected facilities may use the facility-wide averaging plan as an alternative means of compliance with the emission factors from Subsection D of this Section. A request for approval to use a facility-wide averaging plan, that includes the details of the plan, shall be submitted to the department either separately or with the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. A facility-wide averaging plan submitted under this provision shall be approved if the department determines that it will provide emission reductions equivalent to or more than that required by the emission factors in Subsection D of this Section and the plan establishes satisfactory means for determining initial and continuous compliance, including appropriate monitoring and recordkeeping requirements. Approval of the alternative plans by the administrative authority does not necessarily indicate automatic approval by the administrator.

E.1.a. ...

b. An owner or operator of an electric power generating system that chooses to use an averaging plan shall demonstrate compliance by either of the following methods:

E.1.b.i. - ii. ...

c. Owners or operators of all other affected point sources that choose to use an averaging plan shall demonstrate compliance by either of the following methods:

i. operating such that each affected point source does not exceed its assigned individual limit in pound NO_x/MMBtu on a 30-day rolling average basis; or

ii. complying with a cap as described in Paragraph D.3 of this Section, provided a system, approved by the department, is installed, calibrated, maintained, and operated to demonstrate compliance with the cap.

E.1.d. - i. ...

2. Trading Plan. Trading is established in this Chapter as an alternate means of compliance with the emission factors from Subsection D of this Section. Within the Baton Rouge Nonattainment Area and the Region of Influence, trading allowances, as defined in Subsection B of this Section, may be traded between affected facilities owned by different companies in a manner consistent with LAC 33:III.617.C.3. The approval to use trading shall be requested in the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. A trading plan submitted under this provision shall be approved if the department determines that it will provide NO_x emission reductions equivalent to or more than that required by the emission factors of Subsection D of this Section and the plan establishes satisfactory means for determining ongoing compliance, including appropriate monitoring and recordkeeping requirements. Approval of trading plans by the administrative authority does not necessarily indicate automatic approval of the administrator.

F. - H.3.b.vi. ...

4. The owner or operator of stationary internal combustion engines that are subject to this Chapter shall demonstrate continuous compliance as follows:

H.4.a. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), amended LR 28:

A public hearing on the proposed rule and the SIP revision will be held on April 24, 2002, 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. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. 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. Persons commenting should reference this proposed regulation by AQ224. Such comments must be received no later than May 1, 2002, 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) 765-0389 or by e-mail to patsyd@deq.state.la.us. 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 AQ224.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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: Control Of Emissions of Nitrogen Oxides (NO_x)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no known implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

DEQ collects an annual fee of \$9.72 per ton of NO_x emissions. The proposed revision to Chapter 22 is expected to reduce these emissions by up to 440 tons per year, consequently reducing state fee collections by a maximum of \$4,277 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated costs for implementing this revision to Chapter 22 should not exceed \$440,000, although they could be considerably lower. The department does not have precise cost information. Estimates utilize cost factors from the NESCAUM (Northeast States for Coordinated Air Use Management) publication *Status Report on NO_x Controls* dated December 2000. Additionally, there will be annual operating and maintenance costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The expected impact on competition and employment is believed to be minimal since the proposed revision primarily lowers the regulatory threshold for lean-burn, internal combustion engines in the Baton Rouge Nonattainment Area (parishes of Ascension, East Baton Rouge, Iberville, Livingston and West Baton Rouge). The department knows of only 5 engines at 2 facilities that will be directly affected by the rule revision.

James H. Brent, Ph.D.
Assistant Secretary
0203#040

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Incorporation by Reference C2001
(LAC 33:I.3931; 33:III.507, 1432, 3003, 5116, 5122, 5211; 33:V.Chapter 30.Appendices A-L; 33:IX.2301, 2531, 2533; 33:XV.1517)(OS043*)

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.3931; 33:III.507, 1432, 3003, 5116, 5122, and 5311; 33:V.Chapter 30.Appendices A-L; 33:IX.2301, 2531, and 2533; and 33:XV.1517 (Log #OS043*).

This proposed rule is identical to federal regulations found in 10 CFR 71, 7/1/2001; 40 CFR 60, 61, 63, 70.6, 93, 117.3, 122.29, 136, 266.Appendices A-M, 302.4, 401, and 405-471, 7/1/2001, 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 LAC 33:I, III, V, IX, and XV the corresponding regulations in 10 CFR 71 and 40 CFR Parts 60, 61, 63, 70.6, 93, 117.3, 122.29, 136, 144.63, 266, 302.4, 401, and 405-471, July 1, 2001. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC.

On March 5, 2002, EPA adopted revisions to Sections 112(g) and 112(j) of the Clean Air Act Amendments of 1990. The rule is titled, "National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)." In effect, the requirement to submit a Title V permit application on May 15, 2002, for any facility whose source category Part 63 (MACT) Rule has not been promulgated by May, 15, 2002, is revised to a requirement to submit a Part 1 Permit Application. A Fact Sheet that includes the web address for the newly promulgated rule may be found at the following web address: http://www.epa.gov/ttn/oarpg/t3/fact_sheets/gprctd_fs.pdf. This federal rule is being incorporated by reference in this proposed rule (OS043*). The publication date and citation of the *Federal Register* containing this EPA rule will be inserted when it becomes available.

This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This

incorporation by reference package is being proposed to keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this proposed rule are to mirror the federal regulations in order to maintain equivalency.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. 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

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. ...

1. 40 CFR 117.3 (7-1-01 Edition) Table 117.3-Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

2. 40 CFR 302.4 (7-1-01 Edition) Table 302.4-List of Hazardous Substances and Reportable Quantities; Appendix A to §302.4-Sequential CAS Registry Number List of CERCLA Hazardous Substances.

B. - Note @. ...

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 27:2229 (December 2001), LR 28:

Part III. Air

Chapter 5. Permit Procedures

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The Louisiana Department of Environmental Quality hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), as in effect on July 1, 2001. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms

and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - 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 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:

Chapter 14. Conformity

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

§1432. Incorporation by Reference

A. 40 CFR Part 93, Subpart A, July 1, 2001, is hereby incorporated by reference with the exclusion of Section 105.

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 24:1280 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:

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, 2001, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the State of Louisiana.

Table 1 - Table 1.A. ...

B. Corrective modification and clarification are made as follows.

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, notwithstanding 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) shall be modified to read as follows: State of Louisiana: Office of Environmental Assessment, Environmental Technology Division, Department of Environmental Quality.

3. The availability to the public of information provided to or otherwise obtained by the state under this Chapter shall be governed by LAC 33:I.501-509.

4. Clarification of MSW landfill milestones are as follows: design plans are due on or before January 28, 1999; awarding of contracts is due on or before June 28, 1999; initiation of on-site construction is due on or before September 28, 1999; initial performance test is to be completed on or before March 28, 2000; and final compliance is due on or before April 28, 2000.

5. The department's Section 111(d) emission guideline plan for Hospital/Medical/Infectious Waste Incinerators includes the following CFR citations: 40 CFR 60.30, 60.30(e), 60.31(e), 60.32(e), 60.33(e), 60.35(e), 60.36(e), 60.37(e), 60.38(e), and 60.39(e). Until the department has a mechanism to approve training programs in compliance with 40 CFR 60.34(e), the department accepts accreditation approved by other states complying with 40 CFR 60.34(e).

C. Copies of documents incorporated by reference in this Chapter 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 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), LR 26:2460 (November 2000), LR 26:2608 (November 2000), LR 27:2229 (December 2001), LR 28:

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, dated July 1, 2001, 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. - 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 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 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:

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, dated July 1, 2001, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference is EPA rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)," promulgated on March 5, 2002, and as published in the *Federal Register* at [publication date and citation to be inserted].

40 CFR 63	Subpart/Appendix Heading

[See Prior Text in Subpart 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 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:

Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area 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, dated July 1, 2001, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

40 CFR 63	Subpart/Appendix Heading

[See Prior Text in Subpart A - Subpart X]	

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 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), LR 25:1464 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2230 (December 2001), LR 28:

Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality Hazardous Waste

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces
Appendices

Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals

A. 40 CFR 266, Appendix I, July 1, 2001, is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine

A. 40 CFR 266, Appendix II, July 1, 2001, is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

A. 40 CFR 266, Appendix III, July 1, 2001, is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

A. 40 CFR 266, Appendix IV, July 1, 2001, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105.Table 1 and Appendix E of this Chapter, respectively.

Appendix E. Risk Specific Doses (10^{-5})

A. 40 CFR 266, Appendix V, July 1, 2001, is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

A. 40 CFR 266, Appendix VI, July 1, 2001, is hereby incorporated by reference.

Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues

A. 40 CFR 266, Appendix VII, July 1, 2001, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105.Table 1, 3025.B.1 and B.2.a, and Chapter 22.Table 2, respectively.

Appendix H. Organic Compounds for Which Residues Must be Analyzed

A. 40 CFR 266, Appendix VIII, July 1, 2001, is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

A. 40 CFR 266, Appendix IX, July 1, 2001, is hereby incorporated by reference, except as follows.

A.1. - B. ...

Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters

A. 40 CFR 266, Appendix XI, July 1, 2001, is hereby incorporated by reference.

Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

A. 40 CFR 266, Appendix XII, July 1, 2001, is hereby incorporated by reference, except that the footnote should be deleted.

Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

A. 40 CFR 266, Appendix XIII, July 1, 2001, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105.Table 1.

Part IX. Water Quality

Chapter 23. The LPDES Program

Subchapter A. Definitions and General Program Requirements

§2301. General Conditions

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 1, 2001 *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), LR 27:2231 (December 2001), LR 28:

§2531. 40 CFR Part 136

A. 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, 2001, 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), LR 27:2231 (December 2001), LR 28:

§2533. 40 CFR Chapter I, Subchapter N

A. Title 40 (Protection of the Environment) CFR, Chapter I, Subchapter N (Effluent Guidelines and Standards), revised July 1, 2001, Parts 401 and Parts 405-471 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), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:

Part XV. Radiation Protection

Chapter 15. Transportation of Radioactive Material

§1517. Incorporation by Reference

A. The department incorporates by reference 10 CFR Part 71, Appendix A (July 1, 2001).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), LR 27:2233 (December 2001), LR 28:

A public hearing will be held on April 24, 2002, 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. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. 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. Persons commenting should reference this proposed regulation by OS043*. Such comments must be received no later than April 24, 2002, 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) 765-0389 or by e-mail to patsyd@deq.state.la.us. 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 OS043*.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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

0203#042

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

RCRA XI Authorization
(LAC 33:V.Chapters 1, 3, 22, 31, 42, and 49)(HW080*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been

initiated to amend the Hazardous Waste regulations, LAC 33:V.109, 321, 2213, 2215, 2236, Chapter 22.Appendix.Tables 2, 7, 9, and 11, 3105, 4201-4243, 4901, and 4909 (Log #HW080*).

This proposed rule is identical to federal regulations found in 65 FR 42292-42302, July 10, 2000; 65 FR 67068-67133, November 8, 2000; 65 FR 81373-81381, December 26, 2000; 66 FR 24270-24272, May 14, 2001; 66 FR 27218-27266 and 27266-27297, May 16, 2001; and 66 FR 35087-35107, October 16, 2001, 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 includes changes to the Hazardous Waste regulations on the following topics that are required by the Environmental Protection Agency for continued authorization of the RCRA program in the state of Louisiana: NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities; Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil; Storage, Treatment, and Disposal of Mixed Waste; and Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived From Rules. The basis and rationale for this rule are to mirror the federal regulations.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. 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 V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§109. Definitions

A. 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:

Hazardous Waste Ca solid waste, as defined in this Section, is a hazardous waste if:

1. - 2.b. ...

c. it is a mixture of solid waste and one or more hazardous wastes listed in LAC 33:V.4901 and has not been excluded from Paragraph 2 or Subparagraphs 4.f and g of this definition under LAC 33:V.105.D and M; however, the following mixtures of solid wastes and hazardous wastes listed in LAC 33:V.4901 are not hazardous wastes (except by application of Subparagraph 2.a or b of this definition) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is subject to regulation

under either Section 402 or Section 307(b) of the Clean Water Act (including wastewater at facilities that have eliminated the discharge of wastewater) and:

i. one or more of the following solvents listed in LAC 33:V.4901.B, carbon tetrachloride, tetrachloroethylene, trichloro-ethylene, provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed one part per million; or

ii. one or more of the following spent solvents listed in LAC 33:V.4901.B, methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents, provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million; or

iii. one of the following wastes listed in LAC 33:V.4901.C, provided that the wastes are discharged to the refinery oil recovery sewer before primary oil/water/solids separation, heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste Number K050), crude oil storage tank sediment from petroleum refining operations (EPA Hazardous Waste Number K169), clarified slurry oil tank sediment and/or in-line filter/separation solids from petroleum refining operations (EPA Hazardous Waste Number K170), spent hydrotreating catalyst (EPA Hazardous Waste Number K171), and spent hydrorefining catalyst (EPA Hazardous Waste Number K172); or

iv. a discarded commercial chemical product or chemical intermediate listed in LAC 33:V.4901.D and E arising from de minimis losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process. For purposes of this Clause, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers rendered empty by that rinsing; or

v. wastewater resulting from laboratory operations containing toxic (T) wastes listed in LAC 33:V.4901, provided that the annualized average flow of laboratory wastewater does not exceed 1 percent of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system, or provided the wastes' combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to

be discharged to wastewater are not to be included in this calculation; or

vi. one or more of the following wastes listed in LAC 33:V.4901.C, wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157), provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or are recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five parts per million by weight; or

vii. wastewaters derived from the treatment of one or more of the following wastes listed in LAC 33:V.4901.C, organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156), provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five milligrams per liter; and

d. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by using an analytical method from LAC 33:V.Chapter 49.Appendix A to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105.Table 1).

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed.

ii. The rebuttable presumption does not apply to used oils contaminated with Chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

3. - 4.e. ...

f. A hazardous waste that is listed in LAC 33:V.4901 solely because it exhibits one or more characteristics of ignitability as defined under LAC 33:V.4903.B, corrosivity as defined under LAC 33:V.4903.C, or reactivity as defined under LAC 33:V.4903.D is not a hazardous waste if the waste no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.4903. The exclusion also pertains to any mixture of a solid waste and a hazardous waste listed in LAC 33:V.4901 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under Subparagraph 2.c of this definition, and any solid waste

generated from treating, storing, or disposing of a hazardous waste listed in LAC 33:V.4901 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under Clause 4.b.i of this definition. Wastes excluded under this Subparagraph are subject to LAC 33:V.Chapter 22 (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.

g. Hazardous waste containing radioactive waste is no longer a hazardous waste when it meets the eligibility criteria and conditions of LAC 33:V.Chapter 42. This exemption also pertains to any mixture of a solid waste and an eligible radioactive mixed waste and any solid waste generated from treating, storing, or disposing of an eligible radioactive mixed waste. Waste exempted under this Subparagraph must meet the eligibility criteria and specified conditions in LAC 33:V.4205 and 4207 (for storage and treatment) and in LAC 33:V.4223 and 4225 (for transportation and disposal). Waste that fails to satisfy these eligibility criteria and conditions is regulated as hazardous waste.

5. - 6.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 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218 (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 LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§321. Modification of Permits

A. - C.10. ...

a. Facility owners or operators must have complied with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210 that were in effect prior to May 14, 2001 (see 40 CFR 63, revised as of July 10, 2000) in order to request a permit modification under this Section.

C.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 26:2466 (November 2000), LR 28:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2213. Waste-Specific Prohibitions—Chlorinated

Aliphatic Wastes

A. Effective May 8, 2001, the wastes specified in LAC 33:V.Chapter 49 as EPA Hazardous Waste Numbers K174 and K175, soil and debris contaminated with these wastes, radioactive wastes mixed with these wastes, and soil and debris contaminated with radioactive wastes mixed with these wastes are prohibited from land disposal.

B. The requirements of Subsection A of this Section do not apply if:

1. the wastes meet the applicable treatment standards specified in this Chapter;

2. persons have been granted an exemption from a prohibition in accordance with a petition under LAC 33:V.2241 or 2271, with respect to those wastes and units covered by the petition;

3. the wastes meet the applicable treatment standards established in accordance with a petition granted under LAC 33:V.2231;

4. hazardous debris has met the treatment standards in LAC 33:V.2223 or the alternative treatment standards in LAC 33:V.2230; or

5. persons have been granted an extension to the effective date of the prohibition granted in accordance with LAC 33:V.2239, with respect to the wastes covered by the extension.

C. To determine whether a hazardous waste identified in this Section exceeds the applicable treatment standards specified in LAC 33:V.2223, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable levels of LAC 33:V.2223, the waste is prohibited from land disposal and all requirements of this Chapter are applicable, except as otherwise specified.

D. Disposal of K175 wastes that have complied with all applicable LAC 33:V.2223 treatment standards must also be macroencapsulated in accordance with Table 8 of this Chapter, unless the waste is placed in:

1. a RCRA Subtitle C monofill containing only K175 wastes that meet all applicable LAC 33:V.2223 treatment standards; or

2. a dedicated RCRA Subtitle C landfill cell in which all other wastes being disposed are at a pH less than or equal to 6.0.

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 28:

§2215. Waste Specific Prohibitions—Soils Exhibiting the Toxicity Characteristic for Metals and Containing PCBs

A. Effective December 26, 2000, the following wastes are prohibited from land disposal: any volume of soils exhibiting the toxicity characteristic solely because of metals (D004-D011) and containing PCBs.

B. Requirements of Subsection A of this Section do not apply if:

1. the wastes contain halogenated organic compounds (see Table 9 of this Chapter) in total concentrations of less than 1,000 mg/kg and meet the treatment standards specified in LAC 33:V.2223 for EPA Hazardous Waste Numbers D004-D011, as applicable;

2. the wastes contain halogenated organic compounds in total concentrations of less than 1,000 mg/kg and meet the alternative treatment standards specified in LAC 33:V.2236 for contaminated soil;

3. persons have been granted an exemption from a prohibition in accordance with a petition under LAC 33:V.2241, with respect to those wastes and units covered by the petition; or

4. the wastes meet applicable alternative treatment standards established in accordance with a petition granted under LAC 33:V.2231.

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 28:

§2236. Alternative Land Disposal Restriction (LDR) Treatment Standards for Contaminated Soil

A. - C.3.b. ...

D. Constituents Subject to Treatment. When applying the soil treatment standards in Subsection C of this Section, constituents subject to treatment are any constituents listed in Table 7 (Universal Treatment Standards) of this Chapter that are reasonably expected to be present in any given volume of contaminated soil, except fluoride, selenium, sulfides, vanadium, and zinc, and that are present at concentrations greater than 10 times the universal treatment standard. PCBs are not a constituent subject to treatment in any given volume of soil that exhibits the toxicity characteristic solely because of the presence of metals.

E. - E.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 Waste Services, LR 25:446 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 27:294 (March 2001), LR 28:

Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS ² Number	Concentration in mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code ⁴
*** [See Prior Text in D001-F038]					
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under LAC 33:V.Subchapter A. (Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Wastes retains its EPA Hazardous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.)	*** [See Prior Text in Acenaphthylene-Heptachlor epoxide]			
		1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035	0.0025
		1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035	0.0025
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035	0.0025
		*** [See Prior Text in Hexachlorobenzene-N-Nitrosopyrrolidine]			
		1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	0.000063	0.005
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063	0.005
		*** [See Prior Text in Parathion-Vanadium]			
*** [See Prior Text K001-K172]					
K174	Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer.	1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035 or CMBST	0.0025 or CMBST ¹¹
		1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035 or CMBST ¹¹	0.0025 or CMBST ¹¹
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035 or CMBST ¹¹	0.0025 or CMBST ¹¹
		HxCDDs (All Hexachlorodibenzo-p-dioxins)	34465-46-8	0.000063 or CMBST ¹¹	0.001 or CMBST ¹¹
		HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063 or CMBST ¹¹	0.001 or CMBST ¹¹
		1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	0.000063 or CMBST ¹¹	0.005 or CMBST ¹¹
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063 or CMBST ¹¹	0.005 or CMBST ¹¹
		PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.000063 or CMBST ¹¹	0.001 or CMBST ¹¹
		PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035 or CMBST ¹¹	0.001 or CMBST ¹¹
		TCDDs (All Tetrachlorodibenzo-p-dioxins)	41903-57-5	0.000063 or CMBST ¹¹	0.001 or CMBST ¹¹
		TCDFs (All Tetrachlorodibenzofurans)	55722-27-5	0.000063 or CMBST ¹¹	0.001 or CMBST ¹¹
K175	Wastewater treatment sludge from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.	Arsenic	7440-36-0	1.4	5.0 mg/L TCLP
		Mercury ¹²	7438-97-6	NA	0.025 mg/L TCLP
		PH ¹²		NA	pH=6.0
	All K175 wastewaters	Mercury	7438-97-6	0.15	NA
*** [See Prior Text in P001-U411]					

Notes 1 - 11 ...

¹²Disposal of K175 wastes that have complied with all applicable LAC 33:V.2223 treatment standards must also be macroencapsulated in accordance with Table 8 of this Chapter unless the waste is placed in: (1) a RCRA Subtitle C monofill containing only K175 wastes that meet all applicable LAC 33:V.2223 treatment standards; or (2) a dedicated RCRA Subtitle C landfill cell in which all other wastes being disposed are at a pH less than or equal to 6.0.

NOTE: NA means not applicable.

Table 7. Universal Treatment Standards

Regulated Constituent-Common Name	CAS ¹ Number	Wastewater Standard Concentration in mg/l ²	Nonwastewater Standard Concentration in mg/kg ³ unless noted as "mg/l TCLP"
Organic Constituents ***			
[See Prior Text in Acenaphthylene-Heptachlor epoxide]			
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035	0.0025
1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035	0.0025
1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035	0.0025

[See Prior Text in Hexachlorobenzene- N-Nitrosopyrrolidine]			
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	0.000063	0.005
1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063	0.005

[See Prior Text in Oxamyl ⁶ -Parathion]			
Total PCBs (sum of all PCB isomers, or all Arochlors) ⁸	1336-36-3	0.10	10

[See Prior Text in Pebulate ⁶ -Zinc ⁵]			

NOTE: Notes 1 - 7 ...

⁸This standard is temporarily deferred for soil exhibiting a hazardous characteristic due to D004-D011 only.

NOTE: NA means not applicable.

Table 9.

**List of Halogenated Organic Compounds (HOCs)
Regulated under LAC 33:V.2215**

In determining the concentration of HOCs in a hazardous waste for purposes of the LAC 33:V.2215 land disposal prohibition, EPA has defined the HOCs that must be included in a calculation as any compounds having a carbon-halogen bond that are listed in the table below.

I. Volatiles

1. Bromodichloromethane
2. Bromomethane
3. Carbon Tetrachloride
4. Chlorobenzene
5. 2-Chloro-1,3-butadiene
6. Chlorodibromomethane
7. Chloroethane
8. 2-Chloroethyl vinyl ether
9. Chloroform
10. Chloromethane
11. 3-Chloropropene
12. 1,2-Dibromo-3-chloropropane
13. 1,2-Dibromomethane
14. Dibromomethane
15. Trans-1,4-Dichloro-2-butene
16. Dichlorodifluoromethane
17. 1,1-Dichloroethane
18. 1,2-Dichloroethane
19. 1,1-Dichloroethylene
20. Trans-1,2-Dichloroethene
21. 1,2-Dichloropropane
22. Trans-1,3-Dichloropropene
23. cis-1,3-Dichloropropene
24. Iodomethane
25. Methylene chloride
26. 1,1,1,2-Tetrachloroethane
27. 1,1,2,2-Tetrachloroethane
28. Tetrachloroethene
29. Tribromomethane
30. 1,1,1-Trichloroethane
31. 1,1,2-Trichloroethane
32. Trichloroethene
33. Trichloromonofluoromethane

34. 1,2,3-Thrchloropropane

35. Vinyl Chloride

II. Semivolatiles

1. Bis(2-chloroethoxy)ethane
2. Bis(2-chloroethyl)ether
3. Bis(2-chloroisopropyl)ether
4. p-Chloroaniline
5. Chlorobenzilate
6. p-Chloro-m-cresol
7. 2-Chloronaphthalene
8. 2-Chlorophenol
9. 3-Chloropropionitrile
10. m-Dichlorobenzene
11. o-Dichlorobenzene
12. p-Dichlorobenzene
13. 3,3'-Dichlorobenzidine
14. 2,4-Dichlorophenol
15. 2,6-Dichlorophenol
16. Hexachlorobenzene
17. Hexachlorobutadiene
18. Hexachlorocyclopentadiene
19. Hexachloroethane
20. Hexachloropropene
21. Hexachloropropene
22. 4,4'-Methylenebis(2-chloroaniline)
23. Pentachlorobenzene
24. Pentachloroethane
25. Pentachloronitrobenzene
26. Pentachlorophenol
27. Pronamide
28. 1,2,4,5-Tetrachlorobenzene
29. 2,3,4,6-Tetrachlorophenol
30. 1,2,4-Trichlorobenzene
31. 2,4,5-Trichlorophenol
32. 2,4,6-Trichlorophenol
33. Tris(2,3-dibromopropyl)phosphate

III. Organochlorine Pesticides

1. Aldrin
2. alpha-BHC
3. beta-BHC
4. delta-BHC
5. gamma-BHC

6. Chlorodane
7. DDD
8. DDE
9. DDT
10. Dieldrin
11. Endosulfan I
12. Endosulfan II
13. Endrin
14. Endrin aldehyde
15. Heptachlor
16. Heptachlor epoxide
17. Isodrin
18. Kepone
19. Methoxychlor
20. Toxaphene

IV. Phenoxyacetic Acid Herbicides

1. 2,4-Dichlorophenoxyacetic acid
2. Silvex
3. 2,4,5-T

V. PCBs

1. Aroclor 1016
2. Aroclor 1221
3. Aroclor 1232
4. Aroclor 1242

5. Aroclor 1248
6. Aroclor 1254
7. Aroclor 1260
8. PCBs not otherwise specified

VI. Dioxins and Furans

1. Hexachlorodibenzo-p-dioxins
2. Hexachlorodibenzofuran
3. Pentachlorodibenzo-p-dioxins
4. Pentachlorodibenzofuran
5. Tetrachlorodibenzo-p-dioxins
6. Tetrachlorodibenzofuran
7. 2,3,7,8-Tetrachlorodibenzo-p-dioxin

Table 11.

Appendix VII, Table 1, Effective Dates of Surface Disposed Wastes (Non-Soil and Debris) Regulated in the LDRs, of 40 CFR 268, published July 1, 2001, and in 66 FR 27297, May 16, 2001, is hereby incorporated by reference.

Chapter 31. Incinerators

§3105. Applicability

A. - E. ...

Table 1. Hazardous Constituents

Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
*** [See Prior Text in A2213 - 5-Nitro-o-toluidine]			
Octachlorodibenzo-p-dioxin (OCDD)	1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin	3268-87-9
Octachlorodibenzofuran (OCDF)	1,2,3,4,6,7,8,9-Octachlorodibenzofuran	39001-02-0
*** [See Prior Text in Octamethylpyrophosphoramidate - Ziram]			

The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

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 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:

Chapter 42. Conditional Exemption for Low-Level Mixed Waste Storage and Disposal

§4201 What Definitions Apply to this Chapter?

A. This Chapter uses the following special definitions:

Agreement StateCa state that has entered into an agreement with the NRC under Section 274.b of the Atomic Energy Act of 1954 (AEA), as amended (68 Stat. 919), to assume responsibility for regulating within its borders by-product, source, or special nuclear material in quantities not sufficient to form a critical mass.

Certified DeliveryCcertified mail with return receipt requested, equivalent courier service, or other means that provides the sender with a receipt confirming delivery.

Eligible Naturally Occurring and/or Accelerator-Produced Radioactive Material (NARM)CNARM that is eligible for the transportation and disposal conditional exemption. It is a NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by state NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with LAC 33:XV.Chapters 3 and 13, NRC, or NRC agreement state equivalent regulations.

Exempted WasteCa waste that meets the eligibility criteria in LAC 33:V.4205 and meets all of the conditions in LAC 33:V.4207 or meets the eligibility criteria in LAC 33:V.4223 and complies with all the conditions in LAC 33:V.4225. Such waste is conditionally exempted from the regulatory definition of hazardous waste described in LAC 33:V.109.

Hazardous WasteCany material that is defined to be hazardous waste in accordance with LAC 33:V.109, definition of hazardous waste.

Land Disposal Restriction (LDR) Treatment StandardsCtreatment standards, under LAC 33:V.Chapter 22, that a RCRA hazardous waste must meet before it can be disposed of in a RCRA hazardous waste land disposal unit.

LicenseCa license issued by the department, NRC, or a NRC agreement state to users that manage radionuclides regulated by the department, NRC, or NRC agreement states under authority of the Atomic Energy Act of 1954, as amended (see LAC 33:XV.102).

Low-Level Mixed Waste (LLMW) Ca waste that contains both low-level radioactive waste and RCRA hazardous waste.

Low-Level Radioactive Waste (LLRW) Ca radioactive waste that is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material, as defined in Section 11e.(2) of the Atomic Energy Act (see also the definition of *waste* at LAC 33:XV.102).

Mixed Waste Ca waste that contains both RCRA hazardous waste and source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954, as amended.

Naturally Occurring and/or Accelerator-Produced Radioactive Material (NARM) Cradioactive materials that are:

- a. naturally occurring and are not source, special nuclear, or by-product materials, as defined by the AEA; or
- b. produced by an accelerator. NARM is regulated by the states under state law or by Department of Energy (DOE), as authorized by the AEA under DOE orders.

NRCC the U. S. Nuclear Regulatory Commission.

We or Us Cwithin this Chapter, the administrative authority, as defined in LAC 33:V.109.

You Ca generator, treater, or other handler of low-level mixed waste or eligible NARM.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4203. What Does a Storage And Treatment Conditional Exemption Do?

A. The storage and treatment conditional exemption exempts your LLMW from the regulatory definition of hazardous waste in LAC 33:V.109 if your waste meets the eligibility criteria in LAC 33:V.4205 and you meet the conditions in LAC 33:V.4207.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4205. What Wastes are Eligible for the Storage and Treatment Conditional Exemption?

A. LLMW, defined in LAC 33:V.4201, is eligible for this conditional exemption if it is generated and managed by you under a single department, NRC, or NRC agreement state license. (Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a permit and is ineligible for this exemption. In addition, NARM waste is ineligible for this exemption.)

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4207. What Conditions Must You Meet for Your LLMW to Qualify for and Maintain a Storage and Treatment Exemption?

A. For your LLMW to qualify for the exemption, you must notify us in writing by certified delivery that you are claiming a conditional exemption for the LLMW stored on

your facility. The dated notification must include your name, address, RCRA identification number, department, NRC, or NRC agreement state license number, the waste code(s) and storage unit(s) for which you are seeking an exemption, and a statement that you meet the conditions of this Chapter. Your notification must be signed by your authorized representative, who certifies that the information in the notification is true, accurate, and complete. You must notify us of your claim either within 90 days of the effective date of these regulations in your state or within 90 days of when a storage unit is first used to store conditionally exempt LLMW.

B. To qualify for and maintain an exemption for your LLMW you must:

1. store your LLMW waste in tanks or containers in compliance with the requirements of your license that apply to the proper storage of low-level radioactive waste (not including those license requirements that relate solely to recordkeeping);
2. store your LLMW in tanks or containers in compliance with chemical compatibility requirements of a tank or container in LAC 33:V.1919, 2115, 4429 and 4444;
3. certify that facility personnel who manage stored conditionally exempt LLMW are trained in a manner that ensures that the conditionally exempt waste is safely managed and includes training in chemical waste management and hazardous materials incidents response that meets the personnel training standards found in LAC 33:V.1515.A.3;
4. conduct an inventory of your stored conditionally exempt LLMW at least annually and inspect it at least quarterly for compliance with this Chapter; and
5. maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities, describe evacuation plans, list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators, and list emergency equipment.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4209. What Waste Treatment Does the Storage and Treatment Conditional Exemption Allow?

A. You may treat your LLMW at your facility within a tank or container in accordance with the terms of your department, NRC, or NRC agreement state license. Treatment that cannot be done in a tank or container without a RCRA permit (such as incineration) is not allowed under this exemption.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4211. How Could You Lose the Conditional Exemption for Your LLMW and What Action Must You Take?

A. Your LLMW will automatically lose the storage and treatment conditional exemption if you fail to meet any of

the conditions specified in LAC 33:V.4207. When your LLMW loses the exemption, you must immediately manage that waste, which failed the condition as RCRA hazardous waste, and the storage unit storing the LLMW immediately becomes subject to RCRA hazardous waste container and/or tank storage requirements.

1. If you fail to meet any of the conditions specified in LAC 33:V.4207, you must report to us or the oversight agency in the NRC agreement state, in writing by certified delivery within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

- a. the specific condition(s) you failed to meet;
- b. a description of the LLMW (including the waste name, hazardous waste codes, and quantity) and storage location at the facility; and
- c. the date(s) on which you failed to meet the condition(s).

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan.

B. We may terminate your conditional exemption for your LLMW, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4213. If You Lose the Storage and Treatment Conditional Exemption for Your LLMW, Can the Exemption Be Reclaimed?

A. You may reclaim the storage and treatment exemption for your LLMW if:

1. you again meet the conditions specified in LAC 33:V.4207; and
2. you send us a notice by certified delivery that you are reclaiming the exemption for your LLMW. Your notice must be signed by your authorized representative certifying that the information contained in your notice is true, complete, and accurate. In your notice you must do the following:
 - a. explain the circumstances of each failure;
 - b. certify that you have corrected each failure that caused you to lose the exemption for your LLMW and that you again meet all the conditions as of the date you specify;
 - c. describe plans that you have implemented, listing specific steps you have taken, to ensure the conditions will be met in the future; and
 - d. include any other information you want us to consider when we review your notice reclaiming the exemption.

B. We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to, the following:

1. you have failed to correct the problem;
2. you explained the circumstances of the failure unsatisfactorily; or
3. you failed to implement a plan with steps to prevent another failure to meet the conditions of LAC 33:V.4207.

C. In reviewing a reclaimed conditional exemption under this Section, we may add conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will protect human health and the environment.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4215. What Records Must You Keep At Your Facility and for How Long?

A. In addition to those records required by your department, NRC, or NRC agreement state license, you must keep the following records:

1. your initial notification records, return receipts, reports to us of failure(s) to meet the exemption conditions, and all records supporting any reclaim of an exemption;
2. records of your LLMW annual inventories and quarterly inspections;
3. your certification that facility personnel who manage stored mixed waste are trained in safe management of LLMW, including training in chemical waste management and hazardous materials incidents response; and
4. your emergency plan as specified in LAC 33:V.4207.B.

B. You must maintain records concerning notification, personnel trained, and your emergency plan for as long as you claim this exemption and for three years thereafter or in accordance with department regulations under LAC 33:XV.Chapter 4, NRC, or equivalent NRC agreement state regulations, whichever is longer. You must maintain records concerning your annual inventory and quarterly inspections for three years after the waste is sent for disposal or in accordance with department regulations under LAC 33:XV.Chapter 4, NRC or equivalent NRC agreement state regulations, whichever is longer.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4217. When is Your LLMW No Longer Eligible for the Storage and Treatment Conditional Exemption?

A. When your LLMW has met the requirements of your department, NRC, or NRC agreement state license for decay-in-storage and can be disposed of as nonradioactive waste, then the conditional exemption for storage no longer applies. On that date your waste is subject to hazardous waste regulation under the relevant sections, and the time period for accumulation of a hazardous waste, as specified in LAC 33:V.1109.E, begins.

B. When your conditionally exempt LLMW, which has been generated and stored under a single department, NRC, or other NRC agreement state license number, is removed

from storage, it is no longer eligible for the storage and treatment exemption. However, your waste may be eligible for the transportation and disposal conditional exemption at LAC 33:V.4221.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4219. Do Closure Requirements Apply to Units that Stored LLMW Prior to the Effective Date of this Chapter?

A. Interim status and permitted storage units that have been used to store only LLMW prior to the effective date of this Chapter and, after that date, store only LLMW that becomes exempt under this Chapter are not subject to the closure requirements of LAC 33:V.Chapters 5, 18, 19, 21, 23, 24, 25, 27, 28, 29, 32, 35, and 43. Storage units (or portions of units) that have been used to store both LLMW and non-mixed hazardous waste prior to the effective date of this Chapter or are used to store both after that date remain subject to closure requirements with respect to the non-mixed hazardous waste.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4221. What Does the Transportation and Disposal Conditional Exemption Do?

A. This conditional exemption exempts your waste from the regulatory definition of hazardous waste if your waste meets the eligibility criteria under LAC 33:V.4223 and you meet the conditions in LAC 33:V.4225.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4223. What Wastes Are Eligible for the Transportation and Disposal Conditional Exemption?

A. Eligible waste must be:

1. a LLMW, as defined in this Chapter, that meets the waste acceptance criteria of a LLRWDF; and/or
2. an eligible NARM waste, as defined in this Chapter.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4225. What Are the Conditions You Must Meet for Your Waste to Qualify for and Maintain the Transportation and Disposal Conditional Exemption?

A. You must meet the following conditions for your eligible waste to qualify for and maintain the exemption.

1. The eligible waste must meet or be treated to meet LDR treatment standards, as described in LAC 33:V.4227.
2. If you are not already subject to department, NRC, or NRC agreement state equivalent manifest and transportation regulations for the shipment of your waste, you must manifest and transport your waste according to

department regulations, as described in LAC 33:V.4229, NRC, or NRC agreement state equivalent regulations.

3. The exempted waste must be in containers when it is disposed of in the LLRWDF, as described in LAC 33:V.4235.

4. The exempted waste must be disposed of at a designated LLRWDF, as described in LAC 33:V.4233.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4227. What Treatment Standards Must Your Eligible Waste Meet?

A. Your LLMW or eligible NARM waste must meet LDR treatment standards specified in LAC 33:V.Chapter 22.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4229. Are You Subject to the Manifest and Transportation Condition in LAC 33:V.4225.A.2?

A. If you are not already subject to equivalent department, NRC, or NRC agreement state manifest and transportation regulations for the shipment of your waste, you must meet the manifest requirements under LAC 33:XV.465 and the transportation requirements under LAC 33:XV.Chapter 15 to ship the exempted waste.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4231. When Does the Transportation and Disposal Exemption Take Effect?

A. The exemption becomes effective once all the following have occurred.

1. Your eligible waste meets the applicable LDR treatment standards.

2. You have received return receipts that you have notified us and the LLRWDF, as described in LAC 33:V.4237.

3. You have completed the packaging and preparation for shipment requirements for your waste according to LAC 33:XV.Chapter 15, NRC, or other NRC agreement state equivalent regulations, and you have prepared a manifest for your waste according to LAC 33:XV.Chapter 4, NRC, or other NRC agreement state equivalent regulations; and

4. You have placed your waste on a transportation vehicle destined for a LLRWDF licensed by the department, NRC, or other NRC agreement state.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4233. Where Must Your Exempted Waste be Disposed of?

A. Your exempted waste must be disposed of in a LLRWDF that is regulated and licensed by LAC 33:XV.Chapters 3 and 13, NRC, or other NRC agreement

state, including state NARM licensing regulations for eligible NARM.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4235. What Type of Container Must be Used for Disposal of Exempted Waste?

A. Your exempted waste must be placed in containers before it is disposed. The container must be:

1. a carbon steel drum;
2. an alternative container with equivalent containment performance in the disposal environment, such as a carbon steel drum; or
3. a high integrity container as defined by department, NRC, or other NRC agreement state regulations.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4237. Whom Must You Notify?

A. You must provide a one time notice to us stating that you are claiming the transportation and disposal conditional exemption prior to the initial shipment of an exempted waste from your facility to a LLRWDF. Your dated written notice must include your facility name, address, phone number, and RCRA ID number and be sent by certified delivery.

B. You must notify the LLRWDF receiving your exempted waste by certified delivery before shipment of each exempted waste. You can only ship the exempted waste after you have received the return receipt of your notice to the LLRWDF. This notification must include the following:

1. a statement that you have claimed the exemption for the waste;
2. a statement that the eligible waste meets applicable LDR treatment standards;
3. your facility's name, address, and RCRA ID number;
4. the RCRA hazardous waste codes prior to the exemption of the waste streams;
5. a statement that the exempted waste must be placed in a container, according to LAC 33:V.4235, prior to disposal in order for the waste to remain exempt under the transportation and disposal conditional exemption of this Chapter;
6. the manifest number of the shipment that will contain the exempted waste; and
7. a certification that all the information provided is true, complete, and accurate. The statement must be signed by your authorized representative.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4239. What Records Must You Keep at Your Facility and for How Long?

A. In addition to those records required by the department, NRC, or other NRC agreement state license, you must keep records as follows.

1. You must follow the applicable existing recordkeeping requirements under LAC 33:V.1529, 2245,

and 4357 to demonstrate that your waste has met LDR treatment standards prior to your claiming the exemption.

2. You must keep a copy of all notifications and return receipts required under LAC 33:V.4241 and 4243 for three years after the exempted waste is sent for disposal.

3. You must keep a copy of all notifications and return receipts required under LAC 33:V.4237.A for three years after the last exempted waste is sent for disposal.

4. You must keep a copy of the notification and return receipt required under LAC 33:V.4237.B for three years after the exempted waste is sent for disposal.

5. If you are not already subject to equivalent department, NRC, or other NRC agreement state manifest and transportation regulations for the shipment of your waste, you must also keep all other documents related to tracking the exempted waste as required under LAC 33:XV.465, including applicable NARM requirements, in addition to the records specified in this Section.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4241. How Could You Lose the Transportation and Disposal Conditional Exemption for Your Waste and What Actions Must You Take?

A. Any waste will automatically lose the transportation and disposal exemption if you fail to manage it in accordance with all of the conditions specified in LAC 33:V.4225.

1. When you fail to meet any of the conditions specified in LAC 33:V.4225 for any of your wastes, you must report to us, in writing by certified delivery, within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

- a. the specific condition(s) that you failed to meet for the waste;
- b. a description of the waste (including the waste name, hazardous waste codes, and quantity) that lost the exemption; and
- c. the date(s) on which you failed to meet the condition(s) for the waste.

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally, within 24 hours, and follow up with a written notification within five days.

B. We may terminate your ability to claim a conditional exemption for your waste or require you to meet additional conditions to claim a conditional exemption for serious or repeated noncompliance with any requirement(s) of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§4243. If You Lose the Transportation and Disposal Conditional Exemption for a Waste, Can the Exemption Be Reclaimed?

A. You may reclaim the transportation and disposal exemption for a waste after you have received a return

receipt confirming that we have received your notification of the loss of the exemption specified in LAC 33:V.4241.A and if:

1. you again meet the conditions specified in LAC 33:V.4225 for the waste; and
2. you send a notice, by certified delivery, to us that you are reclaiming the exemption for the waste. Your notice must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. The notice must:
 - a. explain the circumstances of each failure;
 - b. certify that each failure that caused you to lose the exemption for the waste has been corrected and that you again meet all conditions for the waste as of the date you specify;
 - c. describe plans you have implemented, listing the specific steps that you have taken, to ensure that conditions will be met in the future; and
 - d. include any other information you want us to consider when we review your notice reclaiming the exemption.

B. We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to:

1. you have failed to correct the problem;
2. you explained the circumstances of the failure unsatisfactorily; or
3. you failed to implement a plan with steps to prevent another failure to meet the conditions of LAC 33:V.4225.

C. In reviewing a reclaimed conditional exemption under this Section, we may add conditions to the exemption to ensure that transportation and disposal activities will protect human health and the environment.

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

Chapter 49. Lists of Hazardous Wastes
§4901. Category I Hazardous Wastes

A. - C. ...

Table 2. Hazardous Wastes from Specific Sources

Industry and EPA Hazardous Waste Number	Hazard Code	Hazardous Waste

Organic Chemicals		

[See Prior Text in K009 – K161]		
K174	(T)	Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer (including sludges that result from commingled ethylene dichloride or vinyl chloride monomer wastewater and other wastewater), unless the sludges meet the following conditions: (i) they are disposed of in a RCRA subtitle C or nonhazardous landfill licensed or permitted by the state or federal government; (ii) they are not otherwise placed on the land prior to final disposal; and (iii) the generator maintains documentation demonstrating that the waste was either disposed of in an on-site landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in an off-site landfill. Respondents in any action brought to enforce the requirements of RCRA subtitle C must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer or ethylene dichloride, demonstrate that they meet the terms of the exclusion set forth above. In doing so, they must provide appropriate documentation (e.g., contracts between the generator and the landfill owner/operator, invoices documenting delivery of waste to landfill,) that the terms of the exclusion were met.
K175	(T)	Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.
Inorganic Chemicals		

D. - F. Table 4. ...

G. Constituents that Serve as a Basis for Listing Hazardous Waste. Table 6 lists constituents that serve as a basis for listing hazardous waste.

Table 6.

Table of Constituents that Serve as a Basis for Listing Hazardous Waste

[See Prior Text in F001-K172, Benzene, arsenic]
EPA Hazardous Waste Number K174
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)
1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)
1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,6,7,8,9-HpCDF),
HxCDDs (All Hexachlorodibenzo-p-dioxins)
HxCDFs (All Hexachlorodibenzofurans)
PeCDDs (All Pentachlorodibenzo-p-dioxins)
OCDD (1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin)
OCDF (1,2,3,4,6,7,8,9-Octachlorodibenzofuran)

PeCDFs (All Pentachlorodibenzofurans)
TCDDs (All Tetrachlorodibenzo-p-dioxins)
TCDFs (All Tetrachlorodibenzofurans).
EPA Hazardous Waste Number K175
Mercury

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:321 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790, 791 (November 1988), LR 15:182 (March 1989), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995),

LR 21:944 (September 1995), LR 22:829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR:715 (May 2001), LR:28

§4909. Comparable/Syngas Fuel Exclusion

A. - D.2.b.i. ...

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

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

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

D.3 - D.13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 25:489 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:305 (March 2001), LR 28:

A public hearing will be held on April 24, 2002, 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. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. 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. Persons commenting should reference this proposed regulation by HW080*. Such comments must be received no later than April 24, 2002, 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) 765-0389 or by e-mail to patsyd@deq.state.la.us. 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 HW080*.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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

0203#041

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Respiratory Protection

(LAC 33:XV.403, 443, and Appendix A)(RP029*)

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.403, 443, and Appendix A (Log #RP029*).

This proposed rule is identical to federal regulations found in 64 FR 54543, 10/7/99, 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 consists of amendments to LAC 33:XV addressing respiratory protection and controls to restrict internal exposures. Included are the definitions of air purifying respirator, atmosphere-supplying respirator, assigned protection factors (APF), demand respirator, disposable respirator, fit factor test, fit test, filtering facepiece (dust mask), helmet, hood, loose-fitting facepiece, negative pressure respirator, positive pressure respirator, powered air-purifying respirator, pressure demand respirator, qualitative fit test, quantitative fit test, self-contained breathing apparatus, supplied-air respirator, tight-fitting facepiece, and user seal check (fit check). Also included are the addition of application for the use of higher assigned protection factors and the modification of Appendix A to include assigned protection factors for respirators. As a Nuclear Regulatory Commission Agreement State, in accordance with the NRC Agreement signed on May 1, 1967, Louisiana has accepted the responsibility for promulgating regulations that satisfy the compatibility requirement of Section 274 of the Atomic Energy Act of 1954, as amended. In certain areas defined by the NRC, state regulations must be the same as NRC regulations. The extent to which the regulation must be identical, whether in content or in effect, is determined by the NRC. All amendments in this package are mandated by the NRC to comply with recent NRC regulation changes. The basis and rationale for these amendments are to achieve compatibility with the regulations of the Nuclear Regulatory Commission in accordance with Section 274 of the Atomic Energy Act of 1954, as amended.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. 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 4. Standards for Protection Against Radiation

Subchapter A. General Provisions

§403. Definitions

A. As used in this Chapter, the following definitions apply.

*Air-Purifying Respirator*Ca respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

* * *

*Assigned Protection Factor (APF)*Cthe expected work place level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

*Atmosphere-Supplying Respirator*Ca respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere and includes supplied-air respirators (SARS) and self-contained breathing apparatus (SCBA) units.

* * *

*Demand Respirator*Can atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.

* * *

*Disposable Respirator*Ca respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).

* * *

*Filtering Facepiece (Dust Mask)*Ca negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium that is not equipped with elastomeric sealing surfaces and adjustable straps.

*Fit Factor*Ca quantitative estimate of the fit of a particular respirator to a specific individual, which typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

*Fit Test*Cthe use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

*Helmet*Ca rigid respiratory inlet covering that also provides head protection against impact and penetration.

*Hood*Ca respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

* * *

*Loose-Fitting Facepiece*Ca respiratory inlet covering that is designed to form a partial seal with the face.

* * *

*Negative Pressure Respirator (Tight Fitting)*Ca respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

* * *

*Positive Pressure Respirator*Ca respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

*Powered Air-Purifying Respirator (PAPR)*Can air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

*Pressure Demand Respirator*Ca positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

*Qualitative Fit Test (QLFT)*Ca pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.

*Quantitative Fit Test (QNFT)*Can assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

* * *

*Self-Contained Breathing Apparatus (SCBA)*Can atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

* * *

*Supplied-Air Respirator (SAR) or Airline Respirator*Can atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

*Tight-Fitting Facepiece*Ca respiratory inlet covering that forms a complete seal with the face.

*User Seal Check (Fit Check)*Can action conducted by the respirator user to determine if the respirator is properly seated to the face (e.g., negative pressure check, positive pressure check, irritant smoke test, or isoamyl acetate check).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2104.

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 22:969 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2768 (December 2000), LR 28:

Subchapter E. Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas

§443. Application for Use of Higher Assigned Protection Factors

A. The licensee shall obtain authorization from the department before using assigned protection factors in excess of those specified in Appendix A of this Chapter. The department may authorize a licensee to use higher assigned protection factors upon receipt of an application that:

1. describes the situation for which a need exists for higher protection factors; and
2. demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2104.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Appendix A

Assigned Protection Factors for Respirators ^a		
Type of Respirator	Operating Mode	Assigned Protection Factors (APF)
I. Air-Purifying Respirators [Particulate ^b Only] ^c		
Filtering facepiece, disposable ^d	Negative pressure	(^d)
Facepiece, half ^e	Negative pressure	10
Facepiece, full	Negative pressure	100
Facepiece, half	Powered air-purifying respirators	50
Facepiece, full	Powered air-purifying respirators	1000
Helmet/hood	Powered air-purifying respirators	1000
Facepiece, loose fitting	Powered air-purifying respirators	25
II. Atmosphere-Supplying Respirators [particulate, gases, and vapors] ^f		
1. Airline Respirator:		
Facepiece, half	Demand	10
Facepiece, half	Continuous flow	50
Facepiece, half	Pressure demand	50
Facepiece, full	Demand	100
Facepiece, full	Continuous flow	1000
Facepiece, full	Pressure demand	1000
Helmet/hood	Continuous flow	1000
Facepiece, loose-fitting	Continuous flow	25
Suit	Continuous flow	(^g)
2. Self-Contained Breathing Apparatus (SCBA):		
Facepiece, full	Demand	100 ^h
Facepiece, full	Pressure demand	10,000 ⁱ
Facepiece, full	Demand, recirculating	100 ^h
Facepiece, full	Positive pressure, recirculating	10,000 ⁱ
III. Combination Respirators		
Any combination of air-purifying and atmosphere-supplying respirators	Assigned protection factor for type and mode of protection as listed above	

^a These assigned protection factors apply only in a respiratory protection program that meets the requirements of this Chapter. They are applicable only to airborne radiological hazards and may not be appropriate in circumstances when chemical or other respiratory hazards exist instead of, or in addition to, radioactive hazards. Selection and use of respirators for such circumstances must also comply with the U.S. Department of Labor regulations. Radioactive contaminants for which the concentration values in Table 1, Column 3 of Appendix B of this Chapter are based on internal dose due to inhalation may, in addition, present external exposure hazards at higher concentrations. Under these circumstances limitations on occupancy may have to be governed by external dose limits.

^b Air-purifying respirators with APF of less than 100 must be equipped with particulate filters that are at least 95 percent efficient. Air-purifying respirators with APFs equal to 100 must be equipped with particulate filters that are at least 99 percent efficient. Air-purifying respirators with APFs greater than 100 must be equipped with particulate filters that are at least 99.97 percent efficient.

^c The licensee may apply to the department for the use of an APF greater than 1 for sorbent cartridges, as protection against airborne radioactive gases and vapors (e.g., radioiodine).

^d Licensees may permit individuals to use this type of respirator, who have not been medically screened or fit tested on such respirator, provided that no credit be taken for their use in estimating intake or dose. It is also recognized that it is difficult to perform an effective positive or negative pressure pre-use user seal check on this type of device. All other respiratory protection program requirements listed in LAC 33:XV.442 apply. An assigned protection factor has not been assigned for these devices. However, an APF equal to 10 may be used if the licensee can demonstrate a fit factor of at least 100 by use of a validated or evaluated, qualitative or quantitative fit test.

^e Under-chin type only. No distinction is made in this Appendix between elastomeric half-masks with replaceable cartridges and those designed with the filter medium as an integral part of the facepiece (e.g., disposable or reusable disposable). Both types are acceptable so long as the seal area of the latter contains some substantial type of seal-enhancing material such as rubber or plastic, the two or more suspension straps are adjustable, the filter medium is at least 95 percent efficient, and all other requirements of this Chapter are met.

^f The assigned protection factors for gases and vapors are not applicable to radioactive contaminants that present an absorption or submersion hazard. For tritium oxide vapor, approximately one-third of the intake occurs by absorption through the skin, so that an overall protection factor of 3 is appropriate when atmosphere-supplying respirators are used to protect against tritium oxide. Exposure to radioactive noble gases is not considered a significant respiratory hazard and protective actions for these contaminants should be based on external (submersion) dose considerations.

^g No National Institute for Occupational Safety and Health (NIOSH) approval schedule is currently available for atmosphere supplying suits. This equipment may be used in an acceptable respiratory protection program as long as all the other minimum program requirements, with the exception of fit testing, are met (i.e., LAC 33:XV.442).

^h The licensee should implement institutional controls to ensure that these devices are not used in areas immediately dangerous to life or health (IDLH).

ⁱ This type of respirator may be used as an emergency device in unknown concentrations for protection against inhalation hazards. External radiation hazards and other limitations to permitted exposure, such as skin absorption, shall be taken into account in these circumstances. This device may not be used by any individual who experiences perceptible outward leakage of breathing gas while wearing the device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2104.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

A public hearing will be held on April 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 790 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. 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. Persons commenting should reference this proposed regulation by RP029*. Such comments must be received no later than April 24, 2002, 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) 765-0389 or by e-mail to patsyd@deq.state.la.us. 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 RP029*.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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

0203#043

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment

Reorganization of Solid Waste Regulations (LAC 33:VII.Subparts 1 and 3)(SW031)

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.Subparts 1 and 3 (Log #SW031).

This proposed rule repeals and replaces in its entirety all previously promulgated Solid Waste regulations cited as LAC 33:VII.Subpart 1. This rule also repeals in its entirety LAC 33:VII.Subpart 3.Louisiana Resource Recovery and Development Authority. This action is being taken to: 1) reorganize the regulations in a more user-friendly manner; 2) correct errors in text; 3) eliminate the Louisiana Resource Recovery and Development Authority (LRRDA) in accordance with Act 524 of the 2001 Louisiana Legislative Session; 4) clarify technical requirements for all solid waste

facilities; 5) incorporate into regulations geology and groundwater standards currently required by the department; 6) allow the department to establish the numbers and levels of certified operators at a facility; 7) provide more flexibility regarding characterization of subsurface geology; 8) remove language allowing operations at a proposed facility with a temporary permit; and 9) establish a basis for the phrase "environmentally sound manner." A cross-reference of old to new citations and a list identifying where new language has been added are being provided to aid in the review of the proposed rule. These two documents can be found on the department's website at <http://www.deq.state.la.us/planning/regs/index.htm>. These regulations shall affect all new submittals, including, but not limited to, new permit applications, modifications, and permit renewals. These regulations will not affect those submittals that have been received by the department prior to the effective date of this rule. Further, these regulations will only apply to the modification that is submitted after the effective date, not to the underlying permit that is being modified. The basis and rationale for this rule are to be responsive to the regulated community and to ensure the protection of public health and the environment.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. 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 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§101. Scope and Purpose

A. 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 program" (R.S. 30:2152). Therefore, the Department of Environmental Quality has formulated these rules and regulations to:

1. establish standards governing the storage, collection, recovery and reuse, and disposal of solid waste;
2. implement a management program that will protect the air, groundwater, and surface water and the environment from pollution from solid wastes and thus eliminate the potential threat to human health from such pollution;
3. encourage both citizens and industry to reduce the amount of waste developed and generated in the state; and
4. implement the utilization of solid waste for useful purposes whenever practicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§103. Authority

A. The Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) established the enforcement authority and procedures for carrying out the purposes of the act. These rules and regulations were developed under the authority of the secretary of the Department of Environmental Quality, as

mandated by the Louisiana Solid Waste Management and Resource Recovery Law (R.S. 30:2151 et seq.). The Louisiana Solid Waste Operator Certification and Training Program (R.S. 37:3151 et seq.) created the Louisiana Solid Waste Operator Certification and Training Program. The principal domicile of the board shall be that of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§105. Repeals

A. These regulations repeal and replace in their entirety all previously promulgated regulations cited as LAC 33:VII.Subpart 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§107. Effective Date

A. These rules and regulations shall be effective on (date to be inserted) for all new submittals, including but not limited to, new permit applications, modifications, and permit renewals. These rules and regulations will not affect those submittals that have been received by the department prior to the effective date. Further, these rules and regulations only apply to a modification that was submitted after the effective date, not to the underlying permit that is being modified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§109. Severability

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§110. 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.

B. Public Hearings. A summary of all discussions, presentations, and comments submitted will be prepared after each hearing and made available to all who request it, in accordance with R.S. 44:1, et seq.

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., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§111. Confidentiality

A. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§113. Division of Responsibility

A. The administrative authority is responsible for the following:

1. identifying solid waste processing and disposal facilities;
2. classifying such facilities for "closure" or "upgrade";
3. performing all necessary regulatory operations, including:
 - a. operating the permit system;
 - b. surveillance and monitoring to determine facility compliance; and
 - c. initiating and processing enforcement actions when necessary to meet the purposes of these regulations;
4. soliciting, administering, and distributing federal, state, and other funds; and
5. entering into contracts as necessary to carry out the mandates of the act.

B. Municipalities, parishes, and regional commissions are responsible for the following:

1. planning and operating necessary pickup and collection systems, including recycling programs, and delivering solid waste to permitted processing or disposal facilities;
2. planning and operating permitted processing and/or disposal facilities while cooperating with the department, or other entity, to implement regional management systems;
3. providing necessary financial support for the regional management systems through fees or other means;
4. administering supplementary funds received from federal or state sources through the administrative authority; and
5. entering into contracts when necessary to provide for maximum efficiency of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§114. Assignment and Reassignment of Responsibilities

A. Assignment of New Responsibilities. The administrative authority may assign to local authorities new responsibilities required to implement elements of the program not assigned in LAC 33:VII.113.B.

B. Reassignment of Responsibilities. The administrative authority may reassign responsibilities within the department or to local authorities in LAC 33:VII.113.B as may be deemed necessary to operate the program more effectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§115. Definitions

A. 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.

Access Road Ca passageway for vehicles leading from the entrance of a facility to each unit of the facility.

Act Cthe Louisiana Environmental Quality Act (R.S. 30:2001 et seq.).

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

Agricultural Waste Cnonhazardous waste resulting from the production and processing of agricultural products, including manures, prunings, and crop residues. Some examples of agricultural wastes are included in LAC 33:VII.Chapter 7, Appendix D. This term does not include solid wastes defined as industrial solid waste in this Section.

Air Curtain Destructor Ca unit to facilitate combustion above the fire burning in the combustion chamber pit so that combustion efficiency is increased and smoke and other particulate matter is contained. The unit consists of a combustion chamber pit and an air blower to force air through ducts (known as canisters) to establish a curtain of high velocity air.

Animal Feed Cany crop, such as pasture crops, forage, and grain grown for consumption by animals.

Applicant Cany 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.

Aquifer Ca formation, group of formations, or part of a formation that contains enough saturated permeable materials to yield significant quantities of water to wells or springs.

Areal Cpertaining to an area, as an areal map.

Areal Map Ca geologic map showing the horizontal extent and distribution of rock units exposed at the surface or subsurface.

Areas Susceptible to Mass Movement Cthose areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the facility, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock fall.

Assessment Well Csee *monitoring well*.

Assets Call existing and all probable future economic benefits obtained or controlled by a particular entity.

Autoclave Csteam sterilization at a temperature of at least 250° F and a pressure of at least 15 pounds per square inch for at least 30 minutes. Longer times are required depending on the amount of waste, the presence of water, and the type of container used. Alternate patterns of temperature, pressure, and time may be used if compatible with the sterilization equipment being used and

demonstrably sufficient to kill disease-causing microorganisms.

Background Soil pH Cthe pH of the soil before the addition of substances that alter the hydrogen-ion concentration (see *Soil pH*).

Bailing Ca method of obtaining samples of water from a groundwater monitoring well by lowering and raising a weighted bottle, capped length of pipe, or similar device.

Baler Ca facility that reduces and restrains a solid waste volume by mechanical compaction to achieve a higher-density-per-unit volume.

Beneficial Use Cthe use of waste material for some profitable purpose (e.g., incorporating sludge into soil to amend the soil). Avoidance of processing or disposal cost alone does not constitute beneficial use.

Board of Certification and Training Ca board for the certification and training of operators of systems or facilities for the disposal of commercial and residential solid waste (established by R.S. 37:3151 et seq.).

Cation-Exchange Capacity Cthe sum of exchangeable cations a soil can absorb, expressed in milliequivalents per 100 grams of soil, as determined by sampling the soil to the depth of cultivation or solid waste placement, whichever is greater, and analyzing, by the summation method, for distinctly acid soils, or, by the sodium acetate method, for neutral, calcareous, or saline soils.

Clean Closure Cthe act of closing a facility whereby all solid waste is removed, including contamination that results from solid waste placement.

Closure Cthe act of securing a facility that has been used to process, store, or dispose of solid waste in a manner that minimizes harm to the public and the environment.

Closure Plan Ca plan for closure and/or post closure of a facility prepared in accordance with the requirements of LAC 33:VII.Subpart 1.

Coastal Zone Cthe coastal waters and adjacent shorelands within the boundaries of the coastal zone established by the State and Local Coastal Resources Management Act of 1978 (R.S. 49:213.1-213.21).

Collect Cto accumulate industrial solid waste or solid waste generated by more than one household or commercial establishment or by a storage or processing facility.

Commercial Establishment Ca business, including its structures and property, that is involved in the exchange or distribution of goods or commodities or that rents, leases, or sells space for such activities.

Commercial Solid Waste Call types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial solid wastes.

Compactor Ca solid waste facility, other than collection and transportation vehicles, that reduces a solid waste volume by mechanical compaction to achieve a higher-density-per-unit volume.

Compost Ca solid waste that has undergone biological decomposition of organic matter and has been stabilized using composting or similar technologies to a degree that is beneficial to plant growth and that is used, or sold for use, as a soil amendment, artificial topsoil, growing-medium amendment, or other similar uses.

Composting Ca controlled process of degrading organic matter with microorganisms.

Composting FacilityCa facility where organic matter is processed by natural or mechanical means to aid the microbial decomposition of the organic matter.

Constructto build, erect, excavate, or form any portion of a solid waste facility.

Construction/Demolition Debrisnonhazardous waste generally considered not water-soluble, including but not limited to, metal, concrete, brick, asphalt, roofing materials (shingles, sheet rock, plaster), or lumber from a construction or demolition project, but excluding regulated asbestos-contaminated material (RACM), as defined in LAC 33:III.5151.B, white goods, furniture, trash, or treated lumber. The admixture of construction and demolition debris with more than 5 percent by volume of paper associated with such debris or any other type of solid waste (excluding woodwaste or yard waste) will cause it to be classified other than construction/demolition debris.

Contamination (Environmental)Cthe degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

Contamination (Solid Waste)Cthe admixture of any solid waste with any amount of hazardous waste or any other type of waste not meeting the definition of solid waste.

Contingency PlanCan organized, planned, coordinated course of action to be followed in the event of a fire, explosion, or discharge or release of waste into the environment that could endanger human health or the environment.

Cover MaterialCsoil or other suitable material approved by the administrative authority, applied on the top and side slopes of disposed solid waste to control vectors, gases, erosion, fires, and infiltration of precipitation; to support vegetation; to provide trafficability; or to ensure an aesthetic appearance.

Crops for Human ConsumptionCcrops grown for human consumption that are not processed to minimize pathogens before they are distributed to consumers.

Curing AreaCan area where organic material that has undergone the rapid initial stage of composting is further stabilized into a humus-like material.

Current AssetsCcash, other assets, or resources commonly identified as those that are reasonably expected to be realized in cash, sold, or consumed during the normal operating cycle of the business.

Current LiabilitiesCobligations whose liquidation is reasonably expected to require the use of existing resources, properly classifiable as current assets, or the creation of other current liabilities.

Daily CoverCcover material applied at the end of the operating day to a unit, the working face of a unit, or a facility. (If earthen, cover will consist of a minimum of six inches of cover material).

DepartmentCthe Department of Environmental Quality as created by R.S. 30:2001 et seq.

Disease VectorCanimals such as rodents, fleas, flies, mosquitoes, and other arthropods that are capable of transmitting diseases to humans.

DisplacementCthe relative movement of any two sides of a fault measured in any direction.

DisposalCthe discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste on or into any land or water so that such solid waste, or any constituent

thereof, may have the potential for entering the environment or being emitted into the air or discharged into any waters of Louisiana.

DitchCan earthen trench or excavation principally used to convey wastewaters without regard to whether solids settling or treatment of wastewater occurs therein.

Emergency ExemptionCa special authorization issued to a person by the administrative authority that allows freedom from obligation to these regulations or any portion thereof for a specified period of time, owing to emergencies such as strikes or acts of God.

Estimated Life of FacilityCthe length of time a solid waste facility is capable of accepting wastes, based on its current permit or permit application.

ExemptionCa special authorization issued to a person by the administrative authority that allows freedom from obligation to these regulations or a portion thereof.

Existing FacilityCany facility (as defined in this Subsection) that receives solid waste or that exists or is being constructed on February 20, 1993, that does or will store, process, or dispose of solid wastes. (Facilities closed prior to January 20, 1981, or facilities that have completed the closure/post closure requirements prior to February 20, 1993, are not considered existing facilities.)

Existing OperationCany solid waste operation that manages, collects, stores, processes, or receives solid waste that exists or that is being constructed on February 20, 1993. (Operations closed prior to January 20, 1981, or operations that have completed the closure and/or post closure requirements prior to February 20, 1993, are not considered existing operations.)

FacilityCactual land and associated appurtenances used for storage, processing, and/or disposal of solid wastes, but possibly consisting of one or more units. (Any earthen ditches leading to or from a unit of a facility and that receive solid waste are considered part of the facility to which they connect, except for ditches lined with materials capable of preventing groundwater contamination. The term facility does not necessarily mean an entire industrial manufacturing plant.)

FaultCa fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to those on the other side.

Final CoverCcover material that is applied to minimize the infiltration of precipitation in a facility and revegetated to control erosion.

Flood PlainCthe lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, that are inundated by the 100-year flood.

Food-Chain CropsCcrops grown for human consumption, tobacco, and crops grown to feed animals that are consumed by humans.

FreeboardCthe vertical distance between the lowest point of the top of a facility levee and the surface of the liquid waste contained therein.

Freshwater AquiferCan aquifer containing water with quantities of total dissolved solids of less than 10,000 mg/L that is capable of yielding usable quantities of groundwater to drinking-water wells, industrial pumps, springs, or streams.

Friable Asbestos Waste—waste containing more than 1 percent asbestos that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

Garbage—solid waste that includes animal and vegetable matter from the handling, preparation, cooking, and serving of foods, but that does not include industrial solid waste.

Generator—any person whose act or process produces solid waste as defined in these regulations.

Geotechnical Borehole—an exploratory borehole drilled, augered, bored, or cored to obtain soil samples to be analyzed for chemical and/or physical properties.

Groundwater—water below the land surface in the zone of saturation.

Hazardous Waste—waste identified as hazardous in the current Louisiana hazardous waste regulations (LAC 33:V) and/or by the federal government under the Resource Conservation and Recovery Act and subsequent amendments.

Holocene—the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch to the present.

Implement—to carry out, accomplish, and ensure actual fulfillment by specific means or by providing instruments or means of accomplishment.

Implementation Schedule—a timetable for completing a predetermined implementation plan.

Impoundment—see *surface impoundment*.

Inactive (or Abandoned) Facility—a solid waste storage, processing, or disposal facility that no longer receives solid waste and has not been closed in accordance with Louisiana solid waste regulations.

Incinerator—any enclosed device using controlled-flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace and is not a boiler nor an industrial furnace as defined in LAC 33:V.109.

Incinerator Ash—residual solid waste that has been received, thermally oxidized, and/or decomposed by an incinerator.

Incinerator Waste-Handling Facility—a facility that processes solid waste that has been received, thermally oxidized, and/or decomposed by an incinerator.

Incorporation into Soil—the injection of solid waste beneath the surface of soil or the mixing of solid waste with the surface soil.

Industrial Establishment—a business, including its structures and property, that is involved in the production or manufacture of goods or commodities.

Industrial Solid Waste—solid waste generated by a manufacturing, industrial, or mining process or that is contaminated by solid waste generated by such a process. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products; by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; and transportation equipment. This term does not include

hazardous waste regulated under the Louisiana hazardous waste regulations or under federal law, or waste that is subject to regulation under the Office of Conservation's Statewide Order No. 29-B or by other agencies.

Industrial Solid Waste Facility—a facility for the processing, storage, and/or disposal of industrial solid waste.

Infectious Waste—waste that contains pathogens of sufficient virulence and quantity that exposure to it could result in an infectious disease in a susceptible host.

Initial Promulgation—the date on which the Louisiana Solid Waste Management Program first became effective, January 20, 1981.

Interim Compacted Cover—a minimum of 2 feet of compacted silty or sandy clay.

Interim Cover—a minimum of 1 foot of soil that is applied to a portion of a unit or a facility.

Isopach—a line drawn on a map through points of equal true thickness of a designated stratigraphic unit or group of stratigraphic units.

Isopach Map—a map that shows the thickness of a bed, formation, sill, or other tabular body throughout a geographic area by means of isopachs at regular intervals.

Karst Terranes—areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terranes include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

Landfarm—a facility for the disposal of solid wastes in which wastes are applied to the land and/or incorporated into the soil for biological reduction and soil attenuation.

Landfill—a facility for the disposal of solid waste, other than landfarm(s) or surface impoundment(s), that disposes of solid waste by placing it on or into the land surface and usually also compacting and covering with suitable cover material to a depth and at a frequency sufficient to control disease vectors and odors and in a manner that protects human health and the environment.

Leachate—a liquid that has passed through or emerged from solid waste and may contain soluble, suspended, or miscible materials removed from such wastes.

Leak-Detection Well—a well used to determine the escape of liquids from a permitted solid waste facility.

Liabilities—probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

Liner—layer or layers of material(s) beneath and on the sides of a solid waste disposal facility that are designed to restrict the escape of wastes or their constituents from the facility.

Liquid Waste—any waste material that is determined to contain "free liquids" as defined by Method 9095 (Paint Filter Liquids Test), as described in "Test Methods of Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication SW-846.

Lithified Earth Material—all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include manmade materials,

such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth's surface.

Litter Exposed solid waste outside the active portion of a unit of a facility.

Lower-Explosive Limit The lowest percent by volume of a mixture of explosive gases in the air that will propagate a flame at 25° C and atmospheric pressure.

Major Modification Any change in a site, facility, process or disposal method, or operation that substantially deviates from the permit or tends to substantially increase the impact of the site, facility, process or disposal method, or operation on the environment.

Mandatory Modification Any change in a site, facility, unit, process or disposal method, or operation that is required as a result of these regulations.

Mandatory Modification Document A document submitted by existing facilities in conformance with LAC 33:VII.502 that applies for a mandatory modification and that amends or adds to each portion of the permit at issue so that the permit meets the requirements of these regulations. The document must conform to the requirements for permit modifications found in LAC 33:VII.507.

Manure Solid waste composed of excreta of animals and any residual materials that have been used for bedding, sanitary, or feeding purposes for such animals.

Maximum Horizontal Acceleration in Lithified Earth Material The maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

Mesophilic Stage A biological stage in the composting process characterized by active bacteria that favor a moderate temperature range of 20° to 45° C. It occurs later in the composting process than the thermophilic stage and is associated with a moderate rate of decomposition.

Minor Modification Any modification that does not meet the criteria for a major modification.

Modification Any change in a site, facility, unit, process or disposal method, or operation that deviates from the specifications in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specifications of the permit is not considered a modification.

Monitoring Well A well used to obtain hydraulic and/or water-quality data and to satisfy regulatory requirements for groundwater monitoring at regulated units, which is usually installed at or near a known or potential source of groundwater contamination.

Municipal Solid Waste Landfill or MSW Landfill An entire disposal facility in a contiguous geographical space where residential solid waste or commercial solid waste is placed in or on land.

Net Worth Total assets minus total liabilities and equivalent to the person's equity.

Observation Well A well used to obtain information on the water resources of an area.

Off-Site Processing/Disposal Area A location for the processing and/or disposal of solid waste that is not on the generator's site.

100-Year Flood A flood that has a 1 percent or greater chance of occurring in any year or a flood of a magnitude

equaled or exceeded once in 100 years on average over a significantly long period.

On-Site Processing/Disposal Area The land area and appurtenances thereon used for processing and/or disposal of solid waste on the same property, or on geographically contiguous property, where waste is generated. Two or more pieces of property that are geographically contiguous, but divided by public or private right(s)-of-way are considered a single site.

Open Burning The combustion of solid waste without control of combustion air to maintain adequate temperature for efficient combustion, containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and control of the emission of the combustion products.

Open Dump A solid waste processing or disposal facility that has been issued a temporary permit and may not comply with the standards set by these regulations.

Operating Area The portion of a facility that is actively involved in the storage, processing, or disposal of solid waste.

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.

Parent Corporation A corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility permit holder; the latter corporation is deemed a "subsidiary" of the parent corporation.

Permit A written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure, or post closure of a certain facility used or intended to be used to process or dispose of solid waste in accordance with the act, these regulations, and specified terms and conditions.

Permittee/Permit Holder A person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

Person An individual, trust, firm, joint-stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of the state, interstate body, or the federal government or any agency of the federal government.

pH The logarithm of the reciprocal of hydrogen-ion concentration.

Pickup Station A facility, at which one or more containers are located, which is used to accumulate industrial solid waste or to accumulate solid waste generated by more than one household or commercial establishment for pickup by a transporter. This definition does not include containers that receive only solid waste generated on property that is contiguous with the property on which the container is located (e.g., containers located at and receiving solid waste only from a multiunit dwelling, a commercial establishment, or an industrial establishment.)

Piezometer A well with the sole function of determining groundwater elevation.

Pilot Hole A hole drilled with the intent to install casing and to produce water. It is usually of a smaller

diameter than the proposed well and has to be reamed to a larger diameter for the installation of a casing and screen.

Poor Foundation Conditions—those areas where features exist that indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a facility.

Potable Water—water with bacteriological, physical, and chemical properties that make it suitable for human consumption.

Potentiometric Surface—the surface that represents the static head with reference to a specified datum, such as the National Geodetic Vertical Datum (NGVD). As the term relates to aquifers, it is defined by the levels to which water will rise in tightly cased wells.

Practice(s)—act(s) of storing, processing, collecting, transporting, or disposing of solid wastes.

Process—a method or technique, including recycling, recovering, compacting (but not including compacting that occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport, reduced in volume, and amenable for recovery, storage, reshipment, or resale. The definition of process does not include treatment of wastewaters to meet state or federal wastewater discharge permit limits. Neither does the definition include activities of an industrial generator to simply separate wastes from the manufacturing process.

Promiscuous Dump—a solid waste disposal facility that has resulted from disposal activities of persons other than the landowner and whose operation is not permitted by the administrative authority.

Putrescible—susceptible to rapid decomposition by bacteria, fungi, or oxidation, creating noxious odors.

Reclassified Waste—a particular solid waste that the administrative authority has determined is no longer classified as a hazardous waste subject to regulation under the Louisiana hazardous waste regulations. Such wastes are "reclassified" as solid waste and are subject to regulation under these regulations.

Recovery Well—a well used to remove groundwater that has been determined to be contaminated.

Refuse-Derived Fuel—fuel processed from combustible solid waste.

Refuse-Derived Fuel Facility—a solid waste facility where fuel is processed from combustible solid waste.

Residence—a single or multiunit dwelling, whether owned, leased, or rented by its occupant(s).

Residential Solid Waste—any solid waste (including garbage, trash, and sludges from residential septic tanks and wastewater treatment facilities) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

Resource Recovery—the process by which solid waste that retains useful physical or chemical properties is reused or recycled for the same or other purposes, including uses as energy sources.

Runoff—any rainwater, leachate, or other liquid that drains from any part of a facility.

Run-On—any rainwater or other liquid that drains onto any part of a facility.

Salvaging—the controlled removal of waste materials for later use.

Sanitary Landfill—a landfill for the disposal of commercial or residential solid waste by deposit in a landfill in layers covered with suitable cover material of a depth and at a frequency adequate to control disease vectors and odors, and in such a manner that minimizes the risk to human health and the environment. It is located, contoured, and designed so that it will not constitute a source of water pollution.

Scavenging—unauthorized removal of solid waste materials from a disposal or processing facility.

Seismic-Impact Zone—an area with a 10 percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10 g in 250 years.

Separation Facility—a solid waste facility at which recyclables are separated from the solid waste stream for future use.

Septage—the contents of a septic tank, cesspool, or other individual sewage-treatment facility that receives domestic-sewage wastes.

Service Area—the geographic area serviced by a solid waste facility in which solid waste is generated, collected, and transported for delivery to that solid waste facility.

Sewage Sludge—sludge resulting from treatment of wastewater from publicly or privately owned or operated sewage-treatment plants.

Shredder—a solid waste facility that reduces the particle size of solid waste by grinding, milling, shredding, or rasping.

Site—the physical location, including land area and appurtenances, of an existing or proposed storage, processing, or disposal facility. A site may consist of a number of facilities, each subject to a permit to process or dispose of solid waste.

Sludge—residue produced by or precipitated from a treatment process.

Soil pH—a pH value obtained by sampling the soil to the depth of cultivation or solid waste placement. Test methodologies shall be in accordance with "Test Methods for Evaluation of Solid Wastes, Physical/Chemical Methods," EPA Publication SW-846.

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.

SpillCa any unauthorized discharge or release of solid waste into or onto the land, air, or water.

Stabilize (Compost)Compost that has at least passed through the thermophilic stage and in which biological decomposition of the solid waste has occurred to a sufficient degree to allow beneficial use.

Standard PermitCwritten authorization issued by the administrative authority to an applicant who has successfully completed the permit application process for a processing or disposal facility.

StorageCthe containment of solid waste on surfaces capable of preventing groundwater contamination in a means not constituting processing or disposal.

Structure Contour MapCa map depicting lines drawn through points of equal elevation on a stratum, key bed, or horizon in order to depict the attitude of the rocks.

Surface Application—placement of solid waste onto a landfarm without incorporating it into the soil.

Surface ImpoundmentCa facility consisting of a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), designed to hold an accumulation of liquid waste and/or sludge, that is not an injection well, landfarm, landfill, or tank. Runoff and containment areas (ROCA) of landfarms are considered to be surface impoundments.

Surface-Recharge ZoneCan area where a formation or formations that compose an aquifer intersect the land surface and receive water from percolation, precipitation, or surface-water bodies.

Tangible Net WorthCthe tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents and royalties.

TankCa stationary device designed to contain an accumulation of solid waste and constructed of nonearthen materials that provide structural support. The term *tank* does not include underground storage tanks as defined by the underground storage tank rules and regulations (LAC 33:XI).

Temporary PermitCa written authorization issued by the administrative authority, for a specific amount of time, to a person for the construction, installation, closure, or post closure of a particular facility used or intended to be used for processing or disposing of solid waste in accordance with the act, these regulations, and specified terms and conditions.

Thermophilic StageCa biological stage in the composting process characterized by active bacteria that favor a high temperature range of 45° to 75° C. It occurs early in the composting process, before the mesophilic stage, and is associated with a high rate of decomposition.

Test HoleCan exploratory borehole drilled to obtain geologic, hydrologic, or water-quality data.

TopsoilCthe surface layer of soil, capable of promoting growth of vegetation.

Toxicity Characteristic Leaching Procedure (TCLP)Ca method to determine if a waste exhibits hazardous characteristics, conducted in accordance with LAC 33:V.

Transfer StationCa solid waste processing facility where solid waste is transferred from collection vehicles and placed in other vehicles for transportation.

TransportCto move industrial solid waste off-site and/or to move solid waste of a commercial establishment or more than one household to a storage, processing, or disposal facility.

TransporterCa any person who moves industrial solid waste off-site and/or who moves solid waste of a commercial establishment or more than one household to a storage, processing, or disposal facility.

TrashCnonputrescible refuse, including white goods, furniture, and wood and metal goods.

Treatment ZoneCthe depth in the soil of a landfarm into which solid waste has been incorporated and additional depths to which decomposition is occurring based on site-specific conditions.

Type (of Waste)Ca category of waste in a general classification, defined for solid waste management purposes (e.g., commercial, industrial, residential).

Type I FacilityCa facility used for disposing of industrial solid wastes. (If the facility is also used for disposing of residential or commercial solid waste, it is also a Type II facility).

Type I-A FacilityCa facility used for processing industrial solid waste (e.g., transfer station, incinerator waste-handling facility, shredder, baler, or compactor). (If the facility is also used for processing residential or commercial solid waste, it is also a Type II-A facility).

Type II FacilityCa facility used for disposing of residential or commercial solid waste. (If the facility also is used for disposing of industrial solid waste, it is also a Type I facility).

Type II-A FacilityCa facility used for processing residential, infectious, or commercial solid waste (e.g., transfer station, incinerator waste-handling facility, refuse-derived fuel facility, shredder, baler, autoclave, or compactor). (If the facility is also used for processing industrial solid waste, it is also a Type I-A facility).

Type III FacilityCa facility used for disposing or processing of construction/demolition debris or woodwaste, composting organic waste to produce a usable material, or separating recyclable wastes (a separation facility). Residential, commercial, or industrial solid waste must not be disposed of or processed in a Type III facility.

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

Unauthorized DumpCa solid waste disposal facility whose operation is not authorized by the administrative authority.

Unit of a FacilityCdesignated area of a facility wherein solid waste is, has been, or will be processed, stored, or disposed of.

Unstable AreaCa location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable

areas can include poor foundation conditions, areas susceptible to mass movement, and Karst terranes.

Uppermost Aquifer—the geologic formation nearest the natural ground surface that is an aquifer, as well as other aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

Uppermost Water-Bearing Permeable Zone—any relatively permeable zone, other than the uppermost aquifer, that may act as a potential contaminant pathway.

Vector—see *disease vector*.

Water Table—the upper surface of the zone of saturation at which the pressure is equal to the atmospheric pressure.

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

White Goods—discarded domestic and commercial appliances, such as refrigerators, ranges, washers, and water heaters.

Woodwaste—yard trash and types of waste typically generated by sawmills, plywood mills, and woodyards associated with the lumber and paper industry, such as wood residue, cutoffs, wood chips, sawdust, wood shavings, bark, wood refuse, wood-fired boiler ash, and plywood or other bonded materials that contain only phenolic-based glues or other glues that are approved specifically by the administrative authority. Treated or painted lumber is not considered woodwaste under this definition.

Working Face—that portion of a landfill where waste is currently being added during the operating day.

Yard Trash—vegetative matter resulting from landscaping, maintenance, or land-clearing operations, including tree and shrubbery leaves, limbs, stumps, grass clippings, and flowers.

Zone of Incorporation—the depth to which solid waste has been incorporated into the soil of a landfill.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Chapter 3. Applicability, Scope, and Mandatory Provisions of the Program

§301. Wastes Governed by These Regulations

A. All solid wastes as defined by the act and these regulations are subject to the provisions of these regulations, except as provided in these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§302. Wastes Not Governed by the Regulations

A. The following wastes are not subject to the provisions of these regulations:

1. wastes regulated under other authority and not processed or disposed of in solid waste facilities permitted under these regulations, including but not limited to, the following wastes:

a. 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 that are stored, processed, or disposed in accordance with a best management practice plan that 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;

b. mining overburden, spoils, tailings, and related solid wastes within the jurisdiction of the Department of Natural Resources, Office of Conservation;

c. produced-waste fluids and muds resulting from the exploration for or production of petroleum and geothermal energy, and all surface and storage waste facilities incidental to oil and gas exploration and production within the jurisdiction of the Department of Natural Resources, Office of Conservation;

d. uncontaminated dredge or earthen excavation spoil;

e. solid wastes while they are stored at residences or commercial establishments and regulated by local ordinance or within the jurisdiction of the Department of Health and Hospitals;

f. uncontaminated residues from beneficiation of earthen material;

g. uncontaminated stormwater and uncontaminated noncontact cooling water; and

h. infectious waste or other hospital or clinic wastes that are not processed or disposed of in solid waste processing or disposal facilities permitted under these regulations; and

2. wastes excluded by definition of solid waste in the act and/or as otherwise specified in the act, including:

a. hazardous wastes subject to regulation under R.S. 30:2171 et seq.;

b. solid or dissolved material in domestic sewage (such as domestic-oxidation ponds), except separated sludges;

c. solid or dissolved materials in irrigation-return flow;

d. discharges that are downstream from point sources subject to permit under R.S. 30:2075, except waste contained in solid waste facilities prior to the final discharge point. However:

i. wastewaters in existing ditches that are downstream of a designated internal state or federal wastewater discharge point are exempt from the definition of solid waste if they require no further treatment to meet final state or federal wastewater discharge point permit limits or if they require only pH adjustment to meet final pH permit limits or suspended solids settling specifically to meet final total suspended solids permit limits;

ii. wastewaters in existing ditches upstream of a designated final state or federal wastewater discharge point that require no further treatment to meet final state or federal permit limits or that only require pH adjustment to meet final pH permit limits or solids settling specifically to meet total suspended solids permit limits are exempt from the definition of solid waste;

iii. solids or sludges in ditches are exempt from the definition of solid waste until such time as such solids or sludges are removed from the ditches for disposal, provided however, that this exclusion from the definition of solid

waste only applies to solids and sludges derived from wastewaters described in Clauses A.2.d.i and ii of this Section; and

iv. the administrative authority reserves the right to withdraw the exemption for wastewaters in Clauses A.2.d.i and ii of this Section if the wastewaters contribute to groundwater contamination;

e. source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

f. compost produced by an individual for his own use, as provided in R.S. 30:2416.G; and

g. automotive fluff resulting from the shredding of automobiles by scrap metal recycling facilities and from which metals have been recovered, as provided in R.S. 30:2153(1)(b)(iv).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

A. Solid wastes listed in this Section 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. This includes the following solid wastes:

1. wastes resulting from land and right-of-way clearing (trees, stumps) and processed or disposed of on the site where generated;

2. solid wastes in facilities that have been closed in a manner acceptable to the administrative authority prior to January 20, 1981. (This Subsection is not intended to require permitting of any facilities that have been closed in a manner acceptable to the administrative authority and that remain closed.);

3. waste papers, metals, plastics, and glass that are presorted to be recycled or reused and not destined for disposal;

4. uncontaminated earthen materials such as limestone, clays, sands, clamshells, river silt, and uncontaminated residues from beneficiation of earthen materials;

5. brick, stone, reinforced and unreinforced concrete, and asphaltic roadbeds;

6. sludges resulting from the treatment of water at public or privately owned water-supply treatment plants;

7. petroleum-refining catalysts and other materials utilized as feedstocks that are managed at a facility in order to recover these wastes for further use;

8. agricultural wastes, including manures, that are removed from the site of generation by an individual for his own personal use on land owned or controlled by the individual. The amount of wastes covered by this exemption shall not exceed 10 tons per year (wet weight) per individual per use location;

9. solid wastes that are treated or disposed of in a hazardous waste treatment or disposal facility that is regulated under LAC 33:Part V;

10. woodwastes that are beneficially-used in accordance with a best management practice plan approved,

in writing, by the Louisiana Department of Agriculture and submitted to the Office of Environmental Services, Permits Division, provided the following requirements are met:

a. the generator must notify the Office of Environmental Services, Permits Division of such activity at each site in accordance with LAC 33:VII.401; and

b. the generator must submit to the Office of Management and Finance, Financial Services 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;

11. solid wastes re-used in a manner protective of human health and the environment, as demonstrated by a soil re-use plan prepared in accordance with LAC 33:VII.Chapter 11 and approved by the administrative authority;

12. infectious waste that is generated by individuals in a residence, or by health care services that provide medical treatment to individuals at home, provided that these wastes are retained by the patient for processing or disposal; and

13. other wastes deemed acceptable by the administrative authority based on possible environmental impact.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§305. Facilities Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

A. 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:

1. incinerators that receive only on-site-generated commercial solid waste and that have a design rate of no more than 250 pounds per hour and an operating rate that does not exceed the design rate;

2. shredders, autoclaves, balers, and compactors, when used for recycling, that receive no waste volume from off-site sources;

3. facilities that process or reuse on-site-generated, nonhazardous, petroleum-contaminated media and debris from underground storage tank corrective action, provided such processing or reuse is completed in less than 12 months and authorized by the underground storage tank regulations;

4. construction/demolition-debris disposal facilities at industrial sites that receive only on-site-generated construction/demolition-debris, provided the following requirements are met:

a. the facility must notify the Office of Environmental Services, Permits Division of such activity in accordance with LAC 33:VII.401; and

b. the facility must submit to the Office of Management and Finance, Financial Services Division a disposer annual report in accordance with the standards for construction/demolition-debris disposal facilities found in LAC 33:VII.727;

5. solid waste injection wells that are under the jurisdiction of the Department of Natural Resources. However, any storage, processing, or disposal (not including

injection) incidental to such injection wells is subject to these regulations;

6. industrial facilities that process solid waste by nondestructive and nonthermal means on the site where the waste is generated (i.e., none of the waste is from off-site sources);

7. secondary containment systems (e.g., sumps or dikes) that are designed and operated to contain nonroutine spill events (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include secondary containment systems for solid waste disposal units;

8. woodwaste facilities at which only woodwaste is disposed of on property owned by the generator of the woodwaste, provided the following requirements are met:

a. the facility must notify the Office of Environmental Services, Permits Division of such activity in accordance with LAC 33:VII.401;

b. the facility must submit to the Office of Management and Finance, Financial Services Division a disposer annual report in accordance with the standards for woodwaste disposal facilities in LAC 33:VII.709;

c. the facility must comply with applicable Louisiana water pollution control regulations (LAC 33:IX); and

d. the facility must comply with the perimeter barrier, security, and buffer zone requirements in LAC 33:VII.703.A;

9. facilities at which only woodwastes resulting from utility right-of-way clearing are received, provided the following conditions are met:

a. the facility property must be controlled by the utility company that generates the woodwaste;

b. the facility must comply with the natural or manmade perimeter barrier and security requirements in LAC 33:VII.703.A.2;

c. the facility must not receive solid waste from any source other than the utility company (or its authorized contractors) that generates the waste;

d. the facility must notify the Office of Environmental Services, Permits Division of its activities in accordance with LAC 33:VII.401;

e. the facility must submit to the Office of Management and Finance, Financial Services Division a disposer annual report that accurately estimates volumes of waste disposed in accordance with the standards for woodwaste disposal facilities found in LAC 33:VII.709; and

f. the facility must comply with applicable Louisiana water quality regulations (LAC 33:IX);

10. ditches that receive nonroutine spillage (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include ditches for solid waste disposal units such as landfills, landfarms, or surface impoundments;

11. recycling facilities, as described in LAC 33:VII.303.A.3, that receive only source separated recyclables;

12. hospitals and other health care facilities that store or treat regulated infectious waste generated on-site or that

accept waste from off-site wholly or partly owned subsidiaries;

13. facilities on which there is burning of leaves, grass, twigs, branches, and vines by a private property owner on his own property for noncommercial purposes in parishes with a population of 300,000 or less, provided the property owner attends the burning of yard waste at all times. The facility must comply with all applicable air quality local, state, and federal regulations. This exception shall not apply in the parish of East Baton Rouge; and

14. facilities on which there is burning of trees, brush, grass, or other vegetable matter in any parish having a population of 90,000 or less, provided the location of the burning is not within the territorial limits of a city or town or adjacent to a city or town in such proximity that the ambient air of the city or town will be affected by smoke from the burning. The facility must comply with all applicable air quality local, state, and federal regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§307. Exemption Requests

A. Any person subject to these regulations who generates, collects, stores, transports, processes, or disposes of solid waste may petition the administrative authority for exemption from these regulations or any portion thereof.

1. The administrative authority may provide exemptions from these regulations, or any portion thereof, when petitions for such are deemed appropriate after consideration of the factors enumerated in Subparagraphs B.2.a and b of this Section, as well as any other pertinent factors.

2. The administrative authority shall make a decision whether or not to grant the exemption requested within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority. In no case shall the time period be greater than one year.

B. Each request for an exemption must:

1. identify the specific provisions of these regulations from which a specific exemption is sought;

2. provide sufficient justification for the type of exemption sought, which includes, but may not be limited to, the following demonstrations:

a. that compliance with the identified provisions would tend to impose an unreasonable economic, technologic, or safety burden on the person or the public; and

b. that the proposed activity will have no significant adverse impact on the public health, safety, and welfare and the environment and that it will be consistent with the provisions of the act; and

3. include proof of publication of the notice as required in Paragraph C.1 of this Section, except for emergency exemptions.

C. Public Notification of Exemption Requests

1. Persons requesting an exemption shall publish a notice of intent to submit a request for an exemption, except as provided in Paragraph C.2 of this Section. This 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. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement measuring three columns by five inches, in the legal notices section of the official journal of the state, will be the only public notice required.

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.

D. Innovative or Alternate Technology Exemption. Persons requesting an exemption based on innovative or alternate technology shall follow the procedure specified in Subsections A, B, and C, except for Subparagraph B.2.a, of this Section. Requests for exemptions based on innovative technology may be granted by the administrative authority based on the ability of the applicant to make the following demonstrations:

1. the request is based on innovative or alternative technology;

2. the innovative or alternative technology must satisfy all of the applicable standards in LAC 33:VII other than those for which the exemption is sought; and

3. the innovative or alternative technology must produce performance or provide protection that is equivalent or superior to that required by all the standards for which the exemption is sought.

E. No exemptions shall be granted for Type II landfills that would allow noncompliance with federal regulations, specifically 40 CFR 257 and 258, as amended on October 9, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§309. Mandatory Provisions

A. Generating, Collecting, Transporting, Storing, Processing, and Disposing of Solid Waste. Solid waste shall be generated, collected, transported, stored, processed, and disposed of only in accordance with these regulations.

B. Storage of Wastes. No solid waste shall be stored or allowed to be stored in such a manner that it may cause a nuisance or health hazard, as determined by the administrative authority.

C. 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. 30:2154 et seq., particularly

R.S. 30:2012. These inspections are usually 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.

D. Reporting of Unauthorized Discharge. Any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land of the state in contravention of the act, these regulations, or the terms and conditions of a permit issued thereunder, or any accident, fire, explosion, or other emergency that results in such unauthorized solid waste discharge, shall be reported by any person causing, allowing, or suffering said discharge or by any person with knowledge of the discharge to the department, as required by the notification regulations and procedures for unauthorized discharges (LAC 33:I.Chapter 39).

E. Cleanup of Unauthorized Discharge. The cleanup, isolation, removal, or otherwise rendering safe of solid waste processed or disposed of in a manner not authorized by these regulations, or at a facility not permitted to receive such wastes, shall be conducted in accordance with the terms and conditions of any order issued by the administrative authority. Such orders shall not preclude other enforcement action under R.S. 30:2025.

F. 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 by e-mail utilizing the Incident Report Form and procedures found at www.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.

G. Hazardous or Nuclear Wastes in Solid Waste Facilities. No hazardous waste or nuclear material regulated under the Louisiana hazardous waste rules and regulations or Louisiana radiation regulations shall be processed or disposed of at a solid waste facility except in conformance with those regulations. Collectors, transporters, processors, and disposers of solid waste must determine, according to approved methods, that the waste is not hazardous before collecting, transporting, processing, or disposing of it.

H. Compliance with Other Regulations. All facilities may be subject to applicable federal and state laws and regulations, including but not limited to, Section 402 (NPDES) and Section 404 (Dredge and Fill) of the Clean Water Act; the Coastal Zone Management Act and Federal Aviation Administration regulations; the National Historic Preservation Act of 1966, as amended; the Endangered Species Act; the Wild and Scenic Rivers Act; the Fish and Wildlife Coordination Act; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection Research and Sanctuary Act; the Resource Recovery and Conservation Act; and the Federal Insecticide, Fungicide, and Rodenticide Act.

I. Contamination of the Waters of the State. No person(s) shall cause, allow, or permit solid waste to be disposed of in such a manner that it enters the waters of the state. This does not apply to discharges into waters of the

state in accordance with state or federal wastewater-discharge permits.

J. Open burning of solid waste is prohibited, except as otherwise provided in these regulations.

K. Spent Bauxite Waste and By-Product Gypsum and Related Wastes

1. The administrative authority may give special consideration to landfills that receive only by-product gypsum and related wastes (resulting from the production of phosphoric acid, phosphate fertilizers, and hydrofluoric acid), which is generated on-site, with regard to standards for receipt of liquid waste, standing water, specific design and operation of liners and leachate collection and removal systems, daily cover, and final cover, which may include waiver or modification of these standards.

2. The administrative authority may give special consideration to surface impoundments that receive only spent bauxite waste and related wastes (resulting from production of alumina), which is generated on-site, with regard to standards for liners and final cover, which may include waiver or modification of these standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Chapter 4. Administration, Classifications, and Inspection Procedures for Solid Waste Management Systems

§401. Notification

A. Except as provided for in Subsection B 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.

B. 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.

C. 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 that have previously notified the department are not required to renotify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§403. Existing Facilities Classification

A. Classification

1. Existing facilities that have not been previously regulated, classified, or issued a standard permit shall be classified by the administrative authority to the classification categories of "closure" or "upgrade."

2. Within 120 days after the review and acknowledgment of the notification by the administrative authority, a representative of the department shall 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.

B. Existing Facilities Not Operating under a Standard Permit. All facilities without a standard permit, whether operating or inactive, shall be upgraded or closed in accordance with LAC 33:VII.Subpart 1 unless they have previously been satisfactorily closed in accordance with LAC 33:VII.Subpart 1.

C. Permits for Existing Facilities Operating Without a Standard Permit. All existing solid waste facilities classified for upgrading shall apply for a standard permit according to these regulations.

D. Existing facilities that have not previously been classified or that are not operating under a standard permit shall be classified for upgrade or closure by the following criteria and procedure:

1. classification criteria are based on compliance with standards detailed in LAC 33:VII.Chapters 5, 7, and 8, with emphasis on the following:

- a. potential for pollution of surface water;
- b. potential for pollution of groundwater;
- c. potential for pollution of air;
- d. location in flood plains or in wetlands;
- e. potential for danger to health due to disease vectors, use of waste-filled lands for food crops, and similar health-related practices;
- f. safety considerations, including danger from explosive gases, from fires, and from birds attracted to the site that might obstruct the glide path of aircraft; and
- g. threat to endangered species; and

2. the classification procedure comprises identifying, evaluating, and preliminary classification of facilities:

- a. an ongoing effort shall be made to identify all solid waste facilities; and
- b. the facilities shall be evaluated on the basis of the criteria listed in this Subsection and based on the needs and plans of the facility.

E. Issuance of Temporary Permits

1. The administrative authority may issue a temporary permit for upgrading to persons who process or dispose of solid waste. The temporary permit shall require the submission of a permit application. The temporary permit will allow the facility to continue operations in accordance with an approved interim operational plan pending the standard permit application process.

2. The administrative authority may issue a temporary permit for closure to persons who process or dispose of solid waste. The temporary permit shall require the submission of a closure plan permit application and implementation schedule. The temporary permit may allow the facility to continue operations in accordance with an approved interim operational plan pending the closure process.

3. Temporary permits are subject to annual permit maintenance fees as provided in LAC 33:VII.1505.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§405. Categorization of Facilities

A. All existing and proposed facilities shall be categorized as one of the following:

1. Type I. Industrial disposal facilities (landfills, surface impoundments, or landfarms);
2. Type I-A. Industrial processing facilities (incinerator waste-handling facilities, compactors, balers, shredders, or transfer stations);
3. Type II. Nonindustrial disposal facilities (landfills, surface impoundments, or landfarms);
4. Type II-A. Nonindustrial processing facilities (incinerator waste-handling facilities, compactors, balers, shredders, transfer stations, or refuse-derived fuel facilities); and
5. Type III. Construction/demolition-debris and woodwaste landfills, separation facilities, composting facilities, or other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§407. Inspection Types and Procedures

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.401).

B. Compliance Inspections. The department shall 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.

C. Initial Start-Up Inspection
C Newly Permitted Facilities

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 Services, Permits 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.

4. Within 15 working days after a new or existing facility has undergone the initial start-up inspection, the administrative authority shall either issue an order authorizing commencement of operation or a written notice

of deficiency to the permittee, unless a longer time period is set by mutual agreement.

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.

E. Unit Start-Up Inspections
C All Facilities

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 Services, Permits 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 Services, Permits Division.

3. Within 10 working days after a new unit of a facility has undergone a unit start-up inspection, the administrative authority shall issue either an approval of the construction or a notice of deficiency. The unit may commence operation only upon approval of the construction of the unit by the administrative authority.

F. Modification Start-Up Inspections
C 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 Services, Permits 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.

2. After a modified unit/feature of a facility has successfully undergone a start-up inspection and after the permit holder has been notified, in writing, of this, operation of the modified unit/feature may commence.

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., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Chapter 5. Permit Process and Application

Subchapter A. Permit System for Facilities Classified for Upgrade or Closure

§501. Permit System

A. Scope. A permit must be secured by any person who processes and/or disposes of solid waste, with the exception of those wastes or processing and disposal facilities described in LAC 33:VII.301, 302, 303, and 305. Facilities (existing and proposed) subject to the permitting

requirements detailed in these regulations are defined in LAC 33:VII.115 and 405.A.

B. Permits for New Facilities. No new solid waste facilities shall be constructed or operated without a permit issued by the administrative authority in accordance with these regulations.

C. Construction of New or Modified Facilities. No construction of a new facility or modification of an existing facility may commence without a permit.

D. The following will not be required to secure permits:

1. generators who are not processors or disposers of solid waste. Generators of industrial solid waste must notify the Office of Environmental Services, Permits Division in accordance with LAC 33:VII.401.A. Generators of industrial solid waste are subject to the applicable standards provided in LAC 33:VII.601;

2. transporters who are not processors or disposers of solid waste. Transporters of solid waste must notify the Office of Environmental Services, Permits Division in accordance with LAC 33:VII.401A. Transporters of solid waste are subject to the applicable standards provided in LAC 33:VII.605;

3. storers who are not processors or disposers of solid waste. Storers of solid waste are subject to the applicable standards provided in LAC 33:VII.603; and

4. pickup stations at which no solid waste is processed or disposed of. Pickup stations are subject to the standards found in LAC 33:VII.603 and 607 and must notify the Office of Environmental Services, Permits Division in accordance with LAC 33:VII.401.

E. Types of Permits

1. Temporary Permit

a. A temporary permit allows continued operation of an existing facility in accordance with an interim operational plan, but does not allow the expansion or modification of the facility without prior approval of the administrative authority. The administrative authority may issue a temporary permit in the following situations:

i. to allow operations to continue at an existing facility while a standard permit application is being processed;

ii. to allow operations to continue at an existing facility while a closure plan permit application is being processed or while a facility is being closed in accordance with a closure plan; or

iii. to allow an applicant for a permit for a proposed facility to begin construction on a limited basis while an application for a proposed facility is being processed for good cause shown.

b. The types of temporary permits issued on or after February 20, 1993, will correspond to the facility categories defined in LAC 33:VII.405.A: Type I, Type IA, Type II, Type II-A, and Type III.

c. Temporary permits that may have been issued in the form of administrative orders, compliance orders to upgrade, orders to upgrade, compliance orders to close, orders to close, and settlement agreements, prior to February 20, 1993, may remain in effect until otherwise determined by the administrative authority. Notwithstanding this Subparagraph, any such temporary permit holder must comply with applicable upgrade requirements and deadlines in LAC 33:VII.502.

2. Standard Permit. Standard permits may be issued by the administrative authority to applicants for solid waste processing and/or disposal facilities that have successfully completed the standard permit application process. The types of standard permits issued on or after February 20, 1993, will correspond to the facility categories defined in LAC 33:VII.405.A: Type I, Type IA, Type II, Type II-A, and Type III.

F. Existing Facilities Not Previously Classified or Not Presently Operating Under a Standard Permit

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 shall be issued a temporary permit and may continue operations in accordance with the interim operational plan, pending a decision on the standard permit application.

2. Facilities classified for closure will be issued a temporary permit. That permit may allow operations to continue in accordance with the interim operational plan until closure activities are accomplished and may require that closure and/or post-closure activities be conducted in accordance with the approved closure plan.

G. Duration of Permit

1. Temporary permits are issued for a period not to exceed three years.

2. Standard permits are issued for a period not to exceed 10 years.

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.

b. Permits for processing and/or disposal facilities that have been issued with an expiration date greater than 10 years after the effective date of the permit shall expire 10 years after the date the permit was effective or on August 1, 1996, whichever is later. These facilities shall be subject to the provisions in Subparagraph G.2.a of this Section.

H. Property Rights. Permits issued by the administrative authority do not convey any property rights of any sort or any exclusive privilege.

I. Public Hearings

1. Public hearings will be held concerning standard permits for facilities when the administrative authority determines that there is sufficient public interest.

2. Public hearings will be held concerning major modifications of standard permits when the administrative authority determines that there is sufficient public interest.

3. Public hearings will not be held concerning mandatory modifications, which are considered an enhancement of a standard permitted facility.

4. Public hearings shall be conducted in accordance with the rules of procedure of the administrative authority for fact-finding hearings or other hearing procedures

developed by the administrative authority and the Administrative Procedure Act (R.S. 49:950 et seq.).

J. Other Requirements

1. The applicant may be required to obtain additional permits from other local state and federal agencies. A listing of typical permits that may be needed are as follows:

- a. NPDES (Section 402 of the Clean Water Act);
- b. Louisiana Water Discharge Permit;
- c. Louisiana Coastal Use Permit (issued by the Department of Natural Resources, Coastal Management Division);
- d. Louisiana Air Emissions Permit;
- e. U.S. Army Corps of Engineers Permit (Dredge and Fill, Section 404 of the Clean Water Act); or
- f. appropriate local permits, licenses, certification, registration, or approval.

2. It is the responsibility of the applicant to identify the other applicable permits that may be required. A listing of the permits that the applicant intends to apply for shall be included in the solid waste permit application.

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.

K. 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 the procedures outlined in LAC 33:VII.Chapter 9 and R.S. 30:2025.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§502. Mandatory Modifications Requirements

A. This Section applies to facilities that have submitted mandatory modification applications to the department. Mandatory modifications were required by the regulations promulgated on February 20, 1993. Subsections B-N of this Section are an upgrade schedule for those facilities.

B. Existing Type I Landfills and Type I Landfarms

1. 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 a mandatory modification document to address these regulations.

2. Existing Type I landfills and Type I landfarms shall be upgraded in accordance with these regulations.

C. Existing Type II Landfills

1. Permit holders of existing Type II landfills operating under a standard permit must submit to the department a mandatory modification document to address these regulations.

2. Except as provided in Paragraph C.3 of this Section, existing Type II landfills shall be upgraded in accordance with these regulations.

3. Special Subtitle D Upgrade Requirements. Notwithstanding Paragraphs C.1 and 2 of this Section, the following upgrade schedule applies:

- a. existing Type II landfills must be upgraded to comply with LAC 33:VII.701.A.4 (regarding airports),

703.A.2.a, b, and c (regarding restriction of public access), 703.A.6 and 711.A.2 (regarding hazardous-waste exclusion), 703.A.7 (regarding discharges to surface water), 705.D.2 (regarding unstable areas), 707.B.1 (regarding 100-year floodplains), 707.B.2 and 3 (regarding run-on/runoff control), 719.C.1 (regarding daily cover), 711.A.2.a (regarding open burning), 719.D.1.c (regarding liquid waste exclusion), 711.C.1 (regarding methane monitoring), and 719.D.3.b (regarding vector control) no later than October 9, 1993;

b. units of Type II landfills that did not receive solid waste prior to October 9, 1993, must comply with LAC 33:VII.701.A.8 (regarding wetlands demonstrations), 701.A.10 (regarding fault areas), 705.D.1 (regarding seismic impact zones), 805 (regarding groundwater monitoring) and 719.C.2 and 3 (regarding plans and specifications for leachate collection and liners) before receiving solid waste;

c. units of Type II landfills that are less than one mile from a drinking water intake must be upgraded to comply with LAC 33:VII.805 (regarding groundwater monitoring);

d. units of Type II landfills that are less than two miles from a drinking water intake must be upgraded to comply with LAC 33:VII.805 (regarding groundwater monitoring);

e. units of Type II landfills that are greater than two miles from a drinking water intake must be upgraded to comply with LAC 33:VII.805 (regarding groundwater monitoring);

f. the administrative authority may extend the date for compliance with Subparagraph C.1.a of this Section to April 9, 1994, for qualified existing Type II landfill units;

g. the administrative authority may extend the post-closure waste acceptance dates in LAC 33:VII.719.F.2.a and b to April 9, 1994, for existing units of qualified Type II landfills; and

h. for the purposes of Subparagraphs C.3.f and g of this Section, a qualified Type II landfill is one that:

i. received no more than 100 tons per day of solid waste between October 9, 1991, and October 9, 1992, based on a calendar daily average; and

ii. received no more than 100 tons per day of solid waste based on a daily average computed each month between October 9, 1993, and April 9, 1994.

D. All Other Existing Type I, Type IA, Type II, and Type II-A Facilities

1. 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 a mandatory modification document to address these regulations.

2. Existing Type I, Type I-A, Type II, and Type II-A facilities shall be upgraded in accordance with these regulations.

E. Financial Assurance. Existing Types I, II, or III facilities that are owned or operated by local governments must comply with the financial assurance requirements in LAC 33:VII.Chapter 13. The administrative authority may waive the requirements of this Section for up to one year for good cause if an owner or operator demonstrates that the effective date for the requirements of this Section does not provide sufficient time to comply with these requirements and that such a waiver will not adversely affect human

health and the environment. All other facilities must comply by February 20, 1995.

F. Units of existing Type II landfills that are not upgraded in accordance with these regulations must cease accepting waste and complete closure.

G. Units of facilities, other than Type II landfills, that are not upgraded in accordance with these regulations must cease accepting waste and complete closure on or before their respective upgrade deadlines provided in Subsection C of this Section.

H. Permit holders of facilities that have earthen ditches that lead to or from units of the facility and receive solid waste must:

1. submit a plan to the department to:
 - a. upgrade the ditches to meet these regulations (This plan must be in the form of a permit modification and may be included in the mandatory modification document for the facility.);
 - b. remove the solid waste from the ditches and line them with materials capable of preventing groundwater contamination; or
 - c. remove the solid waste from the ditches and cease disposing of solid waste in the ditches.

2. upgrade the ditches in accordance with these regulations and the permit modification by February 1, 1998.

I. Type I and II facilities with closure plans approved prior to and that do not receive solid waste on or after October 9, 1993, may complete closure and post-closure under the terms of the approved closure plan, except that Type II landfills that received solid waste on or after October 9, 1991, must meet standards for placement and maintenance of final cover in LAC 33:VII.719.E and F.

J. 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.

K. 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.

L. 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.

M. 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 that do not hold a standard permit must be upgraded in accordance with the applicable deadlines according to facility type described in this Section, unless earlier deadlines are required by the administrative authority.

N. Applicants of Proposed Facilities With Pending Permit Applications

1. Applicants of proposed facilities with permit applications on file with the department must submit to the department (Office of Environmental Services, Permits Division), no later than January 1, 1994, an addendum to their application to address these regulations.

2. Failure to submit an addendum to the application by January 1, 1994, shall be considered a withdrawal of the permit application and shall require no further action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§503. Permit Process for Upgrading Existing Facilities 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.

2. The public notice shall be published in accordance with the form provided in Appendix A of this Chapter.

3. Proof of publication of the notice shall be included in all applications for existing and proposed facilities submitted to the administrative authority.

B. Permit Application Requirements

1. Any person who generates, transports, or stores solid waste, who is not issued a permit, but is under the jurisdiction of the department, 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.407, 501, and 503, 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.

b. Each application for which a standard permit application fee is prescribed shall be accompanied by a remittance in the full amount of the appropriate standard permit application review fee. No application shall be accepted or processed prior to payment of the full amount specified.

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.

D. Permit Application Review and Evaluation

1. LAC 33:VII.Chapters 5, 7, and 8 establish the evaluation criteria used by the administrative authority.

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.

2. Applicants submitting applications that are acceptable for technical review, but lack the information outlined in these regulations will be informed of such deficiencies. These deficiencies must be corrected by the submission of supplementary information by a reasonable due date set by the administrative authority.

F. Standard Permit Applications Deemed Technically Complete

1. Applications that have been deemed technically complete shall be accepted for public review. When the permit is accepted for public review, the administrative authority shall request an additional five copies, or more if necessary. The copies will be distributed for public review as follows:

- a. one copy to the local parish governing authority;
- b. one copy to the parish public library;
- c. one copy to the appropriate regional office; and
- d. two copies to remain in the department's headquarters in Baton Rouge.

2. Each copy of the permit application shall be provided as a standard three-ring-bound document (8 1/2 by 11 inches). The application shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing for all appendices, figures, etc. Permit applications that present revisions made during the review process as a separate supplement to the application will not be accepted.

3. After the five copies are submitted to the Office of Environmental Services, Permits Division, notices shall 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 shall 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 shall 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.

4. Public hearings will be held for all facilities 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 (Paragraph F.3 of this Section), 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 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.

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, notices shall 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 shall 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 shall be reviewed by the Office of Environmental Services, Permits Division.

G. Issuance or Denial of a Permit

1. The administrative authority shall issue a standard permit or shall issue a standard permit application denial, including reasons for the denial.

2. A temporary permit may be issued to allow closure activities to be accomplished at a facility that has been issued a standard permit application denial.

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 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 shall be the only public notice required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§505. Permit Process for Existing Facilities Classified for Closure

A. Closure Plan Review and Evaluation. LAC 33:VII.403 and Chapters 7 and 8 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.

2. The following sections of the regulations must be addressed and incorporated in the closure plan for all solid waste processing and disposal facilities. All responses and exhibits must be identified in the following sequence to facilitate the evaluation. All applicable sections of LAC 33:VII.Chapters 5, 7, and 8 must be addressed and incorporated into the closure plan:

- a. LAC 33:VII.509, Permit Application Form, Part I;
- b. a map clearly delineating the location of the facility;
- c. LAC 33:VII.701.A.10.a and b, Wells and Faults, respectively (only required for Type I and II facilities with on-site closure);
- d. LAC 33:VII.517, Facility Characteristics;
- e. LAC 33:VII.519, Facility Surface Hydrology;
- f. LAC 33:VII.521.A, General Facility Geology (only required for Type I and II facilities that have not undergone clean closure);
- g. LAC 33:VII.521.B, Subsurface Characterization (only required for Type I and II facilities that have not undergone clean closure);

h. LAC 33:VII.521.C, Groundwater Monitoring (only required for Type I and II facilities that have not undergone clean closure);

i. LAC 33:VII.523.A.4, Facility Plans and Specifications (only required for Type I and II facilities with on-site closure and with a potential to produce gases);

j. types (including chemical and physical characteristics) and sources of waste processed or disposed of at the facility;

k. LAC 33:VII.531.A, Facility Closure;

l. LAC 33:VII.531.B, Facility Closure (only required for Type I and II facilities and Type III woodwaste and construction/demolition-debris landfills);

m. LAC 33:VII.533.A, Facility Post Closure;

n. LAC 33:VII.533.B, Facility Post Closure (only required for Type I and II facilities that have not undergone clean closure);

o. the name of the person who currently owns the land;

p. LAC 33:VII.535.A.4, Financial Responsibility; and

q. a detailed implementation schedule for closure of the facility with built-in flexibility to coincide with the date of approval of the closure plan.

3. Each closure plan for which a closure fee is prescribed shall be accompanied by a remittance in the full amount of the closure plan's review fee. No closure plans shall be accepted or processed prior to payment of the full amount specified.

C. Closure Plans Determined Unacceptable or Deficient

1. Closure plans that are determined unacceptable for a technical review will be rejected. The permit holder shall 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.

2. Permit holders submitting closure plans that lack the information contained in Paragraph B.2 of this Section and the applicable standards of LAC 33:VII.Chapters 7 and 8 will be informed of such in a closure plan deficiency letter; these must be corrected by submission of supplementary information within 30 days after receipt of the closure plan deficiency letter.

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 that incorporates 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., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§507. Modification of Permits and Other Authorizations to Operate

A. Modification Requests

1. 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.

a. 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 a standard three-ring binder(s).

b. Each permit modification request for which a permit modification review fee is prescribed shall be accompanied by remittance of the fee. No permit modification requests shall be accepted or processed prior to payment in full of the amount specified.

2. 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:

a. a statement from the proposed permit holder assuming liability for existing violations and conditions;

b. proof of financial responsibility by the proposed permit holder, as required by LAC 33:VII.1301.A and 1303.A; and

c. information required in LAC 33:I.1701.

B. Public Notice of Modifications

1. If not otherwise specified, the administrative authority shall determine whether or not a modification warrants public notice. Modifications to a permit that require public notice include, but are not limited to, the following:

a. change in the type(s) of waste to be received at a facility;

b. increase in the volume or rate of waste to be received at a facility;

c. physical expansion of the service area;

d. change in the capacity of a facility;

e. decrease in the personnel or equipment of a facility;

f. changes in the hours or days of operation;

g. change to the facility that may have an impact on traffic patterns;

h. reduction in the number of groundwater sampling parameters or the number of groundwater monitoring wells;

i. lateral or vertical expansion of the permitted area(s) for waste disposal; or

j. other changes in the permit that tend to make the permit requirements less stringent.

2. Permit modifications that 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 is accepted for

public review, the administrative authority will request an additional five copies, or more if necessary. The copies will be distributed for public review as follows:

a. one copy to the local parish governing authority;

b. one copy to the parish public library;

c. one copy to the appropriate regional office; and

d. two copies to remain in the department's headquarters in Baton Rouge.

3. Each copy of the permit modification shall be provided as a standard three-ring-bound document (8 1/2 by 11 inches). The modification shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing, if applicable, for all appendices, figures, etc.

4. Upon submittal of the five copies to the Office of Environmental Services, Permits Division, the department shall send a sample public notice to the applicant who shall be responsible for the publication of the notice. The cost of publication shall be borne by the applicant. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Permits Division. 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, 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, and in the department's bulletin (if one is available). 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 will solicit comments from interested individuals and groups. Comments delivered or received within 30 days after the date the notices are published shall be reviewed 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 of the notice.

5. Mandatory modifications are considered to be enhancements and will require neither public notice nor public hearing.

C. No modification may be effected without the written approval of the administrative authority.

D. Operation of a modified construction feature or unit of a standard permitted facility may commence after the provisions of LAC 33:VII.407.F are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Subchapter B. Permit Application

§509. Part I: Permit Application Form

A. The applicant shall complete a standard permit application Part I Form obtained from the Office of Environmental Services, Permits Division or through the department's website at www.deq.state.la.us. The following items refer to the items on the form requiring that information:

1. name of applicant (prospective permit holder) applying for a standard permit;

2. facility name;

3. description of the location of the facility (identify by street and number, by intersection of roads, or by mileage and direction from an intersection);

4. geographic location (section, township, range, and parish where the facility is located and the coordinates (as defined by the longitude and latitude to the second) of the centerpoint of the facility);

5. mailing address of the applicant;

6. contact person for the applicant (position or title of the contact person is acceptable);

7. telephone number of the contact person;

8. type and purpose of operation (check each applicable box);

9. status of the facility (if leased, state the number of years of the lease and provide a copy of the lease agreement);

10. operational status of the facility;

11. total site acreage and the amount of acreage that will be used for processing and/or disposal;

12. list of all environmental permits that relate directly to the facility represented in this application;

13. zoning of the facility (if the facility is zoned, note the zone classification and zoning authority and include a zoning affidavit or other documentation stating that the proposed use does not violate existing land-use requirements);

14. types, maximum quantities (wet tons/week), and sources (percentage of the on-site or off-site-generated waste to be received) of waste to be processed or disposed of by the facility;

15. the specific geographic area(s) to be serviced by the solid waste facility;

16. attached proof of publication of the notice regarding the submittal of the permit application as required in LAC 33:VII.503.A;

17. the signature, typed name, and title of the individual authorized to sign the application. Proof of the legal authority of the signatory to sign for the applicant must be provided; and

18. any additional information required by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§511. Compliance Information

A. All applicants for solid waste permits shall comply with the requirements of LAC 33:I.1701.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154 and 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§513. Part II: Supplementary Information, All Processing and Disposal Facilities

A. The information in LAC 33:VII.513- 539 is required in the permit application for solid waste processing and disposal facilities. All responses and exhibits must be identified in the same sequence to facilitate the evaluation. Additionally, all applicable sections of LAC 33:VII.Chapters 5, 6, 7, 8, 13, and 15 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§515. Location Characteristics

A. Standards pertaining to location characteristics are contained in LAC 33:VII.701.A. The following information on location characteristics is required for all facilities:

1. area master plans;

2. access to facilities;

3. a letter concerning the traffic flow for facilities receiving waste generated off-site;

4. distance to airport runway and proof of notification to affected airport and Federal Aviation Administration;

5. existing land use;

6. aerial photograph;

7. environmental characteristics;

8. wetlands demonstration, if applicable;

9. demographic information; and

10. information regarding wells, faults, and utilities, which is required for Type I and II facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§517. Facility Characteristics

A. Standards concerning facility characteristics are contained in LAC 33:VII.703.A. A facility plan, including drawings and a narrative, describing the information required below must be provided:

1. elements of the process or disposal system employed;

2. the perimeter barrier and other control measures;

3. a buffer zone;

4. fire-protection and medical care measures;

5. landscaping and other beautification efforts;

6. devices or methods to determine, record, and monitor incoming waste;

7. NPDES discharge points (existing and proposed); and

8. other features, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§519. Facility Surface Hydrology

A. The following information regarding surface hydrology is required for all facilities:

1. a description of the method to be used to prevent surface drainage through the operating areas of the facility;

2. a description of the facility runoff/run-on collection system;

3. the rainfall amount from a 24-hour/25-year storm event;

4. the location of aquifer recharge areas in the site or within 1,000 feet of the site perimeter, along with a description of the measures planned to protect those areas from the adverse impact of operations at the facility; and

5. if the facility is located in a flood plain, a plan to ensure that the facility does not restrict the flow of the 100-year base flood or significantly reduce the temporary water-storage capacity of the flood plain, and documentation indicating that the design of the facility is such that the flooding does not affect the integrity of the facility or result in the washout of solid waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§521. General Facility Geology, Subsurface Characterization, and Facility Groundwater Monitoring

A. General facility geology standards governing facility geology are contained in LAC 33:VII.801. The following information regarding general facility geology is required for Type I, Type I-A, Type II, Type II-A, and Type III facilities:

1. demonstration that the person who characterized the subsurface soil and groundwater conditions at the facility is qualified;
2. demonstration that the facility has natural soils of low permeability as provided in LAC 33:VII.801.A.2; and
3. design for surfacing natural soils that do not meet the low permeability standard as provided in LAC 33:VII.801.A.3.

B. Subsurface Characterization. Standards governing subsurface characterization are contained in LAC 33:VII.803.

1. Type I, II, and III facilities must demonstrate that the facility meets the boring requirements provided in LAC 33:VII.803.A.
2. Type I and II facilities must demonstrate that:
 - a. the facility meets the piezometer requirements as provided in LAC 33:VII.803.B; and
 - b. the facility meets the geology and groundwater flow characterization requirements provided in LAC 33:VII.803.C.

C. Facility Groundwater Monitoring. Standards governing facility groundwater monitoring are contained in LAC 33:VII.805. The following information regarding groundwater monitoring is required for Type I and II facilities:

1. designation of each zone that will be monitored;
2. a map for each groundwater monitoring zone that depicts the location of all monitoring wells (including any proposed monitoring wells) that are screened in a particular zone and each zone's relevant point of compliance, along with information that demonstrates that monitoring wells meet the standards in LAC 33:VII.805.A.1 and 2. If a monitoring well(s) is being proposed, the response to this requirement shall provide an implementation schedule for submitting a revised well location map(s) showing all existing monitoring wells that are screened in each particular zone;
3. a geologic cross section(s) along the perimeter of the facility showing screen intervals for existing and proposed monitoring wells, along with other applicable information required in LAC 33:VII.803.C.2.a. If a monitoring well(s) is being proposed, the response to this requirement shall include an implementation schedule for revising applicable geologic cross sections to include the

screen interval of the newly installed monitoring well(s) and other applicable information required in LAC 33:VII.803.C.2.a;

4. designation of each monitoring well (including any proposed monitoring wells) as either background or downgradient, per zone that will be monitored;

5. a table displaying pertinent well construction details for each monitoring well, including elevation of the reference point for measuring water levels (msl), elevation of the ground surface (msl), drilled depth (feet), the depth to which the well is cased (feet), depth to the top and bottom of the bentonite seal (feet), depth to the top and bottom of the screen (feet), slot size, casing size, type of grout, and as-built diagrams (cross sections) of each well providing the aforementioned well construction details. If a monitoring well(s) is being proposed, the response to this requirement shall provide an implementation schedule for submitting the information specified in this requirement;

6. demonstration that the monitoring wells are constructed according to the standards in LAC 33:VII.805.A.3. If a monitoring well(s) is being proposed, the response to this requirement shall provide an implementation schedule for submitting the information specified in this requirement;

7. for an existing facility, provide all data on samples taken from monitoring wells in place at the time of the permit application. (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;

8. a sampling and analysis plan that meets the standards in LAC 33:VII.805.B and includes a table that specifies each parameter, analytical method, practical quantitation limit, and Chemical Abstracts Service registry number (CAS RN); and

9. a plan for detecting, reporting, and verifying changes in groundwater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§523. Facility Plans and Specifications

A. Facility plans and specifications are required for all facilities. Standards must address the following requirements, when applicable:

1. the person who prepared the permit application must provide the certification required in LAC 33:VII.705.A.1;
2. for Type I and II facilities:
 - a. detailed plan-view drawing(s) showing original contours, proposed elevations of the base of units prior to installation of the liner system, and proposed final contours;
 - b. representative cross sections showing original and final grades, drainage, the water table, groundwater conditions, the location and type of liner, and other pertinent information;
 - c. a description of the liner system, which shall include calculations of anticipated leachate volumes,

rationale for particular designs of such systems, and drawings;

d. a description of the leachate collection and removal system, which shall include calculations of anticipated leachate volumes, rationale for particular designs of such systems, and drawings;

e. detailed drawings of slopes, levees, and other pertinent features; and

f. the type of material and its source for levee construction. Calculations shall be submitted demonstrating that an adequate volume of material is available for the required levee construction;

3. for Type I, II, and III landfills:

a. approximate dimensions of daily fill and cover; and

b. the type of cover material and its source for daily, interim, and final cover. Calculations shall be submitted demonstrating that an adequate volume of material is available for daily, interim, and final cover;

4. the facility plans and specifications for Type I and II facilities must address standards for facilities located in seismic impact zones and unstable areas (LAC 33:VII.705.D.1 and 2); and

5. the facility plans and specifications for Type I and II landfills and surface impoundments (surface impoundments with on-site closure and a potential to produce gases, LAC 33:VII.719.C.4 and 721.C.2) must provide a gas collection and treatment or removal system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§525. Facility Administrative Procedures

A. In accordance with standards in LAC 33:VII.709, the following information on administrative procedures is required for all facilities:

1. annual report submitted to the administrative authority;

2. recordkeeping system, types of records to be kept, and the use of records by management to control operations, as required;

3. an estimate of the minimum personnel, listed by general job classification, required to operate the facility; and

4. the maximum hours of operation per operating days and week (the maximum hours of operation within a 24-hour day);

B. Administrative procedures for facilities receiving residential and commercial solid waste shall include the number of facility operators certified by the Louisiana Solid Waste Operator Certification and Training Program (R.S. 37:3151 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§527. Facility Operational Plans

A. The following information on operational plans is required for all facilities:

1. types of waste (including chemical, physical, and biological characteristics of industrial wastes generated on-

site), maximum quantities of wastes per year, and sources of waste to be processed or disposed of at the facility;

2. waste-handling procedures from entry to final disposition, which could include shipment of recovered materials to a user;

3. minimum equipment to be furnished at the facility;

4. plan to segregate wastes, if applicable;

5. procedures planned in case of breakdowns, inclement weather, and other abnormal conditions (including detailed plans for wet-weather access and operations);

6. procedures, equipment, and contingency plans for protecting employees and the general public from accidents, fires, explosions, etc., and provisions for emergency care should an accident occur (including proximity to a hospital, fire and emergency services, and training programs); and

7. provisions for controlling vectors, dust, litter, and odors.

B. The following information on operational plans is required for Type I and II facilities:

1. comprehensive operational plan;

2. salvaging procedures and control, if applicable;

3. scavenging control; and

4. for facilities receiving waste with a potential to produce gases, a comprehensive air monitoring plan.

C. The following information on operational plans is required for Type I and II landfarms:

1. the following items to be submitted regardless of land use:

a. a detailed analysis of waste, including but not limited to, pH, phosphorus, nitrogen, potassium, sodium, calcium, magnesium, sodium-adsorption ratio, and total metals (as listed in LAC 33:VII.723.D.3.a);

b. soil classification, cation-exchange capacity, organic matter, content in soil, soil pH, nitrogen, phosphorus, metals (as listed in LAC 33:VII.723.D.3.a), salts, sodium, calcium, magnesium, sodium-adsorption ratio, and PCB concentrations of the treatment zone;

c. annual application rate (dry tons per acre) and weekly hydraulic loading (inches per acre); and

d. an evaluation of the potential for nitrogen to enter the groundwater.

2. the following items to be submitted in order for landfarms to be used for food-chain cropland:

a. a description of the pathogen-reduction method for septage, domestic sewage sludges, and other sludges subject to pathogen production;

b. crops to be grown and the dates for planting;

c. PCB concentrations in waste;

d. annual application rates of cadmium and PCBs; and

e. cumulative applications of cadmium and PCBs.

3. the following items to be submitted for landfarms to be used for nonfood-chain purposes:

a. description of the pathogen-reduction method in septage, domestic sewage sludges, and other sludges subject to pathogen production; and

b. description of control of public and livestock access.

D. The following information on operational plans is required for Type IA and II-A incinerator waste-handling facilities:

1. a description of the method used to handle process waters and other water discharges that are subject to NPDES permit and state water discharge permit requirements and regulations; and

2. a plan for the disposal and periodic testing of ash (all ash and residue must be disposed of in a permitted facility).

E. The following information on operational plans is required for Type I-A and II-A refuse-derived energy facilities:

1. a description of the method used to handle process waters and other water discharges that are subject to NPDES permit and state water discharge permit requirements and regulations;

2. a plan for the disposal and periodic testing of ash (all ash and residue must be disposed of in a permitted facility); and

3. a description of marketing procedures and control.

F. The following information on operational plans is required for Type III separation and composting facilities:

1. a description of the testing to be performed on the fuel or compost;

2. a description of the uses for and the types of fuel/compost to be produced.; and

3. a description of marketing procedures and control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§529. Implementation Plan

A. All facilities must have an implementation plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§531. Facility Closure

A. The closure plan for all facilities must include the following:

1. the date of final closure;

2. the method to be used and steps necessary for closing the facility; and

3. 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.

B. The closure plan for Type I and II landfills and surface impoundments must include:

1. a description of the final cover and the methods and procedures used to install the cover;

2. an estimate of the largest area of the facility ever requiring a final cover at any time during the active life;

3. an estimate of the maximum inventory of solid waste ever on-site over the active life of the facility; and

4. a schedule for completing all activities necessary for closure.

C. The closure plan for all Type I and II facilities and Type III woodwaste and construction/demolition debris facilities shall include the following:

1. the sequence of final closure of each unit of the facility, as applicable;

2. a drawing showing final contours of the facility; and

3. a copy of the document that will be filed upon closure of the facility with the official parish recordkeeper, indicating the location and use of the property for solid waste disposal, unless the closure plan specifies a clean closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§533. Facility Post-Closure

A. The post-closure plan for all facilities must include the following:

1. specification of the long-term use of the facility after closure, as anticipated; and

2. the cost of conducting post-closure of the facility, based on the estimated cost of hiring a third party to conduct post closure activities in accordance with the closure plan.

B. The post-closure plan for Type I and II facilities must include the following:

1. the method for conducting post-closure activities, including a description of the monitoring and maintenance activities and the frequency at which they will be performed;

2. the method for abandonment of monitoring systems, leachate collection systems, gas-collection systems, etc.;

3. measures planned to ensure public safety, including access control and gas control; and

4. a description of the planned uses of the facility during the post-closure period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§535. Financial Responsibility

A. Standards governing financial responsibility are contained in LAC 33:VII.Chapter 13. A section documenting financial responsibility according to LAC 33:VII.Chapter 13, which contains the following information, must be included for all facilities:

1. the name and address of the person who currently owns the land and the name and address of the person who will own the land if the standard permit is granted (if different from the permit holder, provide a copy of the lease or document that evidences the permit holder's authority to occupy the property); or

2. the name of the agency or other public body that is requesting the standard permit; or, if the agency is a public corporation, its published annual report; or, if otherwise, the names of the principal owners, stockholders, general partners, or officers;

3. evidence of liability coverage, including:

a. personal injury, employees, and the public (coverage, carriers, and any exclusions or limitations);

b. property damage (coverage and carrier);

c. environmental risks; and

4. evidence of a financial assurance mechanism for closure and/or post-closure care and corrective action for known releases when needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§537. Special Requirements

A. The administrative authority may require additional information for special processes or systems and for supplementary environmental analysis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§539. Part III: Additional Supplementary Information

A. The following supplementary information is required for all solid waste processing and disposal facilities. All responses and exhibits must be identified in the following sequence to facilitate the evaluation:

1. a discussion demonstrating that the potential and real adverse environmental effects of the facility have been avoided to the maximum extent possible;
2. a cost-benefit analysis demonstrating that the social and economic benefits of the facility outweigh the environmental-impact costs;
3. a discussion and description of possible alternative projects that would offer more protection to the environment without unduly curtailing nonenvironmental benefits;
4. a discussion of possible alternative sites that would offer more protection to the environment without unduly curtailing nonenvironmental benefits; and
5. a discussion and description of the mitigating measures that would offer more protection to the environment than the facility, as proposed, without unduly curtailing nonenvironmental benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

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) 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.

Chapter 6. General Standards for Nonpermitted Facilities

§601. 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.

3. The reporting period shall be from July 1 through June 30.

4. The report shall be submitted to the Office of Environmental Services, Environmental Assistance Division by August 1 of each reporting year.

5. Generators of industrial solid waste shall maintain, for two years, all records concerning the types and quantities of industrial solid waste disposed of off-site.

B. Generator Notification and Waste Testing

1. Prior to the initial transport of an industrial solid waste off-site, generators of industrial solid waste shall:

a. submit to the Office of Environmental Services, Permits Division a generator notification form (that is to be provided by the administrative authority) that includes analysis, analytical data, and/or process knowledge that 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.

2. Subsequent movements of the same industrial waste off-site shall not require new waste testing or a new industrial waste code number, unless the process that generates the waste or the characteristics of the waste change. However, the waste characterization data and the waste code required in Paragraph B.1 of this Section must be maintained by the generator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§603. Standards Governing Solid Waste Accumulation and Storage

A. Solid Waste Accumulation

1. No solid waste shall be stored or allowed to be stored long enough to cause a nuisance, health hazard, or detriment to the environment as determined by the administrative authority.

2. Containers used for solid waste shall prevent access by rodents and insects, shall minimize the escape of odors, and shall keep out water.

3. On-site processing or disposal, other than the exclusions provided for in LAC 33:VII.301, 302, 303, or 305, is not allowed on the sites of commercial or industrial generators, unless a permit is obtained.

B. Solid Waste Stored in Tanks

1. Storage tanks shall be designed, constructed, and operated to prevent release of their solid waste contents into the surrounding environment.

2. A storage vessel that is partially buried underground must meet the definition of tank provided in LAC 33:VII.115 in order to be considered a tank; otherwise, it will be considered a surface impoundment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§605. Standards Governing Collectors and Off-Site Transporters of Solid Waste

A. Vehicle Requirements

1. The type and size of vehicles shall comply with the regulations and licensing of the Department of Transportation and Development and with applicable local ordinances governing weight and size for the streets that must be traveled for solid waste pickup.

2. Cover

a. The bodies of vehicles used to transport trees, tree limbs, construction materials, or metals shall contain such waste without allowing materials to fall or blow off the vehicle.

b. The bodies of vehicles used to collect or transport all other solid waste shall be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching waste, inhibits access by rodents and insects, prevents waste from falling or blowing from the vehicle, minimizes escape of odors, and does not create a nuisance.

c. The bodies of vehicles used for the transportation of ash shall be leak-resistant and covered so as to prevent emissions.

3. The bodies of all vehicles used to transport solid waste that produces leachate shall be equipped with a collection and containment system to ensure that leachate from the waste is not discharged in violation of these regulations.

4. The interior and exterior of the body of a vehicle used to transport putrescible solid waste shall be washed down as often as needed to ensure that odors generated by putrescible matter are minimized.

B. Vehicle Washdown Area

1. The vehicle washdown area shall be designed, constructed, and operated to prevent leakage that may lead to groundwater contamination or uncontrolled contaminated surface runoff.

2. Water collected shall be discharged and the containment system thoroughly cleaned as often as is needed to minimize odors. The leachate and the cleanout water shall be discharged in accordance with all applicable state and federal regulations.

C. Standards Governing Waste Transportation by Other Modes

1. Barge and Ship Transport

a. Barge and ship transport shall be governed by Paragraphs A.2, 3, and 4 and Paragraphs B.1 and 2 of this Section.

b. Loading and unloading facilities shall comply with LAC 33:VII.607, as applicable.

2. Pipelines

a. Transfer points, pumping stations, and other facilities with a potential for spillage shall be located above grade, or in watertight compartments, and shall be in containment areas constructed to hold the maximum potential spill.

b. Containment areas shall consist of a base and dikes constructed of concrete, compacted clay, or other impervious materials. All joints must be sealed.

3. Rail

a. Rail car transport shall be governed by Paragraphs A.2, 3, and 4 and Paragraphs B.1 and 2 of this Section.

b. Loading and unloading facilities shall comply with LAC 33:VII.607, as applicable.

4. Other. Collectors and off-site transporters utilizing facilities not covered by Subsections A and C of this Section shall apply to the administrative authority for regulations governing the proposed facility.

D. Transportation to Processing and Disposal Facilities. Solid waste shall be transported, for processing or disposal, only to facilities permitted to receive such waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§607. Standards Governing Pickup Stations for Solid Waste

A. Pickup stations must comply with existing local zoning and comprehensive land-use regulations and ordinances. They must also occupy sufficient land so that vehicles using the station will not block traffic or otherwise constitute a hazard or endanger public safety.

B. Containers shall provide complete containment of waste, thereby preventing litter, discharges, odor, and other pollution of adjoining areas. Pickup stations must meet the standards found in LAC 33:VII.603.A.

C. Cleanup of the station must be timed at intervals in order to comply with the requirements of LAC 33:VII.605.B.1 and 2.

D. No processing or disposal shall occur at a pickup station unless a standard permit is obtained.

E. Each person must provide written notice to the parish governing authority, at least 30 days prior to construction, of his intent to operate a pick-up station for the offloading and/or transloading of processed solid waste and sewage sludge destined for disposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Chapter 7. Solid Waste Standards

Subchapter A. Standards Governing All Solid Waste Facilities

§701. Location Characteristic Standards

A. The information on location characteristics listed in this Subsection is required for all solid waste facilities, as outlined in LAC 33:VII.515. Type I-A and II-A facilities and minor processors and disposers must meet only the standards in Paragraphs A.2, 4, and 7 and Subsection B of this Section.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings must be legible. Area master plans shall show:

- a. the facility;
- b. the road network;
- c. major drainage systems;
- d. drainage-flow patterns;
- e. the location of the closest population center(s);
- f. the location of the public-use airport(s) used by turbojet aircraft or piston-type aircraft;
- g. the location of the 100-year flood plain; and
- h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents; and the surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. A letter shall be acquired from the appropriate agency or agencies regarding those facilities receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

4. Facilities that process or dispose of putrescible solid waste shall not be located within 10,000 feet of any public-use airport runway end used by turbojet aircraft or within 5,000 feet of any public-use airport runway end used by only piston-type aircraft. Permit applicants for proposed Type II landfills to be located within a five-mile radius of any airport runway must notify the affected airport and the Federal Aviation Administration.

5. A description shall be included of the total existing land use within three miles of the facility (by approximate percentage) including, but not limited to:

- a. residential;
- b. health-care facilities and schools;
- c. agricultural;
- d. industrial and manufacturing;
- e. other commercial;
- f. recreational; and
- g. undeveloped.

6. A current aerial photograph, representative of the current land use, of a one-mile radius surrounding the facility is required. The aerial photograph shall be of sufficient scale to depict all pertinent features. (The administrative authority may waive the requirement for an aerial photograph for Type III facilities.)

7. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations. The following information on environmental characteristics shall be provided:

a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps and marshes, wetlands, habitats for endangered species, and other sensitive ecologic areas within 1,000 feet of the facility perimeter or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, wetlands, habitats for endangered species, and other sensitive ecologic areas within 1,000 feet of the facility; and

c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility;

8. Units of a disposal facility that have not received waste prior to October 9, 1993, shall not be located in wetlands, unless the permit holder or applicant can make the following demonstrations to the administrative authority:

a. where applicable under Section 404 of the Clean Water Act or applicable state wetlands laws, the presumption that a practicable alternative to the proposed landfill is available that does not involve wetlands is clearly rebutted;

b. the construction and operation of the facility will not:

i. cause or contribute to violations of any applicable state water-quality standard;

ii. violate any applicable toxic effluent standard or prohibition under section 307 of the Clean Water Act;

iii. jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973; and

iv. violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;

c. the facility will not cause or contribute to significant degradation of wetlands. The owner or operator must demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:

i. erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the facility;

ii. erosion, stability, and migration potential of dredged and fill materials used to support the facility;

iii. the volume and chemical nature of the waste managed in the facility;

iv. impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

v. the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

vi. any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

d. to the extent required under Section 404 of the Clean Water Act or applicable state wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by Subparagraph A.8.a of this Section; then, minimizing unavoidable impacts to the maximum extent practicable; and, finally, offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of manmade wetlands); and

e. sufficient information is available to make a reasonable determination with respect to these demonstrations.

9. The estimated population density within a three-mile radius of the facility boundary, based on the latest census figures is required of all facilities.

10. Well, Fault, and Utility Requirements for Type I and II Facilities

a. Wells. A map is required showing the locations of all known or recorded shot holes and seismic lines, private water wells, oil and/or gas wells, operating or abandoned, within the facility and within 2,000 feet of the facility perimeter and the locations of all public water systems, industrial water wells, and irrigation wells within one mile of the facility. A plan shall be provided to prevent adverse effects on the environment from the wells and shot holes located on the facility.

b. Faults

i. A scale map is required showing the locations of all recorded faults within the facility and within one mile of the perimeter of the facility; and

ii. A demonstration, if applicable, is required of alternative fault set-back distance. Units of a disposal facility that have not received waste prior to October 9, 1993, shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the permit holder or applicant demonstrates to the administrative authority that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

c. Utilities. A scale map showing the location of all pipelines, power lines, and rights-of-way within the site is required.

B. All facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§703. Facility Characteristic Standards

A. The following information on facility characteristics is required for all solid waste facilities, as outlined in LAC 33:VII.517:

1. elements of the process of disposal system employed, including, as applicable, property lines, original contours (shown at not greater than five-foot intervals), buildings, units of the facility, drainage, ditches, and roads. Type IA, II-A, and minor processors and disposers are exempt from this standard;

2. perimeter barriers and other control measures, such as security and signs as specified below:

a. facilities must have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry;

b. during operating hours, each facility entry point shall be continuously monitored, manned, or locked;

c. during nonoperating hours, each facility entry point shall be locked; and

d. facilities that receive wastes from off-site sources shall post readable signs that list the types of waste that can be received at the facility.

3. buffer zones (the requirements for which are stated in this Paragraph) shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner and occupants. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property. Buffer zone requirements may be waived or modified by the administrative authority for areas of landfills that have been closed in accordance with LAC 33:VII.307. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

a. All Type I, II, IA, and II-A facilities shall have a buffer zone of not less than 200 feet between the facility and the property line. In addition, composting facilities that receive sewage sludge, septage, or residential or commercial waste must meet this requirement.

b. All other facilities, except beneficial-use facilities as described in LAC 33:VII.Chapter 11, shall have a buffer zone of not less than 50 feet between the facility and the property line.

4. All facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

5. All proposed facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, must provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods of Receiving and Monitoring Incoming Wastes

a. Each processing or disposal facility shall be equipped with a device or method to determine quantity (by wet-weight tonnage), sources (whether the waste was generated in-state or out-of-state and, if it is industrial solid waste, where it was generated), and types of incoming waste (i.e., commercial, residential, infectious). The facility shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous waste, PCB waste, and unauthorized or unpermitted solid waste). At type II landfills, this method shall include random inspections of incoming waste loads at a frequency to reasonably ensure exclusion of such prohibited wastes.

b. Each facility shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph A.6.a of this Section.

7. Discharges from operating units of all facilities must be controlled and must conform to applicable state and federal laws, including the federal Clean Water Act and Louisiana Water Pollution Control Law. Applications for applicable state and federal discharge permits must be filed before a standard permit may be issued.

B. The following information is required for Type I and II facilities:

1. areas for isolating nonputrescible waste or incinerator ash and borrow areas; and
2. location of leachate collection/treatment/removal system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§705. Facility Plans and Specifications

A. Plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities must be prepared under the supervision of and certified by a registered engineer, licensed in the state of Louisiana.

1. Certification. The person who prepared the permit application must provide the following certification.

"I certify under penalty of law that I have personally examined and I am familiar with the information submitted in this permit application and that the facility, as described in this permit application, meets the requirements of the solid waste rules and regulations (LAC 33:VII). I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment."

B. The following standards apply to construction of levees for all facilities:

1. levees or other protective measures must be provided in order to protect the facility against the 100-year flood so as to prevent the washout of solid waste; and
2. if levees are required to protect the facility against the 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion, shall have a grass cover or other protective cover to preserve structural integrity, and shall provide adequate freeboard above the 100-year flood elevation.

C. Additional plans and specification standards regarding daily and interim cover and leachate management can be found for Type I and II landfills in LAC 33:VII.719.C.1 and 2. Type III facility standards can be found in LAC 33:VII.727.

D. The following standards are applicable to Type I and Type II facilities:

1. units of a facility located in a seismic impact zone that have not received waste prior to October 9, 1993, shall be designed and operated so that all containment structures, including liners, leachate collection systems, and surface water control systems, can withstand the stresses caused by the maximum horizontal acceleration in lithified earth material for the site; and
2. facilities shall not be located in an unstable area unless the permit holder or applicant can demonstrate that the facility is designed to ensure the integrity of structural components, such as liners, leak-detection systems, leachate collection, treatment and removal systems, final covers, run-

on/runoff systems (or any other component used in the construction and operation of the facility that is necessary for the protection of human health or the environment). In determining whether an area is unstable, the permit holder or applicant must consider, at a minimum, the following factors:

- a. on-site or local soil conditions that may result in significant differential settling;
- b. on-site or local geologic or geomorphological features; and
- c. on-site or local human-made features or events (both surface and subsurface).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§707. Facility Surface Hydrology

A. Specific standards governing facility surface hydrology are contained in LAC 33:VII.719.B (Type I and II landfills), 721.B (Type I and II surface impoundments), and 723.B (Type I and II landfarms).

B. The following standards apply to all facilities:

1. facilities located in the 100-year flood plain must be filled to bring site elevation above flood levels or perimeter levees or other measures must be provided to maintain adequate protection against the 100-year flood elevation;
2. facilities located in or within 1,000 feet of an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility;
3. surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover to adjoining areas during a 24-hour/25-year storm event. When maximum rainfall records are not available, the design standard shall be 12 inches of rainfall below 31 degrees north latitude and 9 inches of rainfall above 31 degrees north latitude. If the 24-hour/25-year storm-event level is lower, the design standard shall be required; and
4. facilities located in the 100-year flood plain shall not restrict the flow of the 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§709. Facility Administrative Procedures

A. Reports

1. The permit holder shall submit annual reports to the administrative authority indicating quantities and types of solid waste (expressed in wet-weight tons per year; for landfarms, expressed in both wet 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 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.

2. The reporting period for the disposer and/or processor annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

3. Annual reports shall be submitted to the administrative authority by August 1 of each reporting year.

4. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

5. A facility that receives industrial solid waste shall utilize, in its annual report, the seven-digit industrial waste number that has been assigned by the administrative authority to the industrial solid waste generator.

6. The annual reports for composting facilities and separation facilities shall identify the quantity (expressed in wet-weight tons per year) and types of solid waste distributed for reuse and/or recycling and the ultimate use of the product.

7. The annual report for composting facilities, separation facilities, incinerator waste-handling facilities, shredders, balers, compactors, and transfer stations shall identify the quantity (expressed in wet-weight tons per year) and types of solid waste transported for disposal. The report shall also identify the permitted facility used for disposal of the waste.

8. The annual report for portable air curtain destructors shall identify the site and quantity of solid waste processed at each individual site.

B. Recordkeeping

1. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

2. 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 administrative authority.

3. Records kept on site for all facilities shall include, but not be limited to:

- a. copies of the current Louisiana solid waste rules and regulations;
- b. the permit;
- c. the permit application; and
- d. permit modifications.

4. The following additional records shall be kept for Type I and Type II facilities, including landfarms:

- a. certified field notes for construction;
- b. operator training programs;
- c. daily log;
- d. quality-assurance/quality-control records;

e. inspections by the permit holder or operator including, but not limited to, inspections to detect incoming hazardous waste loads;

f. Board of Certification and Training for Solid Waste Disposal System Operators certificates (if applicable);

g. records demonstrating that liners, leachate-control systems, and leak-detection and cover systems are constructed or installed in accordance with appropriate quality assurance procedures (if applicable);

h. records on the leachate volume and results of the leachate sampling (if applicable);

i. monitoring, testing, or analytical data;

j. any other applicable or required data deemed necessary by the administrative authority;

k. records on groundwater sampling results;

l. post-closure monitoring reports;

m. copies of all documents received from and submitted to the department; and

n. additional information in the annual report for landfarms shall be submitted as provided in LAC 33:VII.723.C.

C. Personnel

1. Facilities shall have the personnel necessary to achieve the operational requirements of the facility. All personnel involved in waste handling at the facility must be trained adequately in procedures to recognize and exclude receipt or disposal of hazardous wastes and PCB wastes.

2. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department. No person shall operate a solid waste facility unless the Board of Certification and Training for Solid Waste Disposal System Operators has certified the competency of the operators. 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. The requirements of this Paragraph are not applicable to facilities meeting the criteria of LAC 33:VII.305.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§711. Facility Operations

A. Facility Limitations

1. The receipt of hazardous waste and PCB waste shall be strictly prohibited and prevented. Permit holders of Type II landfills must implement a program of random inspections of incoming loads to detect and prevent the disposal of hazardous waste or PCB waste and must keep records of these inspections. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

2. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

3. Open burning of solid waste shall not be practiced at Type I or II landfills.

4. Salvaging shall be prevented unless approved by the administrative authority.

5. Scavenging shall be prevented.

6. The following waste receipt limitations apply:

a. incinerator ash, industrial solid waste, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action may be disposed of only in Type I facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes;

b. industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be processed only in Type I-A facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes.

7. The receipt of mercury and/or cadmium-bearing batteries by Type IA and II-A incinerator waste-handling facilities is strictly prohibited.

B. General Facility Operational Plans

1. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing or disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (particular attention should be given to maintenance of access roads and to water management);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;

f. the engineering protocols and testing frequencies that will be used to ensure that the grade and slope of both the on-site drainage system and the run-on diversion system are maintained and serve their intended functions;

g. the engineering protocols and testing frequencies that will be used to ensure that:

i. for surface impoundments, the designed capacity remains unchanged; or

ii. for landfills, the leachate collection and treatment system is functioning as designed; and

h. the measuring protocol to be used and the frequency with which the depth of leachate within the collection system will be checked, as well as how the leachate will be removed and transported to the treatment facility.

2. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

3. 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 administrative authority 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 Subparagraph B.3.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 administrative authority.

C. Operational Standards for Type I and II Disposal Facilities

1. Facilities receiving waste with a potential to produce methane gas shall be subject to the air-monitoring requirements.

a. 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.

b. The type and frequency of monitoring must be determined based on the following factors:

i. soil conditions;

ii. hydrogeologic conditions surrounding the facility;

iii. hydraulic conditions surrounding the facility; and

iv. the location of facility structures and property boundaries.

c. The minimum frequency of monitoring shall be quarterly.

d. If methane gas levels exceeding the limits specified in Subparagraph C.1.a of this Section are detected, the owner or operator must:

i. immediately take all necessary steps to ensure protection of human health and notify the administrative authority;

ii. within seven days of detection, submit a report to the administrative authority that provides the methane gas levels detected and a description of the steps taken to protect human health; and

iii. within 30 days of detection, submit a remediation plan 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.

e. 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 by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance when strong odors occur at facility boundaries or when methane gas levels exceed the limit specified in Subparagraph C.1.a of this Section.

f. Records of inspections, surveys, and gas monitoring results shall be maintained at the facility.

g. Odors shall be controlled by the best means practicable.

h. Facilities must ensure that the units do not violate any applicable requirements developed under a state implementation plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

2. Waste Testing. The following operational standards apply to waste testing for facilities receiving domestic sewage sludge, industrial solid waste, incinerator ash, or nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action:

a. facilities that receive domestic septage or sewage sludge from publicly owned treatment works shall require the waste be tested for toxicity characteristics leachate procedure (TCLP) analysis and priority pollutants prior to acceptance of the waste and annually for two years following acceptance. Every year thereafter, the generator must certify that the waste remains unchanged;

b. facilities that receive industrial waste (Type I) shall require testing for TCLP constituents prior to acceptance of the waste and annually thereafter, or documented process knowledge that confirms that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:V.Subpart 1 or by federal regulations. Any waste that has a concentration equal to or higher than the TCLP test parameter limits shall not be accepted at the facilities, even if the waste is classified as nonhazardous. Nonhazardous petroleum-contaminated media and debris generated from underground storage tanks (UST) corrective action shall require testing for the appropriate constituents of TCLP prior to acceptance of the waste; and

3. Type I facilities that receive incinerator ash shall require testing of the ash for TCLP metals and dioxins prior to acceptance and thereafter quarterly for TCLP metals and annually for dioxins.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§713. Facility Implementation Plans

A. The implementation plans for all facilities must include the following:

1. a construction schedule for existing facilities, which shall include beginning and ending time-frames and time-frames for the installation of all major features, such as monitoring wells and liners. (Time-frames must be specified in days, with day one being the date of standard permit issuance); and

2. details on phased implementation if any proposed facility is to be constructed in phases.

B. The implementation plans for Type I and II facilities must include a plan for closing and upgrading existing operating areas if the application is for expansion of a facility or construction of a replacement facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§715. Facility Closure

A. Specific standards governing facility closure are contained in LAC 33:VII.719.E (Type I and II landfills), 721.E (Type I and II surface impoundments), 723.E (Type I and II landfarms), 725.B (Type I-A and II-A facilities), 727.D (construction and demolition debris and woodwaste landfills), 729.C (Type III composting facilities), and 731.B (Type III separation facilities).

B. 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:

1. date of planned closure;
2. changes, if any, requested in the approved closure plan; and
3. closure schedule and estimated cost.

C. For effective drainage, side slopes for disposal facilities shall be no steeper than 3(H):1(V), and the top slope of the unit of a facility shall be a minimum of 4 percent slope.

D. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder must submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§717. Facility Post-Closure

A. Standards governing post-closure requirements are contained in LAC 33:VII.719.F (Type I and II landfills), 721.F (Type I and II surface impoundments), 723.F (Type I and II landfarms), and 727.E (Type III construction and demolition debris and woodwaste landfills).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Subchapter B. Specific Facility Standards

§719. Specific Standards Governing Landfills (Type I and II)

A. The topics presented in the subsections of this Section will be addressed in the permit application.

B. Facility Surface Hydrology

1. Trenches or areas used for waste disposal shall be graded to facilitate drainage.

2. A run-on control system shall be installed to prevent run-on during the peak discharge from a 25-year storm event.

3. Runoff from operating areas or areas that contain solid waste and have not yet received interim compacted cover or final cover shall be considered contaminated and shall not be allowed to mix with noncontaminated surface runoff.

C. Facility Plans and Specifications

1. Daily and Interim Cover Requirements

a. Cover material must:

i. minimize vector-breeding areas and animal attraction by controlling:

(a) fly, mosquito, and other insect emergence and entrance;

(b) rodent burrowing for food and harborage;

and

(c) bird and animal attraction;

- ii. control leachate generation by:
 - (a). minimizing external-moisture infiltration;
 - (b). minimizing erosion; and
 - (c). utilizing materials with minimum free-liquid content and minimum concentrations of constituents monitored in leachate;
 - iii. reduce fire-hazard potential by minimizing inward movement of atmospheric oxygen;
 - iv. minimize blowing paper and litter;
 - v. reduce noxious odors by minimizing outward movement of methane and other gases;
 - vi. provide an aesthetic appearance to the landfill operation; and
 - vii. allow accessibility regardless of weather.
- b. Silty or sandy clays applied a minimum of 6 inches thick at the end of each operating day are satisfactory for daily cover, and silty clays applied a minimum of 1 foot thick are satisfactory for interim cover.
- c. Alternative daily cover materials may be approved by the administrative authority provided the standards of Subparagraph C.1.a of this Section are met. The administrative authority reserves the right to require testing to confirm acceptability. The administrative authority may waive the requirements for daily cover, for Type I landfills only, if the permit holder or applicant can demonstrate that the nature of the waste is such that daily cover is not necessary. Daily cover requirements may not be waived for Type II landfills.

d. Alternative daily cover materials submitted for approval shall be available on a regular basis and demonstrate reasonably consistent composition and performance characteristics.

e. Interim cover or interim compacted cover shall be applied on all operating areas of a facility that will not receive solid waste for a period longer than 60 days. Interim cover or interim compacted cover must be applied within 48 hours of the last receipt of solid waste in the operating area. Facilities that provide interim cover or interim compacted cover shall also implement an erosion control plan.

f. Daily and interim cover must be applied and maintained in a condition that will meet the purposes of Subparagraph C.1.a of this Section.

g. The source of daily and interim cover must be accessible regardless of weather.

2. Leachate Control, Collection, Treatment, and Removal Systems

a. The standards in Paragraph C.2 of this Section apply to leachate control, collection, treatment, and removal systems for proposed landfills and units of existing landfills that receive waste on or after the required upgrade date specified in LAC 33:VII.502. These standards also apply to units of Type II landfills that have not received waste prior to October 9, 1993.

b. Leachate Control, Collection, Treatment, and Removal Standards

- i. Leachate shall not be managed by allowing the leachate to be absorbed in the waste.
- ii. Infiltration of water into the waste shall be minimized by daily, interim, and final cover, as required by these regulations.
- iii. The impact of leachate on the environment shall be minimized by a leachate collection and removal

system and a leachate treatment system designed to ensure positive removal and treatment of generated leachate.

iv. Leachate removed shall be handled in such a manner that it does not adversely affect the environment.

v. Migration of leachate shall be prevented by liners or other barriers.

vi. Representative samples of raw leachate shall be collected and analyzed annually for the same parameters that are required for the facility groundwater monitoring wells in LAC 33:VII.Chapter 8, Appendix A, Table 2.

c. Minimum Standards for Leachate Collection and Removal Systems

i. The leachate collection system shall be located above the primary liner.

ii. All leachate collection pipes shall be perforated, a minimum of 6 inches in diameter, and constructed of materials resistant to the leachate.

iii. Leachate cleanout risers or manholes must be provided for each leachate collection line. The maximum length of leachate collection lines shall not exceed the capabilities of the cleanout device.

iv. A granular leachate collection drainage blanket, consisting of natural or synthetic material with a permeability of 1×10^{-3} cm/sec or higher, must be provided to trap fines and prevent waste from entering the leachate removal system while allowing the passage of leachate. If natural material is used for the drainage blanket, the thickness of the material shall be at least 12 inches, unless otherwise approved by the administrative authority.

v. The flow path of leachate on the liner surface shall be no greater than 100 feet to the point of collection (For the purpose of determining this distance, the permit holder or applicant may assume that the leachate flow path is perpendicular to the leachate collection pipe.)

vi. The slope on the surface of the liner toward the leachate collection lines shall be a minimum of 2 percent.

vii. The slope of all leachate collection pipes shall be a minimum of 1 percent.

viii. The leachate head shall be maintained in a pumped-down condition, such that not more than 1 foot of head shall exist above the lowest bottom elevation of the leachate collection lines.

ix. The equipment used to remove leachate from the collection system shall be adequately sized to accommodate normal facility operations.

x. Trenches or swales shall be provided to protect the leachate collection pipes.

xi. The leachate collection lines shall be sloped down toward the perimeter of the unit.

xii. An adequate thickness of gravel shall be placed on all sides of the leachate pipes.

xiii. Gravel size shall be selected carefully to ensure that it is larger than the perforations in the collection pipe.

xiv. A geotextile shall be used to line the base and sidewalls of all leachate collection trenches or swales. The migration of fines into the tops of the trenches shall be minimized by a properly designed, graded soil filter or geotextile.

xv. Materials such as limestone and dolomite shall not be used in the leachate collection system. However, the administrative authority may allow alternate materials to be used in construction of the leachate collection system if the

permit holder or applicant can demonstrate that the materials can provide equivalent or superior performance.

xvi. Leachate lines (and other engineering structures) shall not penetrate the liner. The administrative authority may waive this requirement to allow horizontal penetration of the liner only if the permit holder or applicant can demonstrate that special or unusual circumstances warrant such a waiver and that liner integrity can be protected.

xvii. An antiseep collar should be placed around the leachate line that penetrates the liner. A minimum of three feet of recompacted clay or equivalent material shall be placed around the collar.

xviii. All leachate transfer (force-main) lines shall be pressure tested prior to their use.

xix. All control systems for pumps, valves, and meters shall be designed to be operated from the ground level.

3. Liners

a. The standards in Paragraph C.3 of this Section apply to liners for proposed landfills and units of existing landfills that receive waste on or after the required upgrade date in LAC 33:VII.502. These standards also apply to units of Type II landfills that did not receive waste before October 9, 1993, as provided in LAC 33:VII.502.

b. The permit holder or applicant must provide and implement a quality-control and quality-assurance plan for liner construction and maintenance that will ensure that liners are designed, constructed, installed, and maintained properly. All facilities must have quality-control plans for the excavations. All excavations and liners shall be inspected and certified by a registered engineer, licensed in the state of Louisiana, with the appropriate expertise.

c. The permit holder or applicant must demonstrate that the liner is placed upon a base that provides the following:

- i. adequate support for the contents;
- ii. maximum resistance to settlement of a magnitude sufficient to affect the integrity of the liner or the proper positioning of the leachate collection or leak-detection system;
- iii. maximum resistance to hydrostatic heave on the sides or bottom of the excavation; and
- iv. maximum resistance to desiccation.

d. Units of landfills shall be lined along the sides and bottom with a liner system installed under the supervision of a registered engineer licensed in the state of Louisiana and with the appropriate expertise, which consists of the following, in descending order:

- i. a leachate collection system designed and constructed in accordance with Paragraph C.2 of this Section; and
- ii. a composite liner that consists of a geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3-foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec (If the geomembrane component is high-density polyethylene, then the geomembrane component must be at least 60-mil thick. Any geomembrane liner used must be compatible with the solid waste and leachate in the unit); or
- iii. subject to the approval of the administrative authority, an alternative liner. Permit holders or applicants

seeking to use an alternative liner must successfully make the following demonstration to the administrative authority:

(a) the unit receives and will receive only industrial solid waste generated on site; and

(b) the alternative liner system will provide equivalent or greater groundwater protection at the site as compared to the composite liner design in Clause C.3.d.ii of this Section, as demonstrated by generally accepted modeling techniques and based on factors specific to the site and to the solid wastes received. The burden of proof of adequacy of the alternative liner design shall be on the permit holder or applicant.

e. Secondary liners may be constructed below and in addition to the required composite liner. The specifications of secondary liners must be approved by the administrative authority on an individual basis.

f. A leak-detection system may be constructed between the required composite liner and any secondary liner.

g. Special design conditions may be required in areas where the groundwater table is high or where other circumstances warrant such conditions as determined by the administrative authority. These special design standards may include more protective or stringent standards, such as secondary liners (described in Subparagraph C.3.e of this Section) or leak-detection systems, or other conditions.

4. Gas Collection and Treatment or Removal System

a. Each unit of the facility with a potential for methane gas production and migration shall be provided with a methane gas collection and treatment or removal system.

b. The collection system shall be vented to the atmosphere or connected to a dispersal system or resource recovery system in accordance with accepted practices.

c. The gas collection and treatment or removal system shall be such that it limits methane gas to lower-explosive limits at the facility boundary and to 25 percent of the lower explosive limits in facility buildings.

d. Sampling protocol, chain of custody, and test methods shall be established for all gas collection and treatment or removal systems.

D. Facility Operations

1. Specific Facility Limitations

a. Only infectious waste from hospitals or clinics that has been properly packaged and identified and is certified noninfectious by the Department of Health and Hospitals may be deposited in Type I or II landfills.

b. Grazing of domestic livestock shall not be allowed on operating areas.

c. Liquid wastes shall not be disposed of in a landfill, and facilities that plan to accept liquid wastes shall provide a means for solidifying and an appropriate quality assurance/quality-control program, except as follows:

i. bulk or noncontainerized liquid shall not be placed in a landfill unless the waste is residential waste, other than septic waste; and

ii. containers holding liquid waste shall not be placed in a landfill unless:

(a) the container is a small container similar to that normally found in residential waste;

(b) the container is designed to hold liquids for use other than storage; or

(c). the waste is residential waste.

d. Residential, commercial, and other wastes deemed acceptable by the administrative authority on a site-specific basis may be disposed of in Type I and II landfills. A comprehensive quality-assurance/quality-control plan shall be provided for facilities receiving friable asbestos and dewatered domestic wastewater treatment plant sludge.

e. No solid waste shall be deposited in standing water.

2. Facility Operational Plans. In addition to the general standards described in LAC 33:VII.711.B, the following specific standards in regard to segregation of wastes are required:

a. white goods may be stored in a unit separate from other solid wastes and shall be removed every 30 days. The facility shall maintain a log of dates and volumes of white goods removed from the facility;

b. tree limbs, leaves, clippings, and similar residues may be segregated and deposited in a permitted unit separate from other solid waste and shall be covered every 30 days or more often if necessary to control blowing and prevent rodent harborage; and

c. construction material and woodwastes may be deposited in a permitted unit separate from other solid wastes and covered every 30 days. This unit must meet the standards provided in this Subsection and in LAC 33:VII.721.

3. Specific Operational Standards. In addition to the general standards described in LAC 33:VII.711.B, the following specific standards are required:

a. waste shall be deposited under facility supervision in the smallest practicable area, spread in layers, and compacted to approximately 2 feet thick or, if baled, stacked and daily cover applied; and

b. in regard to vector control standards:

i. food or harborage shall be denied to rats, insects, and birds to the extent possible by using proper cover or other means acceptable on a site-specific basis. Where necessary, an approved pesticide shall be applied in accordance with applicable state and federal laws; and

ii. a schedule of the type and frequency of vector control measures to be used shall be submitted to the administrative authority for approval in the operational plan.

E. Facility Closure Requirements

1. Preclosure Requirements

a. Final cover installation shall be initiated no later than 30 days after, and shall be completed no later than 90 days after, final grades are reached in each unit of a facility or the date of known final receipt of solid waste in the unit, whichever comes first. These deadlines may be extended by the administrative authority, if necessary, due to inclement weather or other circumstances to a maximum of 60 days for initiation and a maximum of 180 days for completion.

b. Standing water shall be solidified or removed.

c. The runoff-diversion system shall be maintained until the final cover is installed.

d. The runoff-diversion system shall be maintained and modified to prevent overflow of the landfill to adjoining areas.

e. Insect and rodent inspection is required to be documented before installation of final cover, and

extermination measures must be provided if required as a result of the facility inspection.

f. Final machine compacting and grading shall be completed before capping.

g. All facilities with a potential for gas production or migration shall provide a gas collection and treatment or removal system.

2. Closure Requirements

a. Final Cover

i. Final cover shall be placed on top of the daily or intermediate cover that is used as the grading layer to provide a stable base for subsequent layers.

ii. Final cover shall be a minimum of 24 inches of recompacted clay with a permeability of less than 1×10^{-7} cm/sec or shall be at least as impermeable as the liner system beneath the cover, whichever is less.

iii. The Office of Environmental Compliance, Surveillance Division shall be notified after the final cover is applied, but prior to the planting of ground cover. The permit holder shall also notify the Office of Environmental Compliance, Surveillance Division once the ground cover is established.

iv. A minimum of 6 inches of topsoil shall be installed on top of the soil cover to support vegetative growth, to prevent erosion, and to return the facility location to a more natural appearance.

v. Quality-control procedures must be developed and implemented to ensure that the final cover is designed, constructed, and installed properly. An engineering certification verifying that the facility meets the final cover requirements shall be prepared under the supervision of a registered engineer licensed in the state of Louisiana. This certification shall be submitted to the Office of Environmental Assessment, Environmental Technology Division for approval.

vi. Other covers that satisfy the purposes of minimizing infiltration of precipitation, fire hazards, odors, vector food, and harborage, as well as discouraging scavenging and limiting erosion, may be submitted for consideration by the administrative authority.

vii. Synthetic material or a combination of clay and synthetic material approved by the administrative authority may also be used as a final cover.

viii. Alternate final cover used in accordance with Clauses E.2.a.vi and vii of this Section must provide performance equivalent to or better than the final cover requirements in Clauses E.3.a.ii and iv of this Section.

ix. For effective drainage, the side slopes shall be no steeper than 3(H):1(V) and the top of the final cap shall be at minimum a 4 percent slope.

b. Landfills must be closed in a manner that minimizes the need for further maintenance and minimizes the post-closure release of leachate to ground or surface waters to the extent necessary to protect human health and the environment.

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. An example of the form to be used for this purpose is provided in Appendix C of this

Chapter. The latest version of this form can be found on the department's web site, www.deq.state.la.us. 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.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. A request for the release of this fund shall be submitted to the Office of Management and Finance, Financial Services Division.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Permits Division approves closure. The length of the post-closure care period for landfills may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13, and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. Post-Closure Care Length

a. Facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility .

b. Existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

c. However, if the facility received waste on or after October 9, 1991, the final cover must be maintained, as specified in Subparagraph F.3.a of this Section, for 30 years after closure.

3. The post-closure care, except as otherwise specified above, must consist of at least the following:

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. The Office of Environmental Assessment, Environmental Technology Division and the Office of Environmental Compliance, Surveillance Division shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover;

b. maintaining and operating the leachate collection and removal system until leachate is no longer generated or until the permit holder can demonstrate that the leachate no longer poses a threat to human health or the environment in accordance with LAC 33:I.Chapter 13;

c. maintaining and operating the gas collection and treatment or removal system and the gas -monitoring system; and

d. maintaining the groundwater-monitoring system and monitoring the groundwater in accordance with LAC 33:VII.805.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§721. Standards Governing Surface Impoundments (Type I and II)

A. General standards for location characteristics, facility characteristics, facility plans and specifications, facility administrative procedures, facility operational plans, and implementation plans are addressed in other sections of this Chapter.

B. Facility Surface Hydrology

1. Existing surface impoundments, including existing ditches that receive solid waste, that are designed to collect or transport run-on (e.g., stormwater) are not required to comply with any of the requirements of Paragraph B.2 of this Section and LAC 33:VII.707.B.3 and 4. This Subsection does not relieve such facilities from compliance with the Louisiana water quality regulations (LAC 33:Part IX).

2. Surface run-on from outside the facility shall be diverted and prevented from entering the facility, with provisions for maintaining adequate freeboard above the requirements of LAC 33:VII.705.B.1. A run-on control system shall be installed to prevent run-on during the peak discharge from a 25-year storm event.

3. Adequate freeboard shall be provided to prevent over-topping by wave action.

C. Facility Plans and Specifications

1. Plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities must be prepared under the supervision of and certified by a registered engineer licensed in the state of Louisiana.

2. Liners

a. The standards in this Paragraph apply to liners for Type I and II proposed surface impoundments and for surface impoundments constructed subsequent to the required upgrade date specified in LAC 33:VII.503 (Units of surface impoundments on which construction is completed prior to the upgrade date specified in LAC 33:VII.503 and that have received a temporary permit or standard permit prior to February 1, 1993, are not governed by these liner standards.)

b. The permit holder or applicant must provide and implement a quality-control and quality-assurance plan for liner construction and maintenance that will ensure that liners are designed, constructed, installed, and maintained properly. All facilities must have quality-control plans for the excavations. All excavations and liners shall be inspected and certified by a registered engineer licensed in the state of Louisiana and with the appropriate expertise.

c. The permit holder or applicant must demonstrate that the liner is placed upon a base that provides the following:

i. adequate support for the contents;

ii. maximum resistance to settlement of a magnitude sufficient to affect the integrity of the liner or the proper positioning of the leachate-collection or leak-detection system;

iii. maximum resistance to hydrostatic heave on the sides or bottom of the excavation; and

iv. maximum resistance to desiccation.

d. Units of surface impoundments shall be lined along the sides and bottom with a composite liner consisting of a geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a three-foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec that has been installed under the supervision of a registered engineer licensed in the state of Louisiana and with the appropriate expertise. (If the geomembrane component is high-density polyethylene, then the geomembrane component must be at least 60-mil thick. Any geomembrane liner used must be compatible with the solid waste and leachate in the unit.) An alternative liner system that will provide equivalent or greater groundwater protection at the site as compared to the composite liner, as demonstrated by generally accepted modeling techniques and based on factors specific to the site and to the solid wastes received, may be used. The burden of proof of adequacy of the alternate liner design shall be on the permit holder or applicant.

e. Secondary liners may be constructed below and in addition to the required composite liner. The specifications of secondary liners must be approved by the administrative authority on an individual basis.

f. A leak-detection system may be constructed between the required composite liner and any secondary liner. The specifications of the leak-detection system must be approved by the administrative authority on an individual basis.

g. Special design conditions may be required in areas where the groundwater table is high or where other circumstances warrant such conditions, as determined by the administrative authority. These special design standards may include more protective or stringent standards such as secondary liners (described in Subparagraph C.2.e of this Section) or leak-detection systems or other conditions.

3. Gas Collection and Treatment or Removal System. The following standards apply to Type I and II surface impoundments not performing clean closure:

a. each unit of the facility with a potential for methane gas production and migration shall be provided with a methane gas collection and treatment or removal system;

b. the collection system shall be vented to the atmosphere or connected to a dispersal system or resource recovery system in accordance with accepted practices;

c. the gas collection and treatment or removal system shall be such that it limits methane gas to lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings; and

d. sampling protocol, chain of custody, and test methods shall be established for all gas collection and treatment or removal systems.

D. Facility Operations

1. Specific facility operational plans shall address the methods and inspection frequencies that will be used to establish that the levees and required freeboards are maintained.

2. Specific Facility Operational Standards

a. Surface impoundments shall be designed, constructed, maintained, and operated to prevent overtopping by overfilling, wave action, or action of storms.

b. Surface impoundments shall be inspected daily and after storms to detect evidence of deterioration of the dikes and levees, overtopping, malfunctions, or improper operation. Excessive vegetative growth that prevents proper access, inspection, or operation or may provide a conduit for groundwater contamination shall be removed.

c. If a leak in an impoundment is found, the administrative authority shall be notified in accordance with LAC 33:I.Subpart 2.

E. Facility Closure Requirements

1. Preclosure Requirements. The following standards apply to preclosure requirements for surface impoundments with on-site closure:

a. all facilities with a potential for gas production or migration shall provide a gas collection and treatment or removal system; and

b. the runoff-diversion system shall be maintained and modified to prevent overflow of the facility to adjoining areas.

2. Closure Requirements

a. Surface liquids and sludges containing free liquids shall be dewatered or removed.

b. If a clean closure is achieved, there are no further post-closure requirements. The closure plan must reflect a method for determining that all waste has been removed and such a plan shall, at a minimum, include the following:

i. identification (waste analysis) of the wastes that have entered the facility;

ii. selection of the indicator parameters to be sampled that are intrinsic to the waste that have entered the facility in order to establish clean-closure criteria. Justification of the parameters selected shall be provided in the closure plan;

iii. sampling and analyses of the uncontaminated soils in the general area of the facility for a determination of background levels using the indicator parameters selected. A diagram showing the location of the area proposed for the background sampling, along with a description of the sampling and testing methods, shall be provided. In addition, the Office of Environmental Compliance, Surveillance Division shall be notified at least five days prior to any sampling event;

iv. a discussion of the sampling and analyses of the "clean" soils for the selected parameters after the waste and contaminated soils have been excavated. Documentation regarding the sampling and testing methods (i.e., including a plan view of the facility, sampling locations, and sampling quality-assurance/quality-control programs) shall be provided;

v. a discussion of a comparison of the sample(s) from the area of the excavated facility to the background sample. Concentrations of the selected parameter(s) of the bottom and side soil samples of the facility must be equal to or less than the background sample to meet clean closure criteria;

vi. analyses to be sent to the Office of Environmental Services, Permits Division confirming that clean closure has been achieved;

vii. identification of the facility to be used for the disposal of the excavated waste; and

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 shall determine whether the facility has been closed properly.

c. If solid waste remains at the facility, the closure and post-closure requirements for industrial (Type I) solid waste landfills or nonindustrial (Type II) landfills shall apply.

3. If the permit holder demonstrates that removal of most of the solid waste to achieve an alternate level of contaminants based on indicator parameters in the contaminated soil will be adequately protective of human health and the environment (including groundwater) in accordance with LAC 33:I.Chapter 13, the administrative authority may decrease or eliminate the post-closure period.

a. If levels of contamination at the time of closure meet residential standards, as specified in LAC 33:I.Chapter 13, and approval of the administrative authority is granted, the requirements of Subparagraph E.3.b of this Section shall not apply. The requirements of Subsection F of this Section (Facility Post-Closure Requirements) shall apply.

b. With the exception of those sites closed in accordance with Subparagraph E.3.a of this Section, within 90 days after a closure is completed, the permit holder must have recorded in the mortgage and conveyance records of the parish in which the property is located, a notation stating that solid waste remains at the site and providing the indicator levels obtained during closure.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Permits Division approves closure. The length of the post-closure care period for surface impoundments may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13 and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. The following standards regarding post-closure requirements apply to surface impoundments with on-site closure:

a. Post-Closure Care Length

i. facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility;

ii. existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility; and

iii. however, if the facility received waste on or after October 9, 1991, the final cover must be maintained, as

specified in Subparagraph F.2.b of this Section, for 30 years after closure.

b. The post-closure care, except as otherwise specified above, must consist of at least the following:

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;

ii. maintaining and operating, if applicable, the leak-detection system;

iii. maintaining and operating the gas-collection and treatment or removal system and the gas-monitoring system; and

iv. maintaining and monitoring the groundwater-monitoring system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§723. Standards Governing Landfarms (Type I and II)

A. General standards for location characteristics, facility characteristics, facility plans and specifications, facility administrative procedures, facility operational plans, and implementation plans are addressed in other parts of this Chapter.

B. Facility Surface and Subsurface Hydrology

1. A run-on control system shall be installed to prevent run-on during the peak discharge from a 25-year storm event.

2. Land slope shall be controlled to prevent erosion.

3. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

4. Landfarms shall be located in a hydrologic section where the high-water table is at a minimum three-foot depth below the zone of incorporation, or the water table at the facility shall be controlled to a minimum of a three-foot depth below this zone.

C. Facility Administrative Procedures

1. Additional records shall be kept for Type I and Type II landfarms as follows:

a. a copy of the semiannual soil waste mixtures tests and analyses of the results with conclusions shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, semiannually, or more frequently if deemed necessary by the administrative authority;

b. test parameters shall consist of cation-exchange capacity, soil pH, total nitrogen, phosphorus, organic matter, salts (intrinsic to the waste), cumulative metals, and others as deemed necessary on a site and waste specific basis;

c. annual reports shall be kept of the analysis of all tests results on the soils, including land-use, crop information, calculated amounts of waste applied per acre, total amounts of nitrogen applied per acre, and cumulative-metals loading; and

d. 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's satisfaction that such reduction is warranted.

D. Facility Operations

1. Facility Limitations

- a. Grazing by animals whose products are consumed by humans shall be prevented.
- b. Only waste that is demonstrated to be biodegradable will be considered for disposal in a landfarm.
- c. A comprehensive quality-assurance/quality-control plan shall be provided to ensure that incoming wastes are in conformance with the facility permit.

2. Facility operational plans shall include a comprehensive operational management plan for the facility that indicates with calculations that the acreages and methods are adequate for treating the type and volume of wastes anticipated. The plan shall include contingencies for variations.

3. Facility Operational Standards

a. The maximum allowable lifetime metal loading shall be restricted to the limits specified in the following table. It varies depending upon the value of the soil cation-exchange capacity (soil CEC).

Maximum Allowable Metal Loading (lb/acre)*			
Soil CEC (meq/100g)	<5	5-15	>15
Lead (Pb)	500	1000	2000
Zinc(Zn)	250	500	1000
Copper (Cu)	125	250	500
Nickel (Ni)	125	250	500
Cadmium (Cd)	5	10	20

*Other metals not listed may be subject to restrictions based upon the metal content of the waste.

b. Surface application of liquid waste shall not exceed 2 inches per week.

c. Soils shall maintain a sufficiently high cation-exchange capacity (CEC) to absorb metallic elements in the solid waste by natural (pH range of soil) or artificial (additives) means. Soil in the zone of incorporation must be monitored to assess the effectiveness of ongoing treatment, management needs, and soil integrity.

d. Nitrogen concentrations in the waste must be within the limits deemed acceptable, as determined by plant-nitrogen uptake and soil and waste analyses (which shall indicate the movement of all forms of nitrogen). The potential for nitrogen to enter the groundwater shall be addressed.

e. Waste shall be applied to the land surface or incorporated into the soil within 3 feet of the surface.

f. A comprehensive quality-assurance/quality-control plan shall be provided to ensure that all incoming wastes are in conformance with the facility permit and these regulations.

g. Tests of soil/waste mixtures and analyses of the results, with conclusions, shall be conducted semiannually, or more frequently if deemed necessary by the

administrative authority. Test parameters shall consist of CEC, soil pH, total nitrogen, phosphorus, salts intrinsic to waste, cumulative metals, organic matter, and others deemed necessary by the administrative authority.

h. The administrative authority may provide additional requirements necessary on a site-specific basis depending on waste type and method of application.

i. Landfarms that Receive Domestic Sewage Sludge and Septic Tank Pumpings

i. If spread on or incorporated in non-food-chain cropland, waste shall be treated by a process to significantly reduce pathogens (see Appendix A of this Chapter) prior to application or incorporation, and public access shall be controlled for 12 months following the final application. Grazing by animals whose products are consumed by humans shall be prevented for at least 30 days.

ii. If spread on or incorporated into land used to grow crops for human consumption, the waste must be treated by a process to further reduce pathogens (see Appendix B of this Chapter) before application or incorporation. If there is no contact between the waste and edible portions of the crop, or if crops are grown more than 18 months after application or incorporation, the conditions specified in Clause D.3.j.i of this Section apply.

iii. The administrative authority may provide additional requirements necessary on a site-specific basis, depending upon waste type, land use, and methods of application.

j. Land Use Requirements

i. Food-Chain Cropland

(a). The pH of the solid waste and soil mixture shall be maintained at or above 6.5.

(b). The annual application of cadmium from the waste shall not exceed 0.5 lb/acre.

(c). Cumulative application of cadmium from sewage sludge for soils with a background pH of less than 6.5 shall not exceed five lb/acre unless the pH of the sludge and soil mixture is adjusted and maintained at 6.5 or greater whenever food-chain crops are grown.

ii. Land Used for Animal Feed Only

(a). The pH of the waste-soil mixture must be 6.5 or greater at the time of solid waste application or when the crop is planted, whichever occurs later, and this pH level must be maintained whenever food-chain crops are grown. Crops requiring a lower pH will be considered on a site-specific basis.

(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.

(c). Solid waste with concentrations of polychlorinated biphenyls (PCBs) of 10 mg/kg or more shall not be allowed.

E. Facility Closure. During the closure period the permit holder must:

1. continue with all operations (including pH control) necessary to continue normal waste treatment within the treatment zone;

2. maintain the run-on control system;
3. maintain the runoff management system;
4. control wind dispersal of odors and/or waste; and
5. continue to comply with any prohibitions or conditions concerning growth of food-chain crops.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Permits Division approves closure. The length of the post-closure care period for landfarms may be:

- a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13, and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or
- b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. Type I Landfarms. For facilities that receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under LAC 33:VII.715 for 10 years after closure. For facilities that did not receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under LAC 33:VII.715 for three years after closure.

3. Post-Closure Requirements of Type II Landfarms

a. The permit holder shall continue to comply with any prohibitions or conditions under LAC 33:VII.715 for three years after closure.

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., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§725. Specific Standards Governing All Solid Waste Processors (Type I-A and II-A)

A. Facility Operational Standards

1. All containers shall provide containment of the wastes and thereby control litter, odor, and other pollution of adjoining areas.

2. Provisions shall be made for at least daily cleanup of the facility, including equipment and waste-handling areas.

3. No solid waste shall be stored long enough to cause a nuisance, health hazard, or detriment to the environment.

4. Treatment facilities for washdown and other contaminated water shall be provided.

5. Facilities that employ incineration shall develop an ash-management plan that includes, at a minimum, testing, handling, transportation, and disposal of ash at a permitted facility.

6. Facilities shall have a plan for handling contaminated water.

7. Specific Operational Standards for Incinerator Waste-Handling Facilities

a. Handling. Ash shall be properly wetted and contained so as to ensure that there are no dust emissions during loading, transporting, or unloading.

b. Testing

i. 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.

ii. Testing of ash shall be performed quarterly for TCLP metals and annually for dioxins.

B. Facility Closure Requirements

1. An insect and rodent inspection is required and shall be documented before closure. Extermination measures, if required, must be provided.

2. All remaining waste shall be removed to a permitted facility for disposal.

3. The permit holder shall verify that the underlying soils have not been contaminated due to the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.721.E.2, 3, and 4 must be provided to the administrative authority. The Office of Environmental Compliance, Surveillance Division shall conduct a closure inspection to verify that the facility was cleaned in accordance with the approved closure plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§727. Construction and Demolition Debris and Woodwaste Landfills and Processing Facilities

A. Facility Plans and Specifications

1. Interim Cover Requirements

a. Cover material must:

i. minimize vector-breeding areas and animal attraction by controlling:

(a). fly, mosquito, and other insect emergence and entrance;

(b). rodent burrowing for food and harborage; and

(c). bird and animal attraction;

ii. control leachate generation by:

(a). minimizing external-moisture infiltration;

(b). minimizing erosion; and

(c). utilizing materials with minimum free-liquid content and minimum concentrations of constituents monitored in leachate;

iii. reduce fire hazard potential by minimizing inward movement of atmospheric oxygen;

iv. minimize blowing paper and litter;

v. reduce noxious odors by minimizing outward movement of methane and other gases;

vi. provide aesthetic appearance to the landfill operation; and

vii. allow accessibility regardless of weather.

2. Wastes shall be deposited in the smallest practical area each day and compacted. The wastes shall be covered with silty clays, applied a minimum of 12 inches thick, at least every 30 days.

3. Levee construction shall be in accordance with LAC 33:VII.705.B.

B. Facility Operations

1. Facility Limitations

a. The following types of waste may be disposed of:

i. construction/demolition debris as defined in LAC 33:VII.115 and a maximum of 5 percent by volume of paper waste associated with such debris;

ii. woodwastes as defined in LAC 33:VII.115; and

iii. yard waste as defined in LAC 33:VII.115.

b. The disposal of liquid waste, infectious waste, residential waste, industrial waste, commercial waste, friable asbestos, and putrescible waste shall be strictly prohibited and prevented.

2. Facility Operational PlansC Segregation of Wastes. Waste determined to be unacceptable at a woodwaste/construction/demolition-debris landfill shall be removed from the facility at least every seven days. Storage of this waste shall be in a closed container that prevents vector and odor problems. The facility shall maintain a log of dates and volumes of waste removed from the facility.

C. Facility Closure Requirements

1. Preclosure Requirements

a. Final cover shall be applied within 30 days after final grades are reached in each unit of a facility. This deadline may be extended by the administrative authority if necessary due to inclement weather or other circumstances.

b. Standing water shall be solidified or removed.

c. The runoff-diversion system shall be maintained until the final cover is installed.

d. The runoff-diversion system shall be maintained and modified to prevent overflow of the landfill to adjoining areas.

e. Insect and rodent inspection is required to be documented before installation of final cover, and extermination measures must be provided, if required, according to the facility inspection.

f. Final machine compacting and grading shall be completed before capping.

2. Closure Requirements

a. Final Cover

i. Final cover shall consist of a minimum of 24 inches of silty clays and six inches of topsoil cover for supporting vegetative growth; however, other covers that provide a more practical answer and satisfy the purposes of minimizing fire hazards, odors, vector food and harborage, and infiltration of precipitation, as well as discouraging scavenging and limiting erosion, may be submitted for approval by the administrative authority. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

ii. The Office of Environmental Compliance, Surveillance Division shall be notified prior to planting a ground cover, and the permit holder shall notify the Office of Environmental Compliance, Surveillance Division once the ground cover is established.

iii. Quality-control procedures must be developed and implemented to ensure that the final cover is designed, constructed, and installed properly. An engineering certification verifying that the facility meets the final cover

requirements shall be prepared under the supervision of a registered engineer licensed in the state of Louisiana. This certification shall be submitted to the Office of Environmental Assessment, Environmental Technology Division for approval.

iv. A combination of clay and synthetic material, approved by the administrative authority, may also be used as final cover.

b. The permit holder shall update the parish mortgage and conveyance records by recording 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 D. 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.

D. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Permits Division approves closure. The time-frame of post-closure care may be lengthened, if necessary, to protect human health or the environment in accordance with LAC 33:I.Chapter 13.

2. The integrity of the grade and cap must be maintained for no less than three years after the date of the administrative authority's approval of the closure of the facility. The Office of Environmental Assessment, Environmental Technology Division and the Office of Environmental Compliance, Surveillance Division shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover.

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., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§729. Composting Facilities

A. Facility Plans and Specifications

1. Levee construction shall be in accordance with LAC 33:VII.705.B.

2. Leachate Management

a. Leachate produced in the composting process must be collected and treated or disposed of at a permitted facility.

b. Leachate may also be reused in the composting process as a source of moisture.

B. Facility Operations

1. Facility Limitations

a. The following types of wastes may be processed:

i. yard trash and woodwaste as defined in LAC 33:VII.115;

ii. manure as defined in LAC 33:VII.115;

iii. sewage sludge or septage as defined in LAC 33:VII.115;

iv. residential or commercial solid waste as defined in LAC 33:VII.115; and

v. other materials deemed acceptable by the administrative authority.

b. The processing of infectious waste and asbestos waste shall be strictly prohibited and prevented.

c. No solid waste shall be deposited in standing water.

2. Facility Operational Standards

a. Composting facilities that receive domestic septage or sewage sludge from publicly owned treatment works shall require that the waste be tested for toxicity characteristics leachate procedure (TCLP) analysis and priority pollutants prior to acceptance of the waste and annually for two years following acceptance. Each year thereafter, the generator must certify that the waste remains unchanged.

b. The operation of composting facilities shall be by methods that result in the aerobic, biochemical decomposition of the organic material received.

c. The facility must be designed and operated to control vectors, odors, dust, and litter.

d. The construction and turning frequency (if turning is necessary) of a composting facility must be sufficient to maintain aerobic conditions and to produce a compost product in a time-frame that is consistent with the level of technology employed and acceptable to the administrative authority.

e. In-vessel composting shall be conducted in accordance with the manufacturer's specifications and these regulations.

f. The following special requirements apply to facilities handling sewage sludge, septage, and residential or commercial waste:

i. if the compost is to be used exclusively for application to non-food-chain cropland, the criteria for a process to significantly reduce pathogens (see Appendix A of this Chapter) must be met. Otherwise, the facility must meet the criteria for a process to further reduce pathogens (see Appendix B of this Chapter); and

ii. the facility must include the following components:

(a). a receiving area, mixing area, curing area, compost storage area, drying and screening areas, and truck wash area located on surfaces capable of preventing groundwater contamination (periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated);

(b). runoff collection system; and

(c). leachate collection and on-site/off-site treatment system.

g. The following parameters are to be monitored and recorded during the operation in the time-frame specified (the samples taken for these parameters shall be representative of the compost unit):

i. temperature, daily;

ii. process odors, daily;

iii. blower operation, daily; and

iv. other parameters as deemed appropriate by the administrative authority.

h. Compost shall be classified based on the type of waste processed, compost maturity, particle size, and organic matter. The following characteristics shall be used:

i. Compost Maturity. A plot of time versus temperature (to indicate that the temperature of the compost has stabilized over a period of time) or other acceptable methods may be used to determine the level of maturity of compost, as defined in this Clause.

(a). *Fresh Organic Matter* - material before undergoing decomposition (or at beginning of process).

(b). *Fresh Compost* - organic matter that has been through the thermophilic stage and has undergone partial decomposition.

(c). *Semimature Compost* - compost material that is at the mesophilic stage.

(d). *Mature Compost* - a highly stabilized product that results from exposing compost to a prolonged period of humidification and mineralization, beyond the stage of maturity. Mature compost shall have been cured for at least 60 days after the mesophilic stage is complete. Minimum starting moisture content for curing semimature compost should be above 45 percent (by weight) and should be raised to this value if necessary.

ii. Particle Size. Particle size shall be determined by using the screen sizes, listed in this Clause, that the compost passed through. Organic matter content shall be determined by measuring the volatile solids content using the Environmental Protection Agency's (EPA's) approved methods.

(a). Fine: < 12 mm and organic matter > 25 percent.

(b). Medium: < 15 mm and organic matter > 30 percent.

(c). Coarse: < 30 mm and organic matter > 35 percent.

iii. Moisture Content. In the finished compost, moisture content shall not exceed 55 percent (by weight). The moisture content shall be determined by using the EPA's approved methods.

iv. Concentration Levels. The concentration level of finished compost shall be as shown in the following table.

Concentration Levels of Finished Compost
(shown in mg/kg in dry weight)

Parameter	Category 1	Category 2
Cadmium	<15	15 - 25
Copper	<450	450 - 1000
Lead	<200	200 - 800
Nickel	<50	50 - 100
Zinc	<1000	1000 - 2000

i. Finished Compost

i. The finished compost shall be sufficiently stable that it can be stored or applied to land without causing a health hazard, detriment, or nuisance to the environment, as determined by the administrative authority.

ii. All distributed compost must be accompanied with a label or leaflet that indicates, at a minimum, the type of waste from which the compost was derived, any restriction on the use of the product, and recommended application rates.

iii. Compost derived from sewage sludge, septage, or residential or commercial waste must meet the criteria of the process to significantly reduce pathogens (see Appendix A of this Chapter) or the process to further reduce pathogens

(see Appendix B of this Chapter) as provided in Clause B.2.f.i of this Section. Such compost shall not be offered for sale to, or otherwise distributed to, the general public unless it meets the criteria of the process to further reduce pathogens.

iv. Any compost made from solid waste that cannot be used in accordance with these regulations shall be reprocessed or disposed of in an approved solid waste facility.

v. Waste received at a composting facility shall be used as compost, sold as compost, or disposed of at a permitted disposal facility within 36 months after receipt.

vi. The sampling and testing methods shall be the EPA's approved methods.

vii. Compost produced outside of the state of Louisiana that is used or sold for use within the state shall comply with the requirements of these regulations.

viii. Classes of Finished Compost

(a). Class M1—compost made only from manure or manure with yard trash and/or woodwaste that is mature or semimature, fine or medium, and that meets the metals concentrations of Category 1 of Clause B.2.h.iv of this Section shall have unrestricted distribution except as provided in Clause B.2.f.i of this Section.

(b). Class M2—compost made only from manure or manure with yard trash and/or woodwaste, that is mature or semimature, fine or medium, and that meets the metals concentrations of Category 2 (but not of Category 1) of Clause B.2.h.iv of this Section shall be restricted to use with non-food-chain crops.

(c). Class S1—compost made from solid waste, other than only manure or manure with yard trash and/or woodwaste that is mature, fine, and that meets the metals concentrations in Category 1 of Clause B.2.h.iv of this Section shall have unrestricted distribution except as provided in Clause B.2.f.i of this Section.

(d). Class S2—compost made from solid waste, other than only manure or manure with yard trash and/or woodwaste, that is mature or semimature, fine or medium and that meets concentrations in Category 1 or Category 2 of Clause B.2.h.iv of this Section, but which does not meet the requirements of Class S1 compost, shall be restricted to use with non-food-chain crops and shall not be used in areas where public contact is likely, such as parks or recreation areas.

(e). Class YW—compost made only from yard trash and/or woodwaste that is mature or semimature, fine or medium shall have unrestricted distribution, except as provided in Clause B.2.f.i of this Section.

ix. All classes of compost shall be used in accordance with the maximum-loading rates provided in the following table and are subject to the restrictions provided in Clause B.2.f.i of this Section. The following loading rates apply unless soil analyses of cation-exchange capacity and pH justify higher loadings.

<u>Maximum Applied Metal (lb/acre)</u>	
Lead	500
Zinc	250
Copper	125
Nickel	125
Cadmium	5

x. Testing of Finished Compost. Composite samples of batches produced at compost facilities shall be analyzed in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication SW-846 at intervals of every three months (see *Liquid Waste* definition) for the following parameters:

- (a). moisture;
- (b). total nitrogen;
- (c). total phosphorus;
- (d). total potassium;
- (e). pH;
- (f). cadmium;
- (g). copper;
- (h). lead;
- (i). nickel;
- (j). zinc; and
- (k). fecal coliform (analyzed in accordance with Standard Methods for the Examination of Water and Wastewater, 18th edition).

3. Segregation of Waste

a. Composting facilities involving residential and commercial solid waste shall provide a waste-segregation plan and a recyclables separation program, which shall be instituted prior to composting operations.

b. Wastes not intended for composting shall be removed from the facility to a permitted facility at least every seven days. Storage of wastes not intended for composting shall be in a closed container that prevents vector and odor problems. The facility shall maintain a log of dates and volumes of waste removed from the facility due to its inability to be composted.

c. Recyclable waste removed from the waste stream shall be stored in a manner that prevents vector and odor problems and shall be removed from the facility at least every 90 days. The facility shall maintain a log of dates and volumes of recycled waste removed from the facility.

C. Facility Closure Requirements

1. An insect and rodent inspection is required, and shall be documented, before closure. Extermination measures, if required, must be provided.

2. All remaining waste shall be removed to a permitted facility for disposal, and documentation shall be provided.

3. 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.721.E.2, 3, and 4 must be provided to the Office of Environmental Services, Permits Division. The Office of Environmental Compliance, Surveillance Division shall conduct a closure inspection to verify that the facility was cleaned in accordance with the approved closure plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§731. Separation and Woodwaste Processing Facilities (Type III)

A. Facility Operational Standards

1. All containers shall provide containment of the wastes and thereby control litter, odor, and other pollution of adjoining areas.

2. Provisions shall be made for at least daily cleanup of the facility, including equipment and waste-handling areas.
3. No solid waste shall be stored long enough to cause a nuisance, health hazard, or detriment to the environment.
4. Treatment facilities for washdown and other contaminated water shall be provided.
5. Facilities shall have a plan for handling contaminated water.

B. Facility Closure Requirements

1. An insect and rodent inspection is required, and shall be documented, before closure. Extermination measures, if required, must be provided.
2. All remaining waste shall be removed to a permitted facility for disposal or properly disposed of on-site as provided for in LAC 33:VII.305.H. If waste is removed

from the facility, documentation must be provided that the material was properly disposed of in a permitted facility.

3. 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.721.E.2, 3, and 4 must be provided to the Office of Environmental Services, Permits Division. The Office of Environmental Compliance, Surveillance Division shall conduct a closure inspection to verify that the facility was cleaned in accordance with the approved closure plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Appendix A

Processes to Significantly Reduce Pathogens	
Aerobic Digestion	A process conducted by agitating sludge with air or oxygen to maintain aerobic conditions at residence times ranging from 60 days at 15°C to 40 days at 20°C, with a volatile-solids reduction of at least 38 percent.
Air Drying	A process that allows liquid sludge to drain and/or dry on under-drained sand beds or on paved or unpaved basins in which the depth of the sludge is 9 inches. A minimum of three months is needed for this process; during two of these months daily temperatures must average above 0° C.
Anaerobic Digestion	A process conducted in the absence of air during a residence time ranging from 60 days at 20°C to 15 days at 35-55°C, with a volatile-solids reduction of at least 38 percent.
Composting	A process conducted by either the within -vessel, static-aerated-pile or windrow method whereby the solid waste is maintained at minimum operating conditions of 40°C for five days. For four hours during this period, the temperature must exceed 55°C.
Lime Stabilization	A process in which sufficient lime is added to produce a pH of 12 after two hours of contact.
Other Methods	Other methods or operating conditions for significantly reducing pathogens may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.

Appendix B

Processes to Further Reduce Pathogens	
Composting	A process conducted by either the within -vessel, static aerated-pile, or windrow method. If the within -vessel or static-aerated-pile method is used, the solid waste is maintained at operating conditions of 55°C or greater for three days. If the windrow method is used, the solid waste attains a temperature of 55°C or greater for at least 15 days during the composting period, and the windrow is turned at least five times during this high-temperature period.
Heat Drying	A process in which dewatered sludge cake is dried by direct or indirect contact with hot gases and moisture content is reduced to 10 percent or less. Sludge particles reach temperatures well in excess of 80° C or the wet-bulb temperature of the gas stream, in contact with the sludge at the point where it leaves the dryer, is in excess of 80° C.
Heat Treatment	A process in which liquid sludge is heated to temperatures of 180° C for 30 minutes.
Thermophilic Aerobic Digestion	A process in which liquid sludge is agitated with air or oxygen to maintain aerobic conditions at residence times of 10 days at 55-60° C, with a volatile-solids reduction of at least 38 percent.
Other Methods	Other methods or operating conditions for further reducing pathogens may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.
Any of the processes listed below, used in conjunction with the processes described above, will further reduce pathogens. The processes listed below will not, however, reduce the attraction of disease vectors if they are not used in conjunction with one of the above processes, and therefore are not sufficient alone.	
Beta-Ray Irradiation	A process in which sludge is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (approximately 20° C).
Gamma-Ray Irradiation	A process in which sludge is irradiated with gamma rays from certain isotopes, such as ⁶⁰ Cobalt and ¹³⁷ Cesium, at dosages of at least 1.0 megarad at room temperature (approximately 20° C).
Pasteurization	A process in which sludge is maintained for at least 30 minutes at a minimum temperature of 70° C.
Other Methods	Other methods or operating conditions may be acceptable if pathogens are reduced to an extent equivalent to the reduction achieved by any of the above add-on methods.

Appendix C

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 contents 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.)

Appendix D

Examples of agricultural wastes that may be managed under approved best management practice plans:

Sugar mill bagasse ash
Bagasse
Filter press mud from sugar mills
Chicken litter
Dead poultry carcasses
Rice hulls
Rice hull ash
Shells from crawfish and shellfish processing
Potato peels from potato processing
Cotton gin trash

Chapter 8. Standards Governing General Facility Geology, Subsurface Characterization, and Facility Groundwater Monitoring (Type I, I-A, II, II-A, III)

§801. General Facility Geology

A. The following standards regarding facility geology are applicable to all Type I, Type I-A, Type II, Type II-A, and Type III facilities:

1. the subsurface soils and groundwater conditions at facilities shall be characterized by a geologist or by a registered engineer licensed in the state of Louisiana, with expertise in geotechnical engineering and geohydrology;

2. except as provided in Paragraph A.3 of this Section, facilities shall have natural soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that should provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other permeable strata that would provide a conduit to such aquifers; and

3. a design for surfacing natural soils that do not meet the requirement in Paragraph A.2 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 Paragraph A.2 of this Section shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§803. Subsurface Characterization

A. Boring Requirements

1. Boring Requirements Applicable to All Type I, II, and III Facilities

a. The number, spacing, and depths of borings shall be sufficient to adequately characterize the subsurface soils and groundwater conditions for the facility.

b. Borings shall be installed and plugged and abandoned in accordance with the standards in this Chapter, as well as the guidelines established in the latest versions of the department's and the Louisiana Department of Transportation and Development's (LDOTD) *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook* and the LDOTD's Water Well Rules, Regulations, and Standards in LAC 70:XIII. The administrative authority may approve other forms of geological investigation for Type III facilities, such as hand augered borings, test pits, excavations, etc., provided that subsurface conditions are characterized by an individual that meets the requirements in LAC 33:VII.801.A, and any holes, test pits, etc., are properly plugged and abandoned.

c. Geotechnical field tests and laboratory tests shall be conducted according to the standards of the American Society for Testing and Materials (ASTM) or the EPA or other applicable standards approved by the administrative authority.

d. Boring logs shall be submitted for each borehole, including boreholes for monitoring wells and piezometers, and shall include information for boring logs established in the latest versions of the department's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook* and the LDOTD's Water Well Rules, Regulations, and Standards in LAC 70:XIII, including the ground surface elevation with respect to mean sea level, lithology and intervals that were cored continuously, and depth of first encountered groundwater.

e. A plan view map(s) shall be provided that shows existing topographic contours and locations of all borings, monitoring wells, and piezometers with respect to the facility.

f. A detailed plan-view drawing shall be provided that shows the proposed elevations of the base of units prior to installation of the liner system and boring locations.

g. Logs of borings and other forms of geological investigation approved by the administrative authority for Type III facilities shall be submitted on a geologic cross section(s) and shall include applicable information required in Subparagraph C.2.a of this Section.

2. Requirements Applicable to Type I and Type II Facilities

a. Geotechnical borehole spacing shall be no greater than 450 feet (minimum of four borings required) except for Type II landfarms that require a sufficient spacing between

borings to adequately characterize the subsurface soils and groundwater conditions for the facility.

b. The elevation (msl) of the lowest point of excavation shall be provided.

c. All boreholes shall extend to a depth of at least 30 feet below the elevation (msl) of the lowest point of the excavation (or the lowest point of the zone of incorporation for landfarms). At least 10 percent of the borings (minimum of three borings) shall extend to 100 feet below grade level to characterize the shallow geology.

d. All borings shall be continuously sampled to at least 30 feet below the elevation (msl) of the lowest point of excavation (or lowest point of the zone of incorporation for landfarms), with the use of thin-wall and/or split-spoon devices or similar coring devices. After 30 feet, samples shall be at a maximum of five-foot intervals. The administrative authority may approve other forms of borehole logging on a case by case basis and with proper justification.

B. Groundwater Flow Determination Requirements Applicable to Type I and II Facilities

1. Groundwater flow direction(s) shall be determined using a minimum of three piezometers or monitoring wells in each water-bearing zone including zone(s) that comprise the uppermost aquifer and uppermost water-bearing permeable zone (if present).

2. Piezometers and monitoring wells that are used to characterize groundwater flow direction(s) must be constructed in accordance with the applicable well construction standards in LAC 33:VII.805.A.3.

3. As-built diagrams for each piezometer and monitoring well used to determine groundwater flow direction(s) shall be submitted in accordance with applicable sections of LAC 33:VII.805.A.3.

4. The reference point of each piezometer and monitoring well that is used for measuring water levels shall be surveyed by a licensed surveyor.

5. Water levels of piezometers and monitoring wells that are used for determining groundwater flow direction(s) shall be measured at least four times in a one-year period (quarterly) to provide seasonal and temporal fluctuations in groundwater flow rate(s) and direction(s).

C. Geology and Groundwater Flow Characterization Requirements Applicable to Type I and II Facilities

1. Regional Geology and Groundwater Flow Characterization

a. A geologic cross-section from available published information that depicts the stratigraphy to a depth of at least 200 feet below the ground surface shall be provided.

b. The areal extent, thickness, and depth to the upper surface and any interconnection of aquifers, from all available information, shall be provided for all recognized aquifers that have their upper surfaces within 200 feet of the ground surface.

c. The rate(s) and direction(s) of groundwater flow shall be provided for all recognized aquifers that have their upper surface within 200 feet of the ground surface, shown on potentiometric maps.

2. Facility Geology and Groundwater Flow Characterization

a. Geologic cross sections shall be provided for each transect (line of borings) and shall depict the following information in relation to mean sea level (msl):

i. lithologic and boring log data from all borings drilled at the facility, including borings for existing as well as plugged and abandoned monitoring wells and piezometers;

ii. boring locations, including monitoring wells and piezometers and depths;

iii. excavation depths (or depths of the zone of incorporation for landfarms) on applicable cross section(s);

iv. screen intervals of all existing and plugged and abandoned monitoring wells and piezometers;

v. other applicable features such as faults, slurry walls, groundwater dewatering systems, etc.; and

vi. identification of individual stratigraphic units, including units that comprise the uppermost aquifer, uppermost water-bearing permeable zone (if present), lower confining unit, and confining unit that underlies the uppermost water-bearing permeable zone (if present).

b. The areal extent, depths, and thickness of all saturated permeable zones to a depth of at least 30 feet below the lowest point of excavation (or zone of incorporation for landfarms) shall be provided on structure maps (top and/or bottom of zone maps) and isopach maps, including the zone(s) that comprise the uppermost aquifer and uppermost water-bearing permeable zone (if present). Structure maps and isopach maps must display the location of the facility, boring locations, and corresponding elevation or thickness measurement at each boring location.

c. The areal extent, depths, and thickness of the lower confining unit for the uppermost aquifer and the confining unit underlying the uppermost water-bearing permeable zone (if present) shall be provided on structure maps (top and/or bottom of zone maps) and isopach maps. Structure maps and isopach maps must display the location of the facility, boring locations, and corresponding elevation or thickness measurement at each boring location.

d. Any faults that are mapped as existing through the facility shall be displayed on structure maps and shall show the fault trace and arrows pointing to the downthrown side of fault.

e. At least four scaled potentiometric surface maps shall be provided over a one-year period (quarterly) for each saturated permeable zone to a depth of at least 30 feet below the lowest point of excavation (or zone of incorporation for landfarms), including the zone that comprises the uppermost aquifer and uppermost water-bearing permeable zone. Scaled potentiometric surface maps shall display the location of the facility, monitoring well and piezometer locations, and corresponding water level elevation measurement at each well location.

f. Characterization of groundwater flow direction(s) shall be provided between saturated permeable zones that are interconnected and relatively thick saturated permeable zones. The characterization shall include the use of various illustrations such as potentiometric surface maps, flow nets depicting vertical and horizontal flow directions, etc.

g. Discussion of any change in groundwater flow direction anticipated to result from any facility activities shall be provided.

h. Establishment of zone(s) that comprise the uppermost aquifer, uppermost water-bearing permeable zone (if present), and lower confining unit shall be provided.

i. Groundwater flow rate(s) and calculations shall be provided for each zone(s) that comprises the uppermost aquifer and uppermost water-bearing permeable zone (if present).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§805. Facility Groundwater Monitoring

A. Groundwater Monitoring System

1. At each facility, a groundwater-monitoring system must be installed that consists of a sufficient number of wells, installed at appropriate locations and depths, to yield groundwater samples from the uppermost aquifer and from the uppermost water-bearing permeable zone (if this zone is present at the facility and the administrative authority deems that it is subject to the groundwater monitoring requirements of this Section for providing adequate groundwater monitoring at the facility) which will yield sufficient quantities of water for sampling that:

a. represent the quality of the background groundwater that has not been affected by leakage from a unit; and

b. represent the quality of groundwater passing the relevant point of compliance. For the purposes of these regulations, the relevant point of compliance is the vertical surface that is located no more than 150 meters downgradient from the unit(s) being monitored and extends down into the uppermost aquifer underlying the facility and any other permeable zones being monitored. The relevant point of compliance must be on property owned or controlled by the permit holder and must be selected and subject to the approval of the administrative authority based on at least the following factors:

i. hydrological characteristics of the facility and the surrounding land;

ii. volume and physical and chemical characteristics of the leachate;

iii. quantity, quality, and direction of flow of groundwater;

iv. proximity and withdrawal rate of the groundwater users;

v. availability of alternative drinking water supplies;

vi. existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater, and whether the groundwater is currently used or reasonably expected to be used for drinking water;

vii. public health, safety, and welfare effects; and

viii. practicable capability of the owner or operator.

2. Location of Wells

a. Enough monitoring wells must be located hydraulically upgradient of the facility to yield samples that represent background groundwater quality as required in Paragraph A.1 of this Section.

b. A minimum of one upgradient well per zone monitored is required.

c. Monitoring wells other than upgradient of the facility may be sampled for background groundwater quality if:

i. hydrologic conditions do not allow the permit holder to determine which wells are hydraulically upgradient; or

ii. sampling at other wells will provide an indication of background groundwater quality that is more representative than sampling of upgradient wells.

d. Enough monitoring wells must be located hydraulically downgradient from the facility to yield samples that are representative of the groundwater passing the relevant point of compliance. Downgradient monitoring well locations and screen intervals shall target the most likely contaminant pathway(s). At least two downgradient wells per zone monitored must be provided. The downgradient wells must be screened in the same zone as the upgradient wells. Spacing between downgradient wells shall not exceed 800 feet.

e. The number, spacing, and depths of monitoring wells shall be determined based upon site-specific technical information that must include thorough characterization of:

i. aquifer thickness, groundwater flow rate, groundwater flow direction including seasonal and temporal fluctuations in groundwater flow; and

ii. saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer, including, but not limited to, thickness, stratigraphy, lithology, hydraulic conductivities, porosities, and effective porosities.

f. The administrative authority will consider for approval multi-unit groundwater monitoring systems, provided these systems meet the requirements of Paragraph A.1 of this Section and will be as protective of human health and the environment as groundwater monitoring systems for individual units.

g. The administrative authority may modify the requirements of this Subsection for site-specific considerations in approving groundwater monitoring systems for ditches.

3. Well Construction

a. Well construction shall be in accordance with LDOTD's Water Wells Rules, Regulations, and Standards in LAC 70:XIII, as well as the latest version of the department's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*.

b. Construction of monitoring wells for facilities regulated by the department shall require approval of the administrative authority prior to construction.

c. In addition to the construction standards set forth in LDOTD's Water Wells Rules, Regulations, and Standards in LAC 70:XIII, the following is required for monitoring wells:

i. all wells must have protective casing with locking covers and a secure locking device in place;

ii. all wells must have guard posts firmly anchored outside the well slab, but not in contact with the slab;

iii. the maximum allowable screen length must not exceed 10 feet; and

iv. a sign or plate must be permanently affixed to the protective well casing and must prominently display:

- (a). well identification number;
 - (b). identification of well as upgradient or downgradient;
 - (c). elevation of top of well casing in relation to mean sea level;
 - (d). screen depth in relation to mean sea level;
- and
- (e). date of well installation and any subsequent repairs.

4. 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 shall include, but are not limited to:

- a. daily field notes documenting construction procedures and any unusual occurrences, such as grout loss, etc.;
- b. boring log for each well including surface elevation(s) with respect to mean sea level or comparable reference points; and
- c. as-built diagrams for each well showing all pertinent features, such as elevation of reference point for measuring groundwater levels, screen interval, and ground surface. If features change from the approved plans, then a permit-modification request must be submitted in accordance with LAC 33:VII.507.

5. Plugging and Abandonment of Monitoring Wells and Geotechnical Borings

a. LDOTD's Water Wells Rules, Regulations, and Standards in LAC 70:XIII, as well as the latest version of the department's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*, shall apply to all plugging and abandonment of wells and holes including, but not limited to, observation wells, monitoring wells, piezometer wells, leak-detection wells, assessment wells, recovery wells, abandoned pilot holes, test holes, and geotechnical boreholes.

b. In addition to the standards in LAC 70:XIII and the latest version of the department's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*, the following standards shall apply to plugging and abandonment:

- i. for any well, the primary method of plugging and abandonment shall be removal of the well's casing and other components of the well including, but not limited to, the screen, grout, bentonite seal, filter pack, concrete slab, protective casing, guard posts, and native soil in immediate contact with the grout and subsequent installation of cement-bentonite grout, from the bottom of the resulting borehole to the ground surface using the tremie method;
- ii. in areas where all or a part of the well's casing and other components of the well cannot be plugged and abandoned in accordance with the procedure stated in Clause A.5.b.i of this Section, the well shall be plugged and abandoned by installation of cement-bentonite grout inside the well's casing, from the bottom of the well to the ground

surface, provided that the annular seal is demonstrated to be adequately sealed and the following items are submitted:

(a). supporting documentation, prior to plugging the well, that demonstrates that removal of all or part of the well's casing and other components of the well in accordance with the procedure stated in Paragraph A.5 of this Section will be detrimental to the environment; and/or

(b). certification and supporting documentation by a qualified professional that shows that removal of the well's casing was attempted and that continued attempts to remove all or a part of the well's casing and other components of the well, as stated in Paragraph A.5 of this Section, would have been detrimental to the environment;

iii. after plugging and abandoning a well, all surface features of the well including, but not limited to, the concrete slab, guard posts and protective casing, shall be dismantled and disposed of in an environmentally sound manner and the surface shall be restored to its original condition; and

iv. the permit holder must notify the Office of Environmental Assessment, Environmental Technology Division of the plugging and abandonment of monitoring wells or geotechnical borings and keep records of such abandonments.

6. Monitoring wells, piezometers, and other measurement, sampling, and analytical devices must be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

B. Groundwater Sampling and Analysis Requirements

1. A groundwater-monitoring program must be implemented at each facility that includes consistent sampling and analysis procedures that ensure monitoring results are representative of groundwater quality at the background and downgradient well locations.

2. A groundwater sampling and analysis plan must be prepared that meets the requirements of Paragraph B.2 of this Section, as well as the requirements of Appendix B of this Chapter, and that includes procedures and techniques for:

a. sample collection that ensures that collected samples are representative of the zone(s) being monitored and prevents cross-contamination of or tampering with samples;

b. sample preservation and shipment that ensure the integrity and reliability of the sample collected for analysis;

c. chain of custody control;

d. quality-assurance/quality-control, including detection limits, precision and accuracy of analyses, field blanks, and laboratory spikes and blanks; and

e. statistical evaluation of the groundwater monitoring data for each parameter or constituent sampled at each monitoring well.

3. The sampling and analysis plan must provide the sampling frequency and include the:

a. selection of parameters or constituents to be sampled and analyzed during detection monitoring and justification for parameters or constituents where applicable;

b. identification of analytical procedures to be followed (reference source of analytical method); and

c. practical quantitation limit for each parameter or constituent.

4. The practical quantitation limit (pql) for each groundwater monitoring parameter or constituent shall be:

a. the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility; and

b. equal to or lower than the groundwater protection standard for that parameter or constituent as set in accordance with LAC 33:I.Chapter 13 when applicable.

5. Background groundwater quality must be established for the facility in a hydraulically upgradient well(s), or other well(s) as provided in Subparagraph A.2.c of this Section, for each groundwater parameter or constituent.

6. Statistical Methods

a. The number of samples collected to establish groundwater quality data must be consistent with the appropriate statistical procedures used.

b. One of the following statistical methods to be used in evaluating groundwater data must be specified in the sampling and analysis plan for each parameter or constituent to be monitored. The statistical test chosen shall be conducted separately for each parameter or constituent in each well:

i. a parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each parameter or constituent;

ii. an analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each parameter or constituent;

iii. a tolerance or prediction interval procedure in which an interval for each parameter or constituent is established from the distribution of the background data, and the level of each parameter or constituent in each compliance well is compared to the upper tolerance or prediction limit;

iv. a control chart approach that gives control limits for each parameter or constituent; and

v. another statistical test method that meets the performance standards of Subparagraph B.6.c of this Section. The permit holder must place a justification for this alternative in the operating record and notify the administrative authority of the use of this alternative test. The justification must demonstrate that the alternative method meets the performance standards of Subparagraph B.6.c of this Section.

c. Any statistical method chosen under Subparagraph B.6.b of this Section shall comply with the following performance standards, as appropriate:

i. the statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of the parameters or constituents. If the distribution of the chemical parameters or constituents or hazardous parameters or constituents is shown by the permit holder to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test

should be used. If the distributions for the parameters or constituents differ, more than one statistical method may be needed;

ii. if an individual well comparison procedure is used to compare an individual compliance well parameter or constituent concentration with background parameters or constituent concentrations or a groundwater protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experimentwide error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts;

iii. if a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter or constituent values shall be protective of human health and the environment. The parameters or constituents shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each parameter or constituent of concern;

iv. if a tolerance interval or a predictional interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, shall be protective of human health and the environment. These parameters or constituents shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each parameter or constituent of concern;

v. the statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit (pql) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility; and

vi. if necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

d. The permit holder must determine whether or not there is a statistically significant increase over background values for each parameter or constituent required in the particular groundwater monitoring program that applies to the facility, as determined under Subsections C and D of this Section.

i. In determining whether a statistically significant increase has occurred, the permit holder must compare the groundwater quality of each parameter or constituent at each monitoring well designated in accordance with Subparagraph A.1.b of this Section to the background value of that parameter or constituent, according to the statistical procedures and performance standards specified under Subparagraphs B.6.b and c of this Section.

ii. Within 90 days after the date of sampling, the permit holder must determine whether there has been a statistically significant increase over background at each monitoring well.

C. Detection Monitoring Program

1. All Type I and II facilities must conduct a detection monitoring program as described in Subsection C of this Section.

2. Initial Sampling

a. For a new facility, monitoring wells must be sampled and the groundwater monitoring data for a sampling event must be submitted to the Office of Environmental Assessment, Environmental Technology Division before waste is accepted.

b. 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 groundwater monitoring data shall be submitted to the Office of Environmental Assessment, Environmental Technology Division within 90 days after installation of the monitoring wells.

c. A minimum of four independent samples from each well (upgradient and downgradient) must be collected and analyzed during the initial sampling event for a facility. The initial sampling event shall consist of quarterly sampling over a one-year period. Thereafter, at least one sample must be collected and analyzed at each well for each sampling event.

3. For the first year of monitoring and thereafter, sampling and analysis of all wells must be conducted every six months.

4. The groundwater monitoring program must be conducted for the life of the facility and for the duration of the post-closure care period of the facility, which is specified in LAC 33:VII.719.F, 721.F, or 723.F. Groundwater monitoring may be extended beyond the period specified if deemed necessary by the administrative authority.

5. The permit holder or applicant must submit three 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:

a. documentation of the chain of custody of all sampling and analyses;

b. scaled potentiometric surface maps showing monitoring well and piezometer locations and groundwater elevations with respect to mean sea level for each stratum monitored;

c. plots by well showing concentration of parameters or constituents versus time. If the facility is conducting assessment or corrective action monitoring, then in addition to the plots by well of concentration versus time, an isopleth map shall be submitted for each zone monitored; and

d. a statement of whether a statistically significant difference in concentration over background concentrations is detected.

6. If a statistically significant increase over background concentrations is determined for one or more parameters or constituents required to be monitored, the permit holder must:

a. submit to the Office of Environmental Assessment, Environmental Technology Division:

i. within 14 days after the determination is made, a report that identifies which parameters or constituents were determined to have shown statistically significant changes over background; and

ii. written notification for conducting any verification resampling events at least 14 days prior to conducting the resampling events; and

b. within 90 days after the determination is made:

i. initiate an assessment monitoring program for the facility meeting the requirements of Subsection D of this Section; or

ii. 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. If the administrative authority approves this demonstration, in writing, the permit holder may continue the detection monitoring program. If the administrative authority does not approve the demonstration, in writing, the permit holder must establish an assessment monitoring program meeting the requirements of Subsection D of this Section within 90 days after the determination in Paragraph C.6 of this Section is made.

7. Detection Monitoring Parameters or Constituents

a. During detection monitoring, Type I landfills and Type I surface impoundments (except Type I landfills that are also Type II landfills and Type I surface impoundments that are associated with such Type I landfills) shall monitor for at least 10 chemical parameters or constituents, both inorganic and organic, which are indicator parameters or constituents or reaction products of the waste and that provide a reliable indication of the presence of contaminants in the groundwater. The administrative authority may reduce the number of parameters if appropriate based on site-specific and waste-specific consideration. Selection of these parameters or constituents is subject to the approval of the administrative authority and must be based on the following factors:

i. types, quantities, and concentrations of constituents in the wastes disposed of at the facility;

ii. mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the facility;

iii. detectability of indicator parameters, waste constituents, or their reaction products in the groundwater; and

iv. concentrations or values and coefficients of variation of the proposed monitoring parameters or constituents in the background groundwater at the facility.

b. During detection monitoring, Type II landfills, including Type II surface impoundments associated with Type II landfills, shall be monitored for all the parameters or constituents listed in Appendix B, Table I of this Chapter.

c. During detection monitoring, Type I landfills, including runoff and containment areas (ROCAs) or surface impoundments associated with Type I landfills, shall be monitored for the same parameters or constituents as provided for Type II landfills in Subparagraph C.7.d of this Section and also for at least six parameters or constituents, both organic and inorganic, which are intrinsic to the wastes

being disposed at the facility. The intrinsic parameters or constituents shall be selected on the basis of the factors in Clauses C.7.a.i-iv of this Section and shall be subject to the approval of the administrative authority.

d. During detection monitoring, Type II landfarms that receive domestic sewage sludge and any runoff and containment areas (ROCAs) or surface impoundments associated with such landfarms shall be monitored for five-day biochemical oxygen demand (BOD₅), fecal coliform, total dissolved solids (TDS), nitrate, total Kjeldahl nitrogen, and polychlorinated biphenyls (PCBs), if applicable.

e. Type II surface impoundments that receive domestic sewage sludge shall be monitored for the same parameters or constituents as provided for Type II landfarms in Subparagraph C.7.d of this Section.

f. The administrative authority may waive or require additional parameters or constituents, based on site-specific or waste-specific information.

D. Assessment Monitoring Program for Type I and Type II Facilities

1. An assessment monitoring program as described in this Subsection is required to be conducted at Type I and Type II facilities whenever a statistically significant increase over background concentrations is detected for one or more of the parameters or constituents sampled and analyzed during the detection monitoring program.

2. The assessment monitoring parameters for:

a. Type II landfills and associated Type II impoundments shall be the parameters listed on Table 2 of Appendix B of this Chapter; and

b. Type I and Type II facilities, other than Type II landfills and associated Type II impoundments, shall be the detection monitoring parameters or constituents although the administrative authority may add additional parameters or constituents on a site-specific and waste-specific basis.

3. Within 90 days of triggering an assessment monitoring program, and annually thereafter, the permit holder must sample and analyze the groundwater for the assessment monitoring parameters. A minimum of one sample from each downgradient well must be collected and analyzed during each sampling event. For any parameter or constituent detected in the downgradient wells as a result of sampling for the assessment monitoring parameters or constituent, a minimum of four independent samples from each well (background and downgradient) must be collected and analyzed to establish background for the parameters or constituents. The administrative authority:

a. may specify an appropriate subset of the wells to be sampled and analyzed for assessment monitoring parameters or constituents during assessment monitoring; and

b. may delete any of the assessment monitoring parameters or constituents for a facility if it can be shown that the omitted parameters or constituents are not reasonably expected to be in or derived from the waste contained in the unit.

4. No later than 90 days after the completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Subparagraph E.4.b of this Section, the permit holder must submit a report to the Office of Environmental Assessment, Environmental Technology Division identifying the

assessment monitoring parameters or constituents that have been detected. No later than 180 days after completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Paragraph D.3 of this Section, the permit holder must:

a. resample all wells and analyze for all detection monitoring parameters or constituents and for those assessment monitoring parameters or constituents that are detected in response to Paragraph D.3 of this Section. At least one sample must be collected from each well (background and downgradient) during these sampling events. This sampling must be repeated semiannually thereafter;

b. establish background groundwater concentrations for any parameter or constituent detected in accordance with Paragraph D.3 or 4 of this Section; and

c. establish groundwater protection standards for all parameters or constituents detected in accordance with Paragraph D.3 or 4 of this Section. The groundwater protection standards shall be established in accordance with Paragraph D.8 of this Section.

5. If the concentrations of all assessment monitoring parameters or constituents are shown to be at or below background values, using the statistical procedures in Paragraph B.6 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.

6. If the concentrations of any assessment monitoring parameters or constituents are above background values, but all concentrations are below the groundwater protection standard established under Paragraph D.8 of this Section, using the statistical procedures in Paragraph B.6 of this Section, the permit holder must continue assessment monitoring.

7. If one or more assessment monitoring parameters or constituents are detected at statistically significant levels above the groundwater protection standard established under Paragraph D.8 of this Section, in any sampling event, using the statistical procedures in Paragraph B.6 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 assessment monitoring parameters or constituents that have exceeded the groundwater protection standard. The permit holder must also:

a. 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:

i. characterization of the nature and extent of the release by installing and sampling additional monitoring wells as necessary;

ii. installation of at least one additional monitoring well at the facility boundary in the direction of the contaminant migration and sampling of this well in accordance with Subparagraph D.4.b of this Section; and

iii. a schedule for implementing the plan;
b. notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off site as indicated by the sampling of the wells in accordance with Subparagraph D.7.a of this Section; and

c. upon consultation with and approval of the administrative authority, implement any interim measures necessary to ensure the protection of human health and the environment. Interim measures should, to the greatest extent practicable, be in accordance with LAC 33:I.Chapter 13 and be consistent with the objectives of and contribute to the performance of any remedy that may be required in accordance with Subsection F of this Section. The following factors must be considered by a permit holder in determining whether interim measures are necessary:

i. time required to develop and implement a final remedy;

ii. actual or potential exposure of nearby populations or environmental receptors to hazardous parameters or constituents;

iii. actual or potential contamination of drinking water supplies or sensitive ecosystems;

iv. further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;

v. weather conditions that may cause hazardous parameters or constituents to migrate or be released;

vi. risk of fire or explosion, or potential for exposure to hazardous parameters or constituents as a result of an accident or failure of a container or handling system; and

vii. other situations that may pose threats to human health and the environment; and

d. initiate an assessment of corrective measures as required by Subsection E of this Section; or

e. 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 this Subsection or may return to detection monitoring if the assessment monitoring parameters or constituents are below background as specified in Paragraph D.5 of this Section. Until such a written approval is given, the permit holder must comply with Paragraph D.7 of this Section, including initiating an assessment of corrective action measures.

8. The permit holder must establish a groundwater protection standard for each assessment monitoring parameter or constituent detected in the groundwater. The groundwater protection standard shall be in accordance with LAC 33:I.Chapter 13 and shall be:

a. for parameters or constituents for which a maximum contaminant level (MCL) has been promulgated under the federal Safe Drinking Water Act, the MCL for that parameter or constituent;

b. for parameters or constituents for which the state of Louisiana has promulgated a MCL, the MCL for that parameter or constituent;

c. for parameters or constituents for which MCLs have not been promulgated, the background concentration for the parameter or constituent established from wells in accordance with this Subsection or the administrative authority may allow the standard to be set in accordance with LAC 33:I.Chapter 13 on a case-by-case basis;

d. for Type I facilities, as may be allowed by the administrative authority, the standard for all parameters or constituents set in accordance with LAC 33:I.Chapter 13 on a case-by-case basis;

e. for parameters or constituents for which the background level is higher than the MCL identified under Subparagraph D.8.a or b of this Section, the background concentration for the parameter or constituent established from wells in accordance with this Subsection; or

f. as may be established by the administrative authority, a more stringent groundwater protection standard, if necessary, to protect human health or the environment.

E. Assessment of Corrective Measures at Type I and Type II Facilities

1. Within 90 days of finding that any of the assessment monitoring parameters or constituents have been detected at a statistically significant level exceeding the groundwater protection standards defined under Paragraph D.8 of this Section, the permit holder must initiate an assessment of corrective measures.

2. The permit holder must continue to monitor in accordance with the assessment monitoring program throughout the period of corrective action, as specified in Subsection D of this Section.

3. The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described under Subsection F of this Section, addressing at least the following:

a. performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

b. time required to begin and complete the remedy;

c. costs of remedy implementation; and

d. institutional requirements such as state or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy.

4. For Type II landfills and associated surface impoundments, the results of the corrective measures assessment must be discussed by the permit holder, in a public meeting prior to the selection of remedy, with interested and affected parties.

F. Selection of Remedy and Corrective Action Plan at Type II Landfills and Associated Surface Impoundments

1. Based on the results of the corrective measures assessment conducted under Subsection E of this Section, the permit holder must select a remedy that, at a minimum, meets the standards of Paragraph F.2 of this Section. Within 180 days after initiation of the corrective measures assessment required in Subsection E of this Section, the permit holder must submit four bound copies (8 ½ 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 Paragraphs F.2-4 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 Subparagraph G.1.a of this Section.

2. Remedies must:

- a. be protective of human health and the environment;
- b. attain the groundwater protection standard as specified in accordance with Paragraph D.8 of this Section;
- c. control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of assessment monitoring parameters or constituents into the environment that may pose a threat to human health or the environment; and
- d. comply with standards for management of wastes as specified in Paragraph G.7 of this Section;

3. In selecting a remedy that meets the standards of Paragraph F.2 of this Section, the permit holder shall consider the following evaluation factors:

- a. long-term and short-term effectiveness and protectiveness of the potential remedy(s), along with the degree of certainty that the remedy will prove successful based on consideration of the following:
 - i. magnitude of reduction of existing risks;
 - ii. magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;
 - iii. type and degree of long-term management required, including monitoring, operation, and maintenance;
 - iv. short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal of containment;
 - v. time until full protection is achieved;
 - vi. potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;
 - vii. long-term reliability of the engineering and institutional controls; and
 - viii. potential need for replacement of the remedy;
- b. effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:
 - i. extent to which containment practices will reduce further releases; and
 - ii. extent to which treatment technologies may be used;
- c. ease or difficulty of implementing a potential remedy(s) based on consideration of the following types of factors:
 - i. degree of difficulty associated with constructing the technology;
 - ii. expected operational reliability of the technologies;
 - iii. need to coordinate with and obtain necessary approvals and permits from other agencies;
 - iv. availability of necessary equipment and specialists; and

v. available capacity and location of needed treatment, storage, and disposal services;

d. practicable capability of the permit holder, including a consideration of the technical and economic capability; and

e. degree to which community concerns are addressed by a potential remedy(s).

4. The permit holder shall specify, as part of the selected remedy, a schedule(s) for initiating and completing remedial activities. Such a schedule must require the initiation of remedial activities within a reasonable period of time. The permit holder must consider the following factors in determining the schedule of remedial activities:

- a. extent and nature of contamination;
- b. practical capabilities of remedial technologies in achieving compliance with groundwater protection standards established under Paragraph D.8 of this Section and other objectives of the remedy;
- c. availability of treatment or disposal capacity for wastes managed during implementation of the remedy;
- d. desirability of utilizing technologies that are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;
- e. potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;
- f. resource value of the aquifer including:
 - i. current and future uses;
 - ii. proximity and withdrawal rate of users;
 - iii. groundwater quantity and quality;
 - iv. potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to parameters or constituents;
 - v. hydrogeologic characteristic of the facility and surrounding land;
 - vi. groundwater removal and treatment costs;
 - vii. cost and availability of alternative water supplies; and
 - viii. practicable capability of the permit holder; and
 - g. other relevant factors.

5. The administrative authority may determine that remediation of a release of an assessment monitoring parameter or constituent from a facility is not necessary if the permit holder demonstrates to the satisfaction of the administrative authority that:

a. the groundwater is additionally contaminated by substances that have originated from a source other than a facility and those substances are present in such concentrations that cleanup of the release from the facility would provide no significant reduction in risk to actual or potential receptors;

b. parameter or constituent is present in groundwater that:

- i. is not currently or reasonably expected to be a source of drinking water; and
- ii. is not hydraulically connected with waters to which the parameters or constituents are migrating or are likely to migrate in a concentration that would exceed the groundwater protection standards established under Paragraph D.8 of this Section;

c. remediation of the release(s) is technically impracticable; or

d. remediation results in unacceptable cross-media impacts.

6. A determination by the administrative authority in accordance with Paragraph F.5 of this Section shall not affect the authority of the administrative authority to require the permit holder to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and that significantly reduce threats to human health or the environment.

G Implementation of the Corrective Action Programs at Type I and Type II Facilities

1. After the corrective action plan has been approved by the administrative authority and, based on the corrective action plan schedule established under Paragraph F.4 of this Section for initiation and completion of remedial activities, the permit holder must:

a. implement a corrective-action groundwater monitoring program as described in the approved corrective-action plan that:

i. at a minimum, meets the requirements of an assessment monitoring program under Subsection D of this Section;

ii. indicates the effectiveness of the corrective action remedy; and

iii. demonstrates compliance with the groundwater protection standard in accordance with Paragraph D.8 of this Section; and

b. implement the corrective-action plan established under Subsection F of this Section.

2. 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 Paragraph F.2 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 Paragraph F.2 of this Section must accompany the demonstration.

3. If the administrative authority approves, in writing, the demonstration and revised corrective action plan submitted in accordance with Paragraph G.2 of this Section, the permit holder must implement the revised corrective-action plan.

4. The permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating that compliance with the requirements under Paragraph F.2 of this Section cannot be achieved with any currently available methods.

5. If the administrative authority approves, in writing, the demonstration submitted in accordance with Paragraph G.4 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:

a. to control exposure of humans and the environment to residual contamination as necessary to protect human health and the environment; and

b. for the control of the sources of contamination, or for the removal or decontamination of equipment, devices, or structures, that are technically practicable and consistent with the overall objective of the remedy.

6. If the administrative authority approves the plan for alternate measures submitted in accordance with Paragraph G.5 of this Section, the permit holder must implement the plan.

7. All solid wastes that are managed in accordance with a remedy required under Paragraph E.6 of this Section, or an interim measure required under Clause E.4.f.iii of this Section, shall be managed in a manner:

a. that is protective of human health and the environment; and

b. that complies with applicable RCRA requirements.

8. Remedies selected in accordance with Subsection F of this Section shall be considered complete when:

a. the permit holder complies with the groundwater protection standards established under Paragraph D.8 of this Section at all points within the plume of contamination that lie beyond the groundwater monitoring well system established under Paragraph E.1 of this Section; and

b. compliance with the groundwater protection standards established under Paragraph D.8 of this Section has been achieved by demonstrating that concentrations of assessment monitoring parameters or constituents have not exceeded the groundwater protection standard(s) for a period of three consecutive years using the statistical procedures and performance standards in Paragraph B.6 of this Section. The administrative authority may specify an alternative length of time during which the permit holder must demonstrate that concentrations of the assessment monitoring parameters or constituents have not exceeded the groundwater protection standard(s) taking into consideration:

i. extent and concentration of the release(s);

ii. behavior characteristics of the hazardous parameters or constituents in the groundwater;

iii. accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and

iv. characteristics of the groundwater; and

c. all actions required to complete the remedy have been satisfied.

i. Upon completion of the remedy, the permit holder must submit to the administrative authority within 14 days a certification that the remedy has been completed in compliance with the requirements of Paragraph G.8 of this Section. The certification must be signed by the permit holder and approved by the administrative authority.

ii. When, upon completion of the certification, the administrative authority determines that the corrective action remedy has been completed in accordance with the requirements under Paragraph G.8 of this Section, the permit holder shall be released from the requirements for financial assurance for corrective action under LAC 33:VII.1305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Appendix A

Groundwater Sampling and Analysis Plan

- i. All wells must be measured for total depth and depth to water on the same day and immediately prior to purging. Measurements must be to the nearest 0.01 foot, and the values must be recorded in the field notebook. If 10 percent of the screened interval is blocked by sediments, the well must be redeveloped prior to the next required sampling event. Wells with dedicated sampling devices that preclude total-depth measurement must be measured annually.
- ii. Each well must be purged by evacuation to dryness or by removing a minimum of three casing volumes. The well must be sampled immediately upon purging and/or when sufficient water for sampling has recharged the well. Purging and sampling methods must be consistent throughout the life of the facility.
- iii. Samples must be withdrawn using dedicated or adequately cleaned equipment for each well. No equipment or method may be used that will chemically alter or influence the sample. Sampling devices, other than bailers, must be approved by the administrative authority prior to use in monitoring programs. Care must be taken to avoid placing clean sampling equipment on the ground or on any

contaminated surface. Sampling methods and equipment must be compatible throughout the life of the facility.

iv. Sample preservation, handling, and analysis must meet the specifications of the "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," third edition EPA Publication SW-846, 1986, as revised December, 1987 (SW-846) or an equivalent substitute as approved by the administrative authority. Parameters, containers, preservation methods, and analytical limits are listed in Tables 1 and 2.

v. Analytical methods with the equivalency to SW-846, or analytical methods for parameters not listed in SW-846, must be approved by the administrative authority prior to implementation.

vi. A chain of custody must be employed that will allow for the possession and handling of samples to be traced from the time of collection through laboratory analysis. All sample containers must be labeled to prevent misidentification, have proper seals, and indicate the test parameters required.

vii. At the site, an up-to-date field logbook must be kept, which documents for each sample the well identification number, total well depth, elevation of top of casing, water level, water color, well-evacuation procedures and equipment, date, time, sample identification numbers, field measurements (pH, specific conductance, etc.) and methods, name of collector, field observations, calculations of the standing-water volume in the well, and the total volume evacuated.

**Table 1
Detection Monitoring Parameters¹**

	Common Name²	CAS RN³
(1)	Antimony	(Total)
(2)	Arsenic	(Total)
(3)	Barium	(Total)
(4)	Beryllium	(Total)
(5)	Cadmium	(Total)
(6)	Chromium	(Total)
(7)	Cobalt	(Total)
(8)	Copper	(Total)
(9)	Lead	(Total)
(10)	Nickel	(Total)
(11)	Selenium	(Total)
(12)	Silver	(Total)
(13)	Thallium	(Total)
(14)	Vanadium	(Total)
(15)	Zinc	(Total)
Organic Constituents:		
(16)	Acetone	67-64-1
(17)	Acrylonitrile	107-13-1
(18)	Benzene	71-43-2
(19)	Bromochloromethane	74-97-5
(20)	Bromodichloromethane	75-27-4
(21)	Bromoform; Tribromomethane	75-25-2
(22)	Carbon disulfide	75-15-0
(23)	Carbon tetrachloride	56-23-5
(24)	Chlorobenzene	108-90-7
(25)	Chloroethane; Ethyl chloride	75-00-3
(26)	Chloroform; Trichloromethane	67-66-3
(27)	Dibromochloromethane; Chlorodibromomethane	124-48-1
(28)	1,2-Dibromo-3-chloropropane; DBCP	96-12-8
(29)	1,2-Dibromoethane; Ethylene dibromide; EDB	106-93-4
(30)	o-Dichlorobenzene; 1,2-Dichlorobenzene	95-50-1
(31)	p-Dichlorobenzene; 1,4-Dichlorobenzene	106-46-7
(32)	trans-1,4-Dichloro-2-butene	110-57-6
(33)	1,1-Dichloroethane; Ethylidene chloride	75-34-3

(34)	1,2-Dichloroethane; Ethylene dichloride	107-06-2
(35)	1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride	75-35-4
(36)	cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2
(37)	trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene	156-60-5
(38)	1,2-Dichloropropane; Propylene dichloride	78-87-5
(39)	cis-1,3-Dichloropropene	10061-01-5
(40)	trans-1,3-Dichloropropene	10061-02-6
(41)	Ethylbenzene	100-41-4
(42)	2-Hexanone; Methyl butyl ketone	591-78-6
(43)	Methyl bromide; Bromomethane	74-83-9
(44)	Methyl chloride; Chloromethane	74-87-3
(45)	Methylene bromide; Dibromomethane	74-95-3
(46)	Methylene chloride; Dichloromethane	75-09-2
(47)	Methyl ethyl ketone; MEK; 2-Butanone	78-93-3
(48)	Methyl iodide; Iodomethane	74-88-4
(49)	4-Methyl-2-pentanone; Methyl isobutyl ketone	108-10-1
(50)	Styrene	100-42-5
(51)	1,1,1,2-Tetrachloroethane	630-20-6
(52)	1,1,2,2-Tetrachloroethane	79-34-5
(53)	Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	127-18-4
(54)	Toluene	108-88-3
(55)	1,1,1-Trichloroethane; Methylchloroform	71-55-6
(56)	1,1,2-Trichloroethane	79-00-5
(57)	Trichloroethylene; Trichloroethene	79-01-6
(58)	Trichlorofluoromethane; CFC-11	75-69-4
(59)	1,2,3-Trichloropropane	96-18-4
(60)	Vinyl acetate	108-05-4
(61)	Vinyl chloride	75-01-4
(62)	Xylenes	1330-20-7

Notes:

¹ This list contains 47 volatile organics for which possible analytical procedures provided in SW-846 includes Method 8260; and 15 metals for which SW-846 provides either Method 6010 or a method from the 7000 series of methods.

² Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

³ Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

Table 2
Assessment Monitoring Parameters¹

Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL (mg/L) ⁶
Acenaphthene	83-32-9	Acenaphthylene, 1,2-dihydro-	8100 8270	200 10
Acenaphthylene	208-96-8	Acenaphthylene	8100 8270	200 10
Acetone	67-64-1	2-Propanone	8260	100
Acetonitrile; Methyl cyanide	75-05-8	Acetonitrile	8015	100
Acetophenone	98-86-2	Ethanone, 1-phenyl-	8270	10
2-Acetylaminofluorene; 2-AAF	53-96-3	Acetamide, N-9H-fluoren-2-yl-	8270	20
Acrolein	107-02-8	2-Propenal	8030 8260	5 100
Acrylonitrile	107-13-1	2-Propenenitrile	8030 8260	5 200
Aldrin	309-00-22	1,4:5,8-Dimethano-naphthalene; 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a,-hexa-hydro-(1,4,4a,5,8,8a)	8080 8270	0.05 10
Allyl chloride	107-05-1	1-Propene, 3-chloro-	8010 8260	5 10
4-Amino-biphenyl	92-67-1	[1,1'-Biphenyl]-4-amine	8270	20
Ananthracene	120-12-7	Anthracene	8100 8270	200 10
Antimony	(Total)	Antimony	6010 7040 7041	300 2,000 30
Arsenic	(Total)	Arsenic	6010 7060 7061	500 10 20
Barium	(Total)	Barium	6010 7080	20 1,000
Benzene	71-43-2	Benzene	8020 8021 8260	2 0.1 5

Benzo[a]anthracene Benzanthracene	56-55-3	Benz[a]anthracene	8100 8270	200 10
Benzo[b]fluoranthene	205-99-2	Benz[e]acephenanthrylene	8100 8270	200 10
Benzo[k]fluoranthene	207-08-9	Benzo[k]fluoranthene	8100 8270	200 10
Benzo[ghi]perylene	191-24-2	Benzo[ghi]perylene	8100 8270	200 10
Benzo[a]pyrene	50-32-8	Benzo[a]pyrene	8100 8270	200 10
Benzyl alcohol	100-51-6	Benzenemethanol	8270	20
Beryllium	(Total)	Beryllium	6010 7090 7091	3 50 2
alpha-BHC	319-84-6	Cyclohexane; 1,2,3, 4,5,-hexachloro-, (1a, 2a,3β,4a,5β,6β)	8080 8270	0.05 10
beta-BHC	319-85-7	Cyclohexane; 1,2,3, 4,5,6-hexa- chloro-, (1a,2β,3a,4β,5a,6β) -	8080 8270	0.05 20
delta-BHC	319-86-8	Cyclohexane,1,2,3,4,5,6-hexachloro- (1a,2a,3a,4β, 5a,6β) -	8080 8270	0.1 20
gamma-BHC; Lindane	58-89-9	Cyclohexane, 1,2, 3,4,5,6-hexachloro-, (1a,2a,3β,4a,5a,6β)	8080 8270	0.05 20
Bis(2-chloroethoxy)methane	111-91-1	Ethane; 1,1'-[methylenebis(oxy)]bis[2- chloro-	8110 8270	5 10
Bis(2-chloroethyl)ether	111-44-4	Ethane, 1,1'-oxybis[2-chloro-	8110 8270	3 10
Bis(2-chloro- 1-methylethyl) ether; 2,2'-Dichlorodiisopropyl ether	108-60-1 See Note 7	Propane, 2,2'-oxybis [1-chloro-	8110 8270	10 10
Bis(2-ethyl-hexyl) phthalat	117-81-7	1,2-Benzene- dicarboxylic acid, bis(2-ethyl-hexyl) ester	8060	20
Bromochloro methane; Chloro-bromomethane	74-97-5	Methane, bromochloro-	8021 8260	0.1 5
Bromodichloro methane	75-27-4	Methane, bromodichloro-	8010 8021 8260	1 0.2 5
Bromoform; Tribromomethane	75-25-2	Methane, tribromo-	8010 8021 8260	2 15 5
4-Bromophenyl phenyl ether	101-55-3	Benzene, 1-bromo-4-phenoxy -	8110 8270	25 10
Butyl benzyl phthalate; Benzyl butyl phthalate	85-68-7	1,2-Benzene- dicarboxylic acid, butyl phenylmethyl ester	8060 8270	5 10
Cadmium	(Total)	Cadmium	6010 7130 7131	40 50 1
Carbon disulfide	75-15-0	Carbon disulfide	8260	100
Carbon tetrachloride	56-23-5	Methane, tetrachloro-	8010 8021 8260	1 0.1 10
Chlordane	57-74-9 See Note 8	4,7-Methano-1H- indene,1,2,4,5,6,7,8, 8-octachloro-2,3,3a,4, 7,7a-hexahydro-	8080 8270	0.1 50
p-Chloroaniline	106-47-8	Benzenamine, 4-chloro-	8270	20
Chlorobenzene	108-90-7	Benzene, chloro-	8010 8020 8021 8260	2 2 0.1 5
Chlorobenzilate	510-15-6	Benzenoacetic acid, 4-chloro-a-(4- chlorophenyl)-a- hydroxy-, ethyl ester	8270	10
p-Chloro-m-cresol	59-50-7	Phenol, 4-chloro- 3-methyl-	8040 8270	5 20
Chloroethane; Ethyl chloride	75-00-3	Ethane, chloro-	8010 8021 8260	5 1 10
Chloroform	67-66-3	Methane, trichloro-	8010 8021 8260	0.5 0.2 5
2-Chloronaphthalene	91-58-7	Naphthalene, 2-chloro-	8120 8270	10 10
2-Chlorophenol	95-57-8	Phenol, 2-chloro-	8040 8270	5 10
4-Chlorophenyl phenyl ether	7005-72-3	Benzene, 1-chloro-4-phenoxy -	8110 8270	40 10
Chloroprene	126-99-8	1,3-Butadiene, 2- chloro-	8010 8260	50 20

Chromium	(Total)	Chromium	6010 7190 7191	70 500 10
Chrysene	218-01-9	Chrysene	8100 8270	200 10
Cobalt	(Total)	Cobalt	6010 7200 7201	70 500 10
Copper	(Total)	Copper	6010 7210	60 200
m-Cresol	108-39-4	Phenol, 3-methyl-	8270	10
o-Cresol	95-48-7	Phenol, 2-methyl-	8270	10
p-Cresol	106-44-5	Phenol, 4-methyl-	8270	10
Cyanide	57-12-5	Cyanide	9010	200
2,4-D; 2,4-Dichloro- phenoxyacetic acid	94-75-7	Acetic acid, (2,4- dichlorophenoxy)-	8150	10
4,4'-DDD	72-54-8	Benzene 1,1'-(2,2- dichloroethylidene) bis[4-chloro-	8080 8270	0.1 10
4,4'-DDE	72-55-9	Benzene, 1,1'-(dichloroethenylidene) bis[4-chloro-	8080 8270	0.05 10
4,4'-DDT	50-29-3	Benzene, 1,1'-(2,2,2-trichloro-ethylidene) bis[4-chloro-	8080 8270	0.1 10
Diallate	2303-16-4	Carbamothioic acid, bis(1-methyl- ethyl)-, S-(2,3-dichloro-2-propenyl) ester	8270	10
Dibenz[a,h]- anthracene	53-70-3	Dibenz[a,h] anthracene	8100 8270	200 10
Dibenzofuran	132-64-9	Dibenzofuran	8270	10
Dibromochloromethane; Chlorodibromomethane	124-48-1	Methane, diboro- chloro-	8010 8021 8260	1 0.3 5
1,2-Dibromo- 3-chloropropane; DBCP	96-12-8	Propane, 1,2-dibromo-3-chloro-	8011 8021 8260	0.1 30 25
1,2-Dibromoethane; Ethylene dibromide	106-93-4	Ethane, 1,2-dibromo-	8011 8021 8260	0.1 10 5
Di-n-butyl phthalate	84-74-2	1,2-Benzene dicarboxylic acid, dibutyl ester	8060 8270	5 10
o-Dichlorobenzene	95-50-1	Benzene, 1,2-dichloro-	8010 8020 8021 8120 8260 8270	2 5 0.5 10 5 10
m-Dichlorobenzene	541-73-1	Benzene, 1,3- dichloro-	8010 8020 8021 8120 8260 8270	5 5 0.2 10 5 10
p-Dichlorobenzene	106-46-7	Benzene, 1,4-dichloro-	8010 8020 8021 8120 8260 8270	2 5 0.1 15 5 10
3,3'-Dichlorobenzidine	91-94-1	[1,1'-Biphenyl]-4,4'-diamine, 3,3'- dichloro-	8270	20
trans-1,4; Dichloro-2-butene	110-57-6	2-Butene, 1,4-dichloro-, (E)-	8260	100
Dichlorodifluoromethane	75-71-8	Met hane, dichlorodifluoro-	8021 8260	0.5 5
1,1-Dichloroethane	75-34-3	Ethane, 1,1-dichloro-	8010 8021 8260	1 0.5 5
1,2-Dichloroethane; Ethylene dichloride	107-06-2	Ethane, 1,2-dichloro-	8010 8021 8260	0.5 0.3 5
1,1-Dichloroethylene; Vinylidene chloride	75-35-4	Ethene, 1,1-dichloro	8010 8021 8260	1 0.5 5
cis-1,2-Dichloro-ethylene; cis-1,2- Dichloroethene	156-59-2	Ethene, 1,2-dichloro-, (Z)-	8021 8260	0.2 5
trans-1,2-Dichloroethylene	156-60-5	Ethene, 1,2-dichloro-(E)-	8010 8021 8260	1 0.5 5

2,4-Dichlorophenol	120-83-2	Phenol, 2,4-dichloro-	8040 8270	5 10
2,6-Dichlorophenol	87-65-0	Phenol, 2,6-dichloro-	8270	10
1,2-Dichloropropane	78-87-5	Propane, 1,2-dichloro-	8010 8021 8260	0.5 0.05 5
1,3-Dichloropropane; Trimethylene dichloride	142-28-9	Propane, 1,3-dichloro-	8021 8260	0.3 5
2,2-Dichloropropane; Isopropylidene chloride	594-20-7	Propane, 2,2-dichloro-	8021 8260	0.5 15
1,1-Dichloropropene	563-58-6	1-Propene, 1,1-dichloro-	8021 8260	0.2 5
cis-1,3-Dichloropropene	10061-01-5	1-Propene, 1,3-dichloro-,(Z)-	8010 8260	20 10
trans-1,3-Dichloropropene	10061-02-6	1-Propene, 1,3-dichloro-,(E)-	8010 8240	5 5
Dieldrin	60-57-1	2,7:3,6-Dimethano- naphth[2,3-b]oxi-rene,3,4,5,6,9,9- hexachloro-1a,2,2a,3,6,6a,7,7a-octa-hydro-,(1aa,2ß,2aa,3ß,6ß,6aa,7ß,7aa)-	8080 8270	0.05 10
Diethyl phthalate	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester	8060 8270	5 10
O,O-Diethyl O-2-pyrazinyl phosphorothioate; Thionazin	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester	8141 8270	5 20
Dimethoate	60-51-5	Phosphorodithioic acid, O,O-dimethyl-S-[2-(methylamino)-2-oxoethyl] ester	8141 8270	3 20
p-(Dimethylamino)azobenzene	60-11-7	Benzenamine, N,N-dimethyl-4- (phenylazo)-	8270	10
7,12-Dimethylbenz[a] anthracene	57-97-6	Benz[a]anthracene, 7,12-dimethyl-	8270	10
3,3'-Dimethylbenzidine	119-93-7	[1,1'-Biphenyl]-4,4'- diamine, 3,3'- dimethyl-	8270	10
2,4-Dimethylphenol	105-67-9	Phenol, 2,4-dimethyl-	8040	5
Dimethyl phthalate	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester	8060 8270	5 10
m-Dinitrobenzene	99-65-0	Benzene, 1,3-dinitro-	8270	20
4,6-Dinitro-o-cresol	534-52-1	Phenol, 2-methyl-4,6-dinitro-	8040 8270	150 50
2,4-Dinitrophenol	51-28-5	Phenol, 2,4-dinitro-	8040 8270	150 50
2,4-Dinitrotoluene	121-14-2	Benzene, 1-methyl-2,4-dinitro-	8090 8270	0.2 10
2,6-Dinitrotoluene	606-20-2	Benzene, 2-methyl-1,3-dinitro-	8090 8270	0.1 10
Dinoseb; DNBP; 2-sec-Butyl-4,6-dinitrophenol	88-85-7	Phenol, 2-(1-methyl-propyl)-4,6-dinitro-	8150 8270	1 20
Di-n-octyl phthalate	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester	8060 8270	30 10
Diphenylamine	122-39-4	Benzenamine, N-phenyl-	8270	10
Disulfoton	298-04-4	Phosphorodithioic acid, O,O-diethyl S- [2-(ethylthio) ethyl]ester	8140 8141 8270	2 0.5 10
Endosulfan I	959-98-8	6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10- hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide,(3a,5aß,6a, 9a,9aß)-	8080 8270	0.1 20
Endosulfan II	33213-65-9	6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10- hexachloro- 1,5,5a,6,9,9a-hexahydro-, 3-oxide,(3a,5aa,6ß, 9ß,9aa)-	8080 8270	0.05 20
Endosulfan sulfate	1031-07-8	6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9, 9a-hexahydro-,3,3- dioxide	8080 8270	0.5 10
Endrin	72-20-8	2,7:3,6-Dimethano- naphth[2,3-b]oxi-rene,3,4,5,6,9,9-hexachloro-1a,2,2a, 3,6,6a,7,7a-octa-hydro-,(1aa,2ß,2aß,3a,6a,6aß,7ß,7aa)-	8080 8270	0.1 20
Endrin aldehyde	7421-93-4	1,2,4-Metheno-cyclopenta[cd]-pentalene-5-car-boxaldehyde, 2,2a,3,3,4,7-hexachlorodeca-hydro-,(1a,2ß,2aß, 4ß,4aß,5ß,6aß,6bß, 7R*)	8080 8270	0.2 10
Ethylbenzene	100-41-4	Benzene, ethyl-	8020 8221 8260	2 0.05 5
Ethyl methacrylate	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester	8015 8260 8270	5 10 10
Ethyl methanesulfonate	62-50-0	Methanesulfonic acid, ethyl ester	8270	20
Famphur	52-85-7	Phosphorothioic acid, O-[4-(dimethyl-amino)-sulfonyl] phenyl]-O,O-dimethyl ester	8270	20
Fluoranthene	206-44-0	Fluoranthene	8100 8270	200 10
Fluorene	86-73-7	9H-Fluorene	8100 8270	200 10
Heptachlor	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8, 8-heptachloro-3a, 4,7,7a-tetrahydro-	8080 8270	0.05 10

Heptachlor epoxide	1024-57-3	2,5-Methano-2H- indeno [1,2-b]oxi- rene,2,3,4,5,6,7,7- heptachloro-1a,1b,5,5a,6,6a-hexahydro-, (1aa,1bb,2a,5a, 5aß,6ß,6aa)	8080 8270	1 10
Hexachlorobenzene	118-74-1	Benzene, hexachloro-	8120 8270	0.5 10
Hexachlorobutadiene	87-68-3	1,3-Butadiene, 1,1,2,3,4,4- hexachloro-	8021 8120 8260 8270	0.5 5 10 10
Hexachlorocyclopentadiene	77-47-4	1,3-Cyclopentadiene	8120 8270	5 10
Hexachloroethane	67-72-1	Ethane, hexachloro-	8120 8260 8270	0.5 10 10
Hexachloropropene	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-	8270	10
2-Hexanone	591-78-6	2-Hexanone	8260	50
Indeno(1,2,3-cd) pyrene	193-39-5	Indeno[1,2,3-cd] pyrene	8100 8270	200 10
Isobutyl alcohol	78-83-1	1-Propanol, 2-methyl-	8015 8240	50 100
Isodrin	465-73-6	1,4,5,8-Dimethano - naphthalene,1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a hexahydro - (1a,4a,4aß,5ß,8ß, 8aß)-	8270 8260	20 10
Isophorone	78-59-1	2-Cyclohexen-1- one, 3,5,5-tri-methyl-	8090 8270	60 10
Isosafrole	120-58-1	1,3-Benaodioxole, 5-(1-propenyl)-	8270	10
Kepone	143-50-0	1,3,4-Metheno-2H- cylobuta-[cd] pentalen-2-one,1,1a, 3,3a,4,5,5,5a,5b,6- decachloro-octahydro-	8270	20
Lead	(Total)	Lead	6010 7420 7421	400 1,000 10
Mercury	(Total)	Mercury	7470	2
Methacrylonitrile	126-98-7	2-Propene, nitrile 2-methyl-	8015 8260	5 100
Methapyrilene	91-80-5	1,2,Ethanediamine, N,N'-dimethyl-N'-2- pyridinyl-N'-(2-thienylmethyl)-	8270	100
Methoxychlor	72-43-5	Benzene, 1,1'-(2,2,2, trichloroethylidene) bis[4-methoxy-.	8080 8270	2 10
Methyl bromide; Bromomethane	74-83-9	Methane, bromo-	8010 8021	20 10
Methyl chloride; Chloromethane	74-87-3	Methane, chloro-	8010 8021	1 0.3
3-Methylchol anthrene	56-49-5	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-	8270	10
Methyl ethyl ketone; MEK	78-93-3	2-But anone	8015 8260	10 100
Methyl iodide; Iodomethane	74-88-4	Methane, iodo-	8010 8260	40 10
Methyl methacrylate	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester	8015 8260	2 30
Methyl methanesulfonate	66-27-3	methanesulfonic acid, methyl ester	8270	10
2-Methylnaphthalene	91-57-6	Naphthalene, 2-methyl-	8270	10
Methyl parathion; arathion methyl	298-00-0	Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester	8140 8141 8270	0.5 1 10
4-Methyl-2- pentanone; Methyl isobutyl ketone	108-10-1	2-Pentanone, 4-methyl	8015 8260	5 100
Methylene bromide; Dibromo- methane	74-95-3	Methane, dibromo-	8010 8021 8260	15 20 10
Methylene chloride; Dichloromethane	75-09-2	Methane, dichloro-	8010 8021 8060	5 0.2 10
Naphthalene	91-20-3	Naphthalene	8021 8100 8260 8270	0.5 200 5 10
1,4-Naphthoquinone	130-15-4	1,4-Naphthalenedione	8270	10
1-Naphthylamine	134-32-7	1-Naphthalenamine	8270	10
2-Naphthylamine	91-59-8	2-Naphthalenamine	8270	10
Nickel	(Total)	Nickel	6010 7520	50 400
o-Nitroaniline	88-74-4	Benzenamine, 2-nitro-	8270	50
m-Nitroaniline	99-09-2	Benzenamine, 3-nitro-	8270	50
p-Nitroaniline	100-01-6	Benzenamine, 4-nitro-	8270	50
Nitrobenzene	98-95-3	Benzene, nitro-	8090 8270	40 10

o-Nitrophenol	88-75-5	Phenol, 2-nitro-	8040 8270	5 10
p-Nitrophenol	100-02-7	Phenol, 4-nitro	8040 8270	10 50
N-Nitrosodi-n-butylamine	924-16-3	1-Butanamine, N-butyl-N-nitroso	8270	10
N-Nitroso-diethylamine	55-18-5	Ethanamine, N-ethyl-N-nitroso	8270	20
N-Nitroso-dimethylamine	62-75-9	Methanamine, N-methyl-N-nitroso-	8070	2
N-Nitroso-diphenylamine	86-30-6	Benzenamine, N-nitroso-N-phenyl-	8070	5
N-Nitroso-dipropylamine; Di-n-propyl-nitrosamine	621-64-7	1-Propanamine, N-nitroso-N-propyl-	8070	10
N-Nitrosom-ethylethylamine	10595-95-6	Ethanamine, N-methyl-N-nitroso-	8270	10
N-Nitrosopiperidine	100-75-4	Piperidine, 1-nitroso-	8270	20
N-Nitrosopyrrolidine	930-55-2	Pyrrolidine, 1-nitroso-	8270	40
5-Nitro-o-toluidine	99-55-8	Benzenamine, 2-methyl-5-nitro-	8270	10
Parathion	56-38-2	Phosphorothioic acid, O,O-diethyl-O-(4-nitrophenyl) ester	8141 8270	0.5 10
Pentachlorobenzene	608-93-5	Benzene, pentachloro-	8270	10
Pentachloro-nitrobenzene	82-68-8	Benzene, penta-chloronitro-	8270	20
Pentachlorophenol	87-86-5	Phenol, pentachloro-	8040 8270	5 50
Phenacetin	62-44-2	Acetamide, N-(4-ethoxyphenyl)	8270	20
Phenanthrene	85-01-8	Phenanthrene	8100 8270	200 10
Phenol	108-95-2	Phenol	8040 8270	1 10
p-Phenylenediamine	106-50-3	1,4-Benzenediamine	8270	10
Phorate	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)-methyl] ester	8140 8141 8270	2 0.5 10
Polychlorinated biphenyls; PCBs	See Note 9	1,1'-Biphenyl, chloro derivatives	8080 8270	50 200
Pronamide	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-	8270	10
Propionitrile; Ethyl cyanide	107-12-0	Propanenitrile	8015 8260	60 150
Pyrene	129-00-0	Pyrene	8100 8270	200 10
Safrole	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-	8270	10
Selenium	(Total)	Selenium	6010 7740 7741	750 20 20
Silver	(Total)	Silver	6010 7760	70 100
Silvex; 2,4,5-TP	93-72-1	Propanoic acid, 2-(2,4,5-trichloro-phenoxy)-	8150	2
Styrene	100-42-5	Benzene, ethenyl-	8020 8021 8260	1 0.1 10
Sulfide	18496-25-8	Sulfide	9030	4,000
2,4,5-T; 2,4,5-Trichloro-phenoxyacetic acid	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-	8150	2
1,2,4,5-Tetrachlorobenzene	95-94-3	Benzene, 1,2,4,5-tetrachloro-	8270	10
1,1,1,2-Tetrachloroethane	630-20-6	Ethane, 1,1,1,2-tetrachloro-	8010 8021 8260	5 0.05 5
1,1,2,2-Tetrachloroethane	79-34-5	Ethane, 1,1,2,2-tetrachloro-	8010 8021 8260	0.5 0.1 5
Tetrachloroethylene; Perchloroethylene; Tetrachloroethene	127-18-4	Ethene, tetrachloro-	8010 8021 8260	0.5 0.5 5
2,3,4,6-Tetrachlorophenol	58-90-2	Phenol, 2,3,4,6-tetrachloro-	8270	10
Thallium	(Total)	Thallium	6010 7840 7841	400 1,000 10
Tin	(Total)	Tin	6010	40
Toluene	108-88-3	Benzene, methyl-	8020 8021 8260	2 0.1 5
o-Toluidine	95-53-4	Benzenamine, 2-methyl-	8270	10
Toxaphene	8001-35-2 See note 10	Toxaphene	8080	2
1,2,4-Trichlorobenzene	120-82-1	Benzene, 1,2,4-trichloro	8021 8120 8260 8270	0.3 0.5 10 10

1,1,1-Trichloroethane; Methylchloroform	71-55-6	Ethane, 1,1,1 - trichloro-	8010 8021 8260	0.3 0.3 5
1,1,2-Trichloroethane	79-00-5	Ethane, 1,1,2-trichloro-	8010 8260	0.2 5
Trichloroethylene; Trichloroethene	79-01-6	Ethene, trichloro-	8010 8021 8260	1 0.2 5
Trichlorofluoromethane	75-69-4	Methane, trichlorofluoro-	8010 8021 8260	10 0.3 5
2,4,5-Trichlorophenol	95-95-4	Phenol, 2,4,5- trichloro-	8270	10
2,4,6-Trichlorophenol	88-06-2	Phenol, 2,4,6-trichloro-	8040 8270	5 10
1,2,3-Trichloropropane	96-18-4	Propane, 1,2,3-trichloro-	8010 8021 8260	10 5 15
O,O,O-Triethyl phosphorothioate	126-68-1	Phosphorothioic acid, O,O,O-tri-ethyl ester	8270	10
sym-Trinitrobenzene	99-35-4	Benzene, 1,3,5-trinitro	8270	10
Vanadium	(Total)	Vanadium	6010 7910 7911	80 2,000 40
Vinyl acetate	108-05-4	Acetic acid, ethenyl ester	8260	50
Vinyl chloride	75-01-4	Ethene, chloro-	8010 8021 8260	2 0.4 10
Xylene (total)	1330-20-7 See Note 11	Benzene, dimethyl-	8020 8021 8260	5 0.2 5
Zinc	(Total)	Zinc	6010 7950 7951	20 50 0.5

Notes:

¹ The regulatory requirements pertain only to the list of substances; the right-hand columns (Methods and PQL) are given for informational purposes only. See also footnotes 5 and 6.

² Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

³ Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

⁴ CAS index numbers are those used in the 9th Collective Index.

⁵ Suggested Methods refer to analytical procedure numbers used in SW-846. Analytical details can be found in SW-846 and in documentation on file at the agency.

Caution: The methods listed are representative of SW-846 procedures and may not always be the most suitable method(s) for monitoring an analyte under the regulations.

⁶ Practical Quantitation Limits (PQLs) are the lowest concentrations of analytes in ground waters that can be reliably determined within specified limits of precision and accuracy by the indicated methods under routine laboratory operating conditions. The PQLs listed are generally stated to one significant figure. PQLs are based on 5-ml samples for volatile organics and 1-L samples for semivolatile organics.

Caution: The PQL values in many cases are based only on a general estimate for the method and not on a determination for individual compounds; PQLs are not a part of the regulation.

⁷ This substance is often called Bis(2-chloroisopropyl) ether, the name Chemical Abstracts Service applies to its noncommercial isomer, Propane, 2,2'-oxybis[2-chloro- (CAS RN 39638-32-9).

⁸ Chlordane: This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12789-03-6). PQL shown is for technical chlordane. PQLs of specific isomers are about 20 ug/L by method 8270.

⁹ Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Aroclor 1260 (CAS RN 11096-82-5). The PQL shown is an average value for PCB congeners.

¹⁰ Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-20), i.e., chlorinated camphene.

¹¹ Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7). PQLs for method 8021 are 0.2 for o-xylene and 0.1 for m- or p-xylene. The PQL for m-xylene is 2.0 ug/L by method 8020 or 8260.

Chapter 9. Enforcement

§901. Failure to Comply

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§903. Investigations: Purposes, Notice

A. 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 persons or parties involved. The results of an investigation shall be given to any complainant who provided the information prompting the investigation, upon written request and, if advisable, to the person under investigation, if the identity of such person is known.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§905. Development of Facts, Reports

A. The administrative authority may conduct inquiries and develop facts in investigations by staff investigatory procedures or formal investigations and may conduct inspections and examinations of facilities and records. The administrative authority or his presiding officer may hold public hearings and/or issue subpoenas in accordance with R.S. 30:2025.I and require attendance of witnesses and production of documents, or may take such other action as may be necessary and authorized by the act or rules promulgated by the administrative authority. At the conclusion of the investigation, all facts and information concerning any alleged violation that have been developed shall be compiled by the staff of the department. A report of the investigation shall be presented to the administrative authority for use in possible enforcement proceedings. Any complainant who provided the information prompting the investigation shall be notified of its results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§907. Enforcement Action

A. When the administrative authority determines that a violation of the act or these regulations or the terms and conditions of any permit issued hereunder has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§909. Closing Unauthorized and Promiscuous Dumps

A. After an unauthorized or promiscuous dump is discovered, the administrative authority may issue an enforcement action with a closure directive to the person or

persons legally responsible for the facility. Directives issued for unauthorized or promiscuous dumps shall require closure of the facility in accordance with the procedures indicated in this Section.

B. The administrative authority shall require closure of unauthorized or promiscuous dumps either by removal to a solid waste facility or by completing on-site closure requirements. The method of closure shall be determined by the administrative authority.

C. Requirements for on-site closure are as follows:

1. if required, or authorized and approved, by the administrative authority, closure shall be conducted in accordance with LAC 33:I.Chapter 13. However, the requirements of Subparagraph C.2.g of this Section shall apply. If closure in accordance with LAC 33:I.Chapter 13 results in constituent-of-concern levels remaining above those allowed for residential scenarios, the requirements of Subparagraph C.2.f of this Section shall also apply; and

2. if closure will not be conducted in accordance with Paragraph C.1 of this Section, then approval or authorization may be granted by the administrative authority for the following alternative closure requirements:

a. extinguish all fires;

b. dewater and either solidify waste for return to the landfill or discharge it as governed by a NPDES permit, if applicable;

c. implement a disease vector extermination program;

d. compact the waste with suitable equipment;

e. provide a final cover consisting of a minimum of 24 inches of silty clays and 6 inches of topsoil cover for supporting vegetative growth and revegetate the area to control erosion if necessary;

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

g. conduct long-term monitoring in accordance with Subsection E of this Section, if deemed necessary by the administrative authority.

D. Inspection and Reports. The administrative authority reserves the right to inspect the facility to determine if the requirements for closure have been met.

E. Long-Term Monitoring Responsibilities. The administrative authority may require the following or other long-term monitoring responsibilities of the person legally responsible for the unauthorized or promiscuous dump, if deemed necessary:

1. installation of groundwater monitoring wells in accordance with LAC 33:VII.805 may be required along with semiannual reporting for a period of 10 years of monitoring of the facility after closure, or longer if deemed necessary, on a facility-specific basis; and

2. annual reports may be required for a period of three years or longer, if deemed necessary, on the condition of the final cover and the use of the property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Chapter 11. Beneficial-Use Facilities

§1101. General Requirements

A. Except as otherwise specified in this Chapter, beneficial-use facilities and permit holders shall be subject to the requirements of LAC 33:VII.Chapters 1, 3, 5, 6, 7, 8, 9, 13, and 15 including, but not limited to, definitions, permitting and public notice requirements, fees, standards, and enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§1103. Permit Requirements

A. Solid waste shall not be discharged, applied, incorporated, injected, or deposited onto or into the land for the purpose of beneficial use unless a beneficial-use permit is first obtained from the administrative authority. If a beneficial-use permit is issued to anyone other than the generator of the solid waste, the permit holder must comply with the financial assurance requirements in LAC 33:VII.1301.A for Type III facilities during operation, except that the liability amount shall be \$250,000 per permit, rather than per site.

B. No permit for beneficial use shall be issued by the administrative authority unless the applicant supplies written documentation from a qualified, independent third party, such as the Louisiana Cooperative Extension Service, the Louisiana Department of Agriculture, the Louisiana Department of Transportation and Development, or other appropriate organization that the proposed activity is a legitimate beneficial use of solid waste.

C. The administrative authority may issue a single beneficial-use permit for multiple beneficial-use locations provided that the permit application includes required information for each location, each location meets the standards provided in this Chapter, and the same solid waste stream (from a single generation site) is disposed of at all locations. The multiple locations shall be considered as one facility and each location shall be a unit of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§1105. Part I Application Form for Beneficial-Use Facilities

A. The applicant shall complete a beneficial-use application Part I form, which may be obtained from the Office of Environmental Services, Permits Division or through the department's website at www.deq.state.la.us. The following notes refer to the items on the form requiring that information:

1. name of applicant (prospective permit holder) applying for a beneficial-use permit (also name of property owner if different from permit holder);
2. facility name;
3. description of the location(s) of the facility (identify by street and number or by intersection of roads or by mileage and direction from an intersection);

4. geographic location(s) (section, township, range, and parish where the facility is located), and the coordinates (as defined by the longitude and latitude to the second) of the centerpoint of the facility;

5. mailing address of the applicant and the name(s) of the property owner if different from applicant;

6. contact and phone number for the applicant and for the property owner (position or title of the contact person is acceptable);

7. type and purpose of operation (check each applicable block);

8. a list of all environmental permits that relate directly to the facility represented in this application;

9. zoning of the facility (If the facility is zoned, note the classification and zoning authority, and include a zoning affidavit or other documentation stating that the proposed use does not violate existing land use requirements.);

10. types and maximum quantities (wet-weight tons per week) of waste to be applied at the facility;

11. proof of publication of the notice regarding submittal of the permit application as required in LAC 33:VII.503.A;

12. the signature, typed name, and the title of the individual(s) authorized to sign the application by the applicant and the property owner (Proof of legal authority of the signatory to sign for the applicant must be provided.);

13. third party documentation as required in LAC 33:VII.1103.B; and

14. other information required by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§1107. Part II Supplementary Information Required for Beneficial-Use Facilities

A. The following information is required in the permit application for beneficial-use facilities. All responses and exhibits must be identified within the following sequence to facilitate the evaluation. Additionally, all applicable sections of LAC 33:VII.1109 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 why it does not apply:

1. location characteristics as provided in LAC 33:VII.1109.A;

2. facility characteristics as provided in LAC 33:VII.1109.B;

3. facility geology as provided in LAC 33:VII.1109.C;

4. facility surface hydrology as provided in LAC 33:VII.1109.D;

5. certification as provided in LAC 33:VII.1109.E;

6. facility administrative procedures as provided in LAC 33:VII.1109.F;

7. facility implementation plans as provided in LAC 33:VII.1109.G;

8. facility operations as provided in LAC 33:VII.1109.H; and

9. facility closure requirements as provided in LAC 33:VII.1109.I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§1109. Standards Governing Beneficial-Use Facilities

A. Location Characteristics

1. Area Master Plan. A location map showing the facility, major drainage systems, drainage flow patterns, location of the 100-year flood plain, and other pertinent information is required. The scale of the maps and drawings must be legible, and engineering drawings are required.

2. Environmental Characteristics. The following information is required:

a. a list of all known recreation areas, designated wildlife management areas, swamps and marshes, wetlands, habitat for endangered species, and other sensitive ecologic areas within 1,000 feet of the facility perimeter or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the recreation areas, designated wildlife management areas, wetlands, habitat for endangered species, and other sensitive ecologic areas within 1,000 feet of the facility; and

c. a map showing all known locations of all public water systems, industrial water wells, and irrigation wells within one mile of the facility.

B. Facility Characteristics. The following information must be provided in a facility plan that includes drawings and a narrative:

1. the elements of the beneficial-use system employed, including as applicable, property lines, original contours (shown at not greater than five-foot intervals), units of the facility, drainage, ditches, and roads;

2. the perimeter barriers, security, and signs for all facilities that warn of restricted access, which must be of sufficient size and posted;

3. buffer zones for beneficial-use facilities that:

a. shall not be less than 100 feet between the facility and the property line. A reduction in this requirement shall be allowed only with the permission (in the form of a notarized affidavit) of the adjoining landowner and occupants. Buffer zone requirements may be exempted by the administrative authority in accordance with LAC 33:VII.307; and

b. shall have no storage or application of solid waste within the buffer zone;

4. that all facilities have access to required fire protection and medical care;

5. all facilities receiving and monitoring incoming wastes that:

a. shall control the entry of waste and prevent entry of unrecorded or unauthorized waste; and

b. shall maintain records regarding application rates, application dates, and methods of application;

6. discharges from beneficial-use facilities that must be controlled and must conform to applicable state and federal laws; and

7. other features, as appropriate.

C. Facility Geology. The following information regarding geology is required:

1. a general description of the soils, provided by a qualified professional (such as a geotechnical engineer, soil scientist, or geologist), a description of the method used to

determine soil characteristics, and documentation that soils meet the requirements in Paragraph D.3 of this Section;

2. logs of all known soil borings taken on the facility; and

3. demonstration that facilities have natural stable soils suitable for the beneficial application of the waste.

D. Facility Surface Hydrology. The following standards regarding surface hydrological characteristics apply to beneficial-use facilities:

1. land slope shall be controlled to prevent erosion;

2. waste shall be applied in accordance with the slope guidelines in the following table;

Slope Percent	Application Restriction
0-3	None; liquid or solid material may be applied to surface.
3-6	Surface application of liquid or solid material may be made; a 100-foot vegetated runoff area is required at the downslope end of the application area with liquid applications.
6-12	Liquid material must be injected; solid material must be incorporated into soil if not vegetated; a 100-foot vegetated runoff area is required at the downslope end of the application area for all application.
>12	Unsuitable for application unless a 200-foot buffer area with slope less than 3 percent is provided at the downslope edge of the application area.

3. the topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility;

4. wastes shall not be surface-applied within 100 feet of clean water ponds, lakes, or the 10-year high water mark for streams. In this 100-foot zone wastes must be injected; and

5. wastes shall not be applied within 300 feet of drinking water wells, irrigation wells, or industrial water supply wells.

E. Certification. The person preparing the permit application must provide the following certification:

"I certify under penalty of law that I have personally examined and I am familiar with the information submitted in this permit application and that the facility, as described in this permit application, meets the requirements of the solid waste rules and regulations. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment."

F. Facility Administrative Procedures

1. The following information on administrative procedures is required for all facilities:

a. a recordkeeping system, types of records to be kept, and the use of records by management to control operations;

b. an estimate of the minimum personnel, listed by general job classification, required to operate the facility; and

c. the maximum hours of operation per operating days and weeks (the maximum hours of operation within a 24-hour day).

2. Reports. 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:

a. the reporting period for the annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit;

b. annual reports shall be submitted to the administrative authority by August 1 of each reporting year;

c. the annual report is to be provided for each individual permitted facility on a separate annual reporting form;

d. facilities that 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; and

e. reports shall be submitted as provided in Clauses F.3.b.vi-viii of this Section.

3. Recordkeeping

a. The permit holder shall maintain all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. Records kept by the permit holder shall include (but not be limited to):

- i. daily log;
- ii. quality-assurance/quality-control records;
- iii. inspections by the permit holder or operator;
- iv. monitoring, testing, or analytical data;
- v. any other applicable or required data deemed necessary by the administrative authority;

vi. copy of the semiannual soil waste mixtures tests and analyses of the results, with conclusions, submitted semiannually to the Office of Environmental Assessment, Environmental Technology Division, or more frequently if deemed necessary by the administrative authority;

vii. test parameters consisting of cation-exchange capacity, soil pH, total nitrogen, phosphorus, organic matter, salts (intrinsic to the waste), cumulative metals, and any others deemed necessary on a site-specific and waste-specific basis; and

viii. 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, which shall be submitted to the Office of Environmental Assessment, Environmental Technology Division.

4. Personnel. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

G Facility Implementation Plans. The implementation plans for all facilities must include the following:

1. construction schedule for existing facilities, which shall include beginning and ending time-frames and time-frames for the installation of all major features. (Time-frames must be specified in days, with day one being the date of standard permit issuance); and

2. details on phased implementation, if any proposed facility is to be constructed in phases.

H. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Only waste with a demonstrated beneficial use may be applied.

c. A comprehensive quality-assurance/quality-control plan shall be in place to ensure that incoming wastes conform to the facility's permit and these regulations.

2. Facility Operational Plans

a. Operational plans shall be provided that describe in specific detail how the waste will be managed. At a minimum, the following information shall be provided in this plan:

i. types of waste (including chemical, physical, and biological characteristics), maximum quantities of wastes per year, and sources of wastes that are to be beneficially used;

ii. the sequence in which the waste will be applied;

iii. waste-handling procedures from entry to final application;

iv. minimum equipment to be used at the facility;

v. procedures planned in case of breakdowns, inclement weather, and other abnormal conditions;

vi. procedures, equipment, and contingency plans for protecting employees and the general public from accidents, fires, explosions, etc., and provisions for emergency care should an accident occur (including the proximity to a hospital, fire and emergency services, and training programs);

vii. provisions for vector, dust, litter, and odor control;

viii. detailed description of day-to-day operational activities including inspection procedures to ensure that only permitted wastes are accepted, equipment operation, and personnel involvement;

ix. detailed analysis of waste including, but not limited to, pH, phosphorus, nitrogen, potassium, sodium, calcium, magnesium, sodium adsorption ratio, and total metals (as listed in Clause H.2.a.i of this Section);

x. soil classification, cation-exchange capacity, organic matter, soil pH, soil content including nitrogen, phosphorus, metals listed in Clause H.2.a.i of this Section, salts, sodium, calcium, magnesium, sodium adsorption ratio, and PCB concentrations of the treatment zone;

xi. annual application rate (dry-tons per acre) and weekly hydraulic loading (inches per acre);

xii. an evaluation of the potential for nitrogen to enter the groundwater;

xiii. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented; and

xiv. a comprehensive operational management plan for the facility which indicates with calculations that the acreages and methods are adequate for treating the type and volumes of wastes anticipated. The plan shall include contingencies for variations.

b. If the facility is to be used for food-chain cropland, the following information is required:

- i. a description of the pathogen-reduction method for domestic septage, sewage sludges, and other sludges subject to pathogen production;
- ii. crops to be grown and the dates for planting;
- iii. PCB concentrations in waste;
- iv. annual application rates of cadmium and PCB application; and
- v. cumulative applications of cadmium and PCBs.

c. If the facility is to be used for non-food-chain purposes, the following information is required:

- i. a description of the pathogen-reduction method in septage, domestic sewage sludges, and other sludges subject to pathogen production; and
- ii. a description of control of public and livestock access.

3. Facility Operational Standards

a. General Standards

i. The maximum allowable lifetime metal loading shall be restricted to the limits specified in the following table. It varies depending upon the value of the soil cation-exchange capacity (CEC).

Maximum Allowable Metal Loading (lb/acre)*			
Soil CEC (meq/100g)	<5	5-15	>15
Lead (Pb)	500	1000	2000
Zinc(Zn)	250	500	1000
Copper (Cu)	125	250	500
Nickel (Ni)	125	250	500
Cadmium (Cd)	5	10	20

*Other metals not listed may be subject to restrictions based upon the metals content of the waste.

ii. Surface application of liquid wastes shall not exceed 2 inches per week.

iii. Soils shall maintain a sufficiently high cation-exchange capacity (CEC) to allow absorption of the metallic elements in the solid waste. This may be achieved naturally by controlling soil pH or artificially by using soil additives. Soil in the zone of incorporation must be monitored to assess the effectiveness of ongoing treatment, management needs, and soil integrity.

iv. Nitrogen concentrations in the waste must be within the limits deemed acceptable as determined by plant nitrogen uptake, soil analyses, and waste analyses detailing the movement of all forms of nitrogen. The potential for nitrogen to enter the groundwater shall be addressed.

v. Wastes shall be applied to the land surface or incorporated into the soil within 3 feet of the surface.

vi. Tests of soil/waste mixtures and an analysis of the results with conclusions shall be conducted semiannually, or more frequently, if deemed necessary by the administrative authority. Test parameters shall consist of CEC, soil pH, total nitrogen, phosphorus, organic matter, salts (intrinsic to the waste), cumulative metals, and others as deemed necessary by the administrative authority.

vii. The administrative authority may provide additional requirements as necessary on a site-specific basis depending on waste type, land use, and method of application.

b. The following additional standards apply to facilities that receive domestic sewage sludge and septic tank pumpings:

i. if spread on or incorporated into non-food-chain cropland, waste shall be treated by a process to significantly reduce pathogens (LAC 33:VII.Chapter 7, Appendix A) prior to application or incorporation, and public access shall be controlled for 12 months following the final application. Grazing by animals whose products are consumed by humans shall be prevented for at least 30 days; and

ii. if spread on or incorporated into land used to grow crops for human consumption, the waste must be treated by a process to further reduce pathogens (LAC 33:VII.Chapter 7, Appendix B) before application or incorporation. If there is no contact between the waste and edible portions of the crop, or if crops are grown more than 18 months after application or incorporation, the conditions specified in Clause H.2.b.i of this Section apply.

c. The following standards apply to land used for food-chain cropland:

i. the pH of the solid waste and soil mixture shall be maintained at or above 6.5;

ii. the annual application of cadmium from the waste shall not exceed 0.5 lb per acre; and

iii. cumulative application of cadmium from sewage sludge for soils with a background pH of less than 6.5 shall not exceed 5 lb per acre unless the pH of the sludge and soil mixture is adjusted and maintained at 6.5 or greater whenever food-chain crops are grown.

d. Standards for Land Used for Animal Feed Only

i. The pH of waste-soil mixture must be at 6.5 or greater at the time of solid waste application or when the non food-chain crop is planted, whichever occurs later. Crops requiring a lower pH will be considered on a site-specific basis.

ii. An operating plan for the facility shall be filed with the administrative authority demonstrating 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.

iii. Solid waste with concentrations of polychlorinated biphenyls (PCBs) of 10 mg/kg or more shall not be allowed.

e. The following operational standards apply to waste testing:

i. facilities that receive sewage sludge, domestic septage, or incinerator ash shall require the waste be tested for TCLP constituents prior to acceptance of the waste and annually for two years following acceptance; and

ii. facilities that receive industrial solid waste (Type I) shall require testing for TCLP constituents prior to acceptance of waste and annually thereafter or must have documented process knowledge that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:V.Subpart 1 or by federal regulations.

I. Facility Closure Requirements

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:

- a. date of planned closure; and
- b. closure schedule.

2. During the closure period the permit holder must continue to comply with any prohibitions or conditions concerning growth of food-chain crops.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§1111. Part III: Additional Supplementary Information

A. The following supplementary information is required for all solid waste processing and disposal facilities. All responses and exhibits must be identified in the following sequence to facilitate the evaluation:

1. a discussion demonstrating that the potential and real adverse environmental effects of the facility have been avoided to the maximum extent possible;
2. a cost-benefit analysis demonstrating that the social and economic benefits of the facility outweigh the environmental-impact costs;
3. a discussion and description of possible alternative projects that would offer more protection to the environment without unduly curtailing nonenvironmental benefits;
4. a discussion of possible alternative sites that would offer more protection to the environment without unduly curtailing nonenvironmental benefits; and
5. a discussion and description of the mitigating measures that would offer more protection to the environment than the facility, as proposed, without unduly curtailing nonenvironmental benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Chapter 13. Financial Assurance for All Processors and Disposers of Solid Waste

§1301. Financial Responsibility During Operation

A. Permit holders or applicants for standard permits of Type I, IA, II, II-A, and III facilities have the following financial responsibilities while the facility is in operation:

1. 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;

2. Type IA 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; and

3. 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.

B. Establishment of Financial Responsibility. The financial responsibility may be established by any one or a combination of the following:

1. Evidence of Liability Insurance. Evidence of liability insurance shall consist of either a signed duplicate original of a solid waste liability endorsement or a certificate of insurance. All liability endorsements and certificates of insurance must include:

a. a statement of coverage relative to environmental risks;

b. a statement of all exclusions to the policy; and

c. a certification by the insurer that the insurance afforded with respect to such sudden accidental occurrences is subject to all of the terms and conditions of the policy, provided, however, that any provisions of the policy inconsistent with the following clauses are amended to conform with said clauses:

i. bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy;

ii. the insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in Subsection E, F, or G of this Section;

iii. whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements;

iv. cancellation of the policy, whether by the insurer or the insured, shall 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 shall 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; and

vi. the insurer is admitted, authorized, or eligible to conduct insurance business in Louisiana.

2. Liability Endorsement. The wording of the liability endorsement shall be identical to the wording in Appendix A of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. Liability Insurance. The wording of the certificate of insurance shall be identical to the wording in Appendix B of this Chapter, except that the instructions in brackets are to

be replaced with the relevant information and the brackets deleted.

C. 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 by submitting the letter to the administrative authority:

1. the issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency;

2. a permit holder or applicant who uses a letter of credit to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund agreement shall be as specified in LAC 33:VII.1303.C.9;

3. the letter of credit must be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, name of issuing institution, and date, and providing the following information:

- a. solid waste identification number;
- b. site name;
- c. facility name;
- d. facility permit number; and
- e. the amount of funds assured for liability coverage

of the facility by the letter of credit;

4. 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 shall 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; and

5. the wording of the letter of credit shall be identical to the wording in Appendix C of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

D. Financial Test

1. 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 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.

2. The assets of the parent corporation of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless

the parent corporation has supplied a corporate guarantee as authorized in Subsection E of this Section.

3. The wording of the financial test shall be as specified in LAC 33:VII.1303.H.4.

E. Corporate Guarantee. A permit holder or applicant may meet the requirements of Subsection A of this Section for liability coverage by obtaining a written guarantee, hereafter referred to as a "corporate guarantee." The guarantor must demonstrate to the administrative authority that the guarantor meets the requirements in LAC 33:VII.1303.H and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in LAC 33:VII.1303.H.2 and 4. The terms of the corporate guarantee must be in an authentic act signed and sworn to by an authorized officer of the corporation before a notary public and must provide that:

1. the guarantor meets or exceeds the financial-test criteria and agrees to comply with the reporting requirements for guarantors as specified in LAC 33:VII.1303.H;

2. the guarantor is the parent corporation of the permit holder or applicant of the solid waste facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

3. if the permit holder or applicant fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences (or both as the case may be), arising from the operation of facilities covered by the corporate guarantee, or fails to pay an amount agreed to in settlement of the claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage;

4. 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 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;

5. 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;

6. the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial-test criteria or that he or she is disallowed from continuing as a guarantor of closure or post-closure care, he or she shall establish alternate financial assurance as specified in Subsection A of this Section in the name of the permit holder or applicant, unless the permit holder or applicant has done so;

7. the guarantor agrees to remain bound under the guarantee notwithstanding any or all of the following:

amendment or modification of the permit or any other modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;

8. the guarantor agrees to remain bound under the guarantee for as long as the permit holder or applicant must comply with the applicable financial assurance requirements of Subsection A of this Section for the above-listed facilities, except that the guarantor may cancel this guarantee by sending notice by certified mail to the administrative authority and the permit holder or applicant. Such cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder, as evidenced by the return receipts;

9. the guarantor agrees that if the permit holder or applicant fails to provide alternate financial assurance, as specified in Subsection A of this Section, and obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the permit holder or applicant;

10. the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder or applicant. Guarantor also expressly waives notice of amendments or modifications of the facility permit(s); and

11. the wording of the corporate guarantee shall be as specified in LAC 33:VII.1303.H.9.1. 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.

F. The use of a particular financial responsibility mechanism is subject to the approval of the administrative authority.

G. Permit holders of existing facilities must submit, on or before February 20, 1995, financial responsibility documentation that complies with the requirements of Subsection A of this Section. Applicants for permits for new facilities must submit evidence of financial assurance in accordance with this Chapter at least 60 days before the date on which solid waste is first received for processing or disposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§1303. Financial Responsibility for Closure and Post-Closure Care

A. Financial Responsibility for Type I, I-A, II, II-A, and III Facilities. Permit holders or applicants of Type I, I-A, II, II-A, and III facilities have the following financial responsibilities for closure and post-closure care:

1. permit holders or applicants for processing or disposal facilities shall establish and maintain financial assurance for closure and post-closure care;

2. 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:

a. the applicant or permit holder must have a written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in these rules. The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by the closure plan, and shall be based on the cost of hiring a third party to close the facility in accordance with the closure plan;

b. the applicant or permit holder of a facility subject to post-closure monitoring or maintenance requirements must have a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the provisions of these rules. The estimate of post-closure costs is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required and shall be based on the cost of hiring a third party to conduct post-closure activities in accordance with the closure plan;

c. 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 Subparagraphs A.2.a and b 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; and

d. for trust funds, the first payment must be at least equal to the current closure and post-closure cost estimate, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each annual anniversary of the date of the first payment. The amount of each subsequent payment must be determined by subtracting the current value of the trust fund from the current closure and post-closure cost estimates and dividing the result by the number of years remaining in the pay-in period. The initial pay-in period is based on the estimated life of the facility.

B. Financial Assurance Mechanisms. The financial assurance mechanism must be one or a combination of the following: a trust fund, a financial guarantee bond ensuring closure funding, a performance bond, a letter of credit, an insurance policy, or the financial test. The financial assurance mechanism is subject to the approval of the administrative authority and must fulfill the following criteria:

1. except when a financial test, trust fund, or certificate of insurance is used as the financial assurance mechanism, a standby trust fund naming the administrative authority as beneficiary must be established at the time of

the creation of the financial assurance mechanism into which the proceeds of such mechanism could be transferred should such funds be necessary for either closure or post-closure of the facility, and a signed copy must be furnished to the administrative authority with the mechanism;

2. a permit holder or applicant may use a financial assurance mechanism specified in this Chapter for more than one facility, if all such facilities are located within Louisiana and are specifically identified in the mechanism;

3. the amount covered by the financial assurance mechanism(s) must equal the total of the current closure and post-closure estimates for each facility covered; and

4. when all closure and post-closure requirements have been satisfactorily completed, the administrative authority shall execute an approval to terminate the financial assurance mechanism(s).

C. 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:

1. the trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency;

2. trusts must be accomplished in accordance with and subject to the laws of Louisiana. The beneficiary of the trust shall be the administrative authority;

3. trust-fund earnings may be used to offset required payments into the fund, to pay the fund trustee, or to pay other expenses of the funds, or may be reclaimed by the permit holder or applicant upon approval of the administrative authority;

4. the trust agreement must be accompanied by an affidavit certifying the authority of the individual signing the trust on behalf of the permit holder or applicant;

5. the permit holder or applicant may accelerate payments into the trust fund or deposit the full amount of the current closure cost estimate at the time the fund is established. The permit holder or applicant must, however, maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in Subparagraph A.2.d of this Section;

6. if the permit holder or applicant establishes a trust fund after having used one or more of the alternate mechanisms specified in this Chapter, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this Paragraph;

7. after the pay-in period is completed, whenever the current cost estimate changes, the permit holder must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the permit holder or applicant, within 60 days after the change in the cost estimate, must either deposit an amount into the fund that will make its value at least equal to the amount of the closure/post-closure cost estimate or it must estimate or obtain other financial assurance as specified in this Chapter to cover the difference;

8. 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;

9. the wording of the trust agreement shall be identical to the wording in Appendix D of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The trust agreement shall be accompanied by a formal certification of acknowledgement; and

10. the following is an example of the certification of acknowledgement that must accompany the trust agreement:

STATE OF LOUISIANA

PARISH OF _____

BE IT KNOWN, that on this _____ day of _____, 20____, before me, the undersigned Notary Public, duly commissioned and qualified within the State and Parish aforesaid, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared _____, to me well known, who declared and acknowledged that he had signed and executed the foregoing instrument as his act and deed, and as the act and deed of the _____, a corporation, for the consideration, uses, and purposes and on terms and conditions therein set forth.

And the said appearer, being by me first duly sworn, did depose and say that he is the _____ of said corporation and that he signed and executed said instrument in his said capacity, and under authority of the Board of Directors of said corporation.

Thus done and passed in the State and Parish aforesaid, on the day and date first hereinabove written, and in the presence of _____ and _____, competent witnesses, who have hereunto subscribed their name as such, together with said appearer and me, said authority, after due reading of the whole.

WITNESSES:

NOTARY PUBLIC

D. 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:

1. 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;

2. the permit holder or applicant who uses a surety bond to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in Paragraph C.9 of this Section;

3. the bond must guarantee that the operator will:

a. fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility;

b. fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure or post-closure is issued; or

c. provide alternate financial assurance as specified in this Section and obtain the administrative authority's written approval of the assurance provided, within 90 days after receipt by both the permit holder and the administrative authority of a notice of cancellation of the bond from the surety;

4. under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond;

5. the penal sum of the bond must be at least equal to the current closure and post-closure cost estimates;

6. 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;

7. under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the administrative authority. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts; and

8. the wording of the surety bond guaranteeing payment into a standby trust fund shall be identical to the wording in Appendix E of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

E. Performance Bonds. A permit holder or applicant may satisfy the requirements of this Chapter 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:

1. 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;

2. the permit holder or applicant who uses a surety bond to satisfy the requirements of this Chapter must also provide to the administrative authority evidence of

establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in Paragraph C.9 of this Section;

3. the bond must guarantee that the permit holder or applicant will:

a. perform final closure and post-closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or

b. provide alternate financial assurance as specified in this Chapter and obtain the administrative authority's written approval of the assurance provided within 90 days after the date both the permit holder and the administrative authority receive notice of cancellation of the bond from the surety;

4. under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond. Following a determination by the administrative authority that the permit holder has failed to perform final closure and post-closure in accordance with the closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure and post-closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund;

5. the penal sum of the bond must be at least equal to the current closure and post-closure cost estimates;

6. 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 Chapter. 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;

7. 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 receipt; and

8. the wording of the performance bond shall be identical to the wording in Appendix F of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

F. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Chapter 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:

1. the issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency;

2. a permit holder or applicant who uses a letter of credit to satisfy the requirements of this Chapter must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund shall be as specified in Paragraph C.9 of this Section;

3. the letter of credit must be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, issuing institution, and date, and providing the following information:

- a. solid waste identification number;
- b. site name;
- c. facility name;
- d. facility permit number; and
- e. the amount of funds assured for closure and/or post closure of the facility by the letter of credit;

4. 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 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;

5. the letter of credit must be issued in an amount at least equal to the current closure and post-closure cost estimates;

6. 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 Chapter 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;

7. following a determination by the administrative authority that the permit holder has failed to perform final closure or post-closure in accordance with the closure plan and other permit requirements when required to do so, the administrative authority may draw on the letter of credit; and

8. the wording of the letter of credit shall be identical to the wording in Appendix G of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

G Insurance. A permit holder or applicant may satisfy the requirements of this Chapter by obtaining insurance that conforms to the following requirements and submitting a certificate of such insurance to the Office of Management and Finance, Financial Services Division:

1. at a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess-lines or surplus-lines insurer in one or more states, and authorized to transact insurance business in Louisiana;

2. the insurance policy must be issued for a face amount at least equal to the current closure and post-closure cost estimates;

3. the term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments;

4. the insurance policy must guarantee that funds will be available to close the facility and provide post-closure care once final closure occurs. The policy must also guarantee that, once final closure begins, the insurer will be responsible for paying out funds up to an amount equal to the face amount of the policy, upon the direction of the administrative authority, to such party or parties as the administrative authority specifies;

5. 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;

6. the permit holder must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the permit holder;

7. each policy must contain a provision allowing assignment of the policy to a successor permit holder. Such assignment may be conditional upon consent of the insurer, provided consent is not unreasonably refused;

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 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:

a. the administrative authority deems the facility to be abandoned;

b. the permit is terminated or revoked or a new permit is denied;

c. closure and/or post-closure is ordered;

d. the permit holder is named as debtor in a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code; or

e. the premium due is paid;

9. 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 Chapter 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; and

10. the wording of the certificate of insurance shall be identical to the wording in Appendix H of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

H. Financial Test. A permit holder, applicant, or parent corporation of the permit holder or applicant, which will be responsible for the financial obligations, may satisfy the requirements of this Chapter by demonstrating that he or she passes a financial test as specified in this Subsection. The assets of the parent corporation of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as outlined in LAC 33:VII.1301.G.

1. To pass this test, the permit holder, applicant, or parent corporation of the permit holder or applicant, must meet the criteria of either of the following:

a. the permit holder, applicant, or parent corporation of the permit holder or applicant must have:

i. tangible net worth of at least six times the sum of the current closure and post-closure estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test;

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

iii. assets in the United States amounting to either at least 90 percent of his or her total assets, or at least six times the sum of the current closure and post-closure estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test; or

b. the permit holder, applicant, or parent corporation of the permit holder or applicant must have:

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

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

iii. assets in the United States amounting to either 90 percent of his or her total assets or at least six times the sum of the current closure and post-closure estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test.

2. 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:

a. a letter signed by the chief financial officer of the permit holder, applicant, or parent corporation demonstrating and certifying the criteria in Paragraph H.1 of this Section and including the information required by Paragraph H.4 of this Section. If the financial test is provided to demonstrate both assurance for closure and/or post-closure care and liability coverage, a single letter to cover both forms of financial responsibility is required.

b. a copy of the independent certified public accountant (CPA)'s report on the financial statements of the permit holder, applicant, or parent corporation of the permit holder or applicant for the latest completed fiscal year.

c. a special report from the independent CPA to the permit holder, applicant, or parent corporation of the permit holder or applicant stating that:

i. he or she has computed the data specified by the chief financial officer as having been derived from the independently audited, year-end financial statements with the amounts for the latest fiscal year in such financial statements; and

ii. in connection with that procedure, no matters came to his attention that caused him to believe that the specified data should be adjusted.

3. The administrative authority may disallow use of this test on the basis of the opinion expressed by the independent CPA in his report on qualifications based on the financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The administrative authority will evaluate other qualifications on an individual basis. The administrative authority may disallow the use of this test on the basis of the accessibility of the assets of the parent corporation (corporate guarantor), permit holder, or applicant. The permit holder, applicant, or parent corporation must provide evidence of insurance for the entire amount of required liability coverage, as specified in this Chapter, within 30 days after notification of disallowance.

4. 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, the wording of which shall be identical to the wording in Appendix I of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The letter shall certify the following information:

a. a list of solid waste facilities, whether in Louisiana or not, owned or operated by the permit holder or applicant of the facility, for which financial assurance for liability coverage is demonstrated through the use of financial tests, including the amount of liability coverage;

b. a list of solid waste facilities, whether in Louisiana or not, owned or operated by the permit holder or applicant, for which financial assurance for the closure or post-closure care is demonstrated through the use of a financial test or self-insurance by the permit holder or applicant, including the cost estimates for the closure and post-closure care of each facility;

c. a list of the solid waste facilities, whether in Louisiana or not, owned or operated by any subsidiaries of the parent corporation for which financial assurance for closure and/or post-closure care is demonstrated through the financial test or through use of self-insurance, including the current cost estimate for the closure or post-closure care for each facility and the amount of annual aggregate liability coverage for each facility; and

d. a list of solid waste facilities, whether in Louisiana or not, for which financial assurance for closure or post-closure care is not demonstrated through the financial test, self-insurance, or other substantially equivalent state

mechanisms, including the estimated cost of closure and post-closure of such facilities.

5. For the purposes of Subsection A of this Section, the phrase "tangible net worth" shall mean the tangible assets that remain after liabilities have been deducted; such assets would not include intangibles such as good will and rights to patents or royalties.

6. The phrase "current closure and post-closure cost estimates," as used in Paragraph H.1 of this Section, includes the cost estimates required to be shown in Clause H.1.a.i of this Section.

7. After initial submission of the items specified in Paragraph H.2 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 Paragraph H.2 of this Section.

8. The administrative authority may, on the basis of a reasonable belief that the permit holder, applicant, or parent corporation of the permit holder or applicant may no longer meet the requirements of this Subsection, require reports of financial condition at any time in addition to those specified in Paragraph H.2 of this Section. If the administrative authority finds, on the basis of such reports or other information, that the permit holder, applicant, or parent corporation of the permit holder or applicant no longer meets the requirements of Paragraph H.2 of this Section, the permit holder or applicant, or parent corporation of the permit holder or applicant, must provide alternate financial assurance as specified in Subsection A of this Section within 30 days after notification of such a finding.

9. A permit holder or applicant may meet the requirements of this Subsection for closure and/or post-closure by obtaining a written guarantee, hereafter referred to as a "corporate guarantee." The guarantor must be the parent corporation of the permit holder or applicant. The guarantor must meet the requirements and submit all information required for permit holders or applicants in Paragraphs H.1-8 of this Section and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in Paragraphs H.2 and 4 of this Section. The wording of the corporate guarantee must be identical to the wording in Appendix J of this Chapter, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. The terms of the corporate guarantee must be in an authentic act signed and sworn by an authorized officer of the corporation before a notary public and must provide that:

a. the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in this Subsection;

b. the guarantor is the parent corporation of the permit holder or applicant of the solid waste management facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

c. "closure plans," as used in the guarantee, refers to the plans maintained as required by the Louisiana solid waste rules and regulations for the closure and post-closure care of facilities, as identified in the guarantee;

d. for value received from the permit holder or applicant, the guarantor guarantees to the Louisiana Department of Environmental Quality that the permit holder or applicant will perform closure, post-closure care, or closure and post-closure care of the facility or facilities listed in the guarantee, in accordance with the closure plan and other permit or regulatory requirements whenever required to do so. In the event that the permit holder or applicant fails to perform as specified in the closure plan, the guarantor shall do so or establish a trust fund as specified in Subparagraph A.2.d of this Section, in the name of the permit holder or applicant, in the amount of the current closure or post-closure cost estimates or as specified in Paragraph A.2 of this Section;

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 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;

g. the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in Subsection A of this Section in the name of the permit holder or applicant, unless the permit holder or applicant has done so;

h. the guarantor agrees to remain bound under the guarantee, notwithstanding any or all of the following: amendment or modification of the closure plan, amendment or modification of the permit, extension or reduction of the time of performance of closure or post closure, or any other modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;

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 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;

j. the guarantor agrees that if the permit holder or applicant fails to provide alternative financial assurance as specified in Subsection A of this Section, and to obtain

written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the owner or operator; and

k. the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder. Guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the facility permit(s).

I. Local Government Financial Test. An owner or operator that satisfies the requirements of Paragraphs I.1-3 of this Section may demonstrate financial assurance up to the amount specified in Paragraph I.4 of this Section.

1. Financial Component

a. The owner or operator must satisfy the following conditions, as applicable:

i. if the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, he or she must have a current rating of Aaa, Aa, A, or Baa, as issued by *Moody's*, or AAA, AA, A, or BBB, as issued by *Standard and Poor's*, on all such general obligation bonds; or

ii. the owner or operator must satisfy the ratio of cash plus marketable securities to total expenditures being greater than or equal to 0.05 and the ratio of annual debt service to total expenditures less than or equal to 0.20 based on the owner or operator's most recent audited annual financial statement.

b. The owner or operator must prepare his or her financial statements in conformity with *Generally Accepted Accounting Principles* for governments and have his or her financial statements audited by an independent certified public accountant (or appropriate state agency).

c. A local government is not eligible to assure its obligations under this Subsection if it:

i. is currently in default on any outstanding general obligation bonds;

ii. has any outstanding general obligation bonds rated lower than Baa as issued by *Moody's* or BBB as issued by *Standard and Poor's*;

iii. operated at a deficit equal to 5 percent or more of total annual revenue in each of the past two fiscal years; or

iv. receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate state agency) auditing its financial statement as required under Subparagraph I.1.b of this Section. The administrative authority may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the administrative authority deems the qualification insufficient to warrant disallowance of use of the test.

d. The following terms used in this Subsection are defined as follows:

i. *Deficit*—total annual revenues minus total annual expenditures.

ii. *Total Revenues*—revenues from all taxes and fees, but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

iii. *Total Expenditures*—Call expenditures, excluding capital outlays and debt repayment.

iv. *Cash Plus Marketable Securities*—Call the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

v. *Debt Service*—the amount of principal and interest due on a loan in a given time period, typically the current year.

2. Public Notice Component. The local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR) after the effective date of this Chapter or prior to the initial receipt of waste at the facility, whichever is later. Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years. A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F. For the first year the financial test is used to assure costs at a particular facility, the reference may be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget. For closure and post-closure costs, conformance with *Government Accounting Standards Board Statement 18* assures compliance with this public notice component.

3. Recordkeeping and Reporting Requirements

a. The local government owner or operator must place the following items in the facility's operating record:

i. a letter signed by the local government's chief financial officer that lists all the current cost estimates covered by a financial test, as described in Clause A.2.j.iv of this Section. It must provide evidence that the local government meets the conditions of Subparagraphs I.1.a, b, and c of this Section, and certify that the local government meets the conditions of Subparagraphs I.1.a, b and c and Paragraphs I.2 and 4 of this Section;

ii. the local government's independently audited year-end financial statements for the latest fiscal year (except for local governments where audits are required every two years and unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant or an appropriate state agency that conducts equivalent comprehensive audits;

iii. a report to the local government from the local government's independent certified public accountant or the appropriate state agency based on performing an agreed upon procedures engagement relative to the financial ratios required by Clause I.1.a.ii of this Section, if applicable, and the requirements of Subparagraph I.1.b and Clauses I.1.c.iii and iv of this Section. The certified public accountant or state agency's report shall state the procedures performed and the certified public accountant or state agency's findings; and

iv. a copy of the CAFR used to comply with Paragraph I.2 of this Section (certification that the requirements of *General Accounting Standards Board Statement 18* have been met).

b. The items required in Subparagraph I.3.a of this Section must be placed in the facility operating record as follows:

i. in the case of closure and post-closure care, either before the effective date of this Chapter, which is April 9, 1997, or prior to the initial receipt of waste at the facility, whichever is later; or

ii. in the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of LAC 33:VII.805.F.

c. After the initial placement of the items in the facility's operating record, the local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.

d. The local government owner or operator is no longer required to meet the requirements of Paragraph I.3 of this Section when:

i. the owner or operator substitutes alternate financial assurance, as specified in this Chapter; or

ii. the owner or operator is released from the requirements of this Chapter in accordance with LAC 33:VII.1301.A or Subsection A of this Section.

e. A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Chapter, 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.

f. The administrative authority, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the administrative authority finds, on the basis of such reports or other information, that the owner or operator no longer meets the local government financial test, the local government must provide alternate financial assurance in accordance with this Chapter.

4. Calculation of Costs to be Assured. The portion of the closure, post-closure, and corrective action costs for which an owner or operator can assure under this Subsection is determined as follows:

a. if the local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the local government's total annual revenue;

b. if the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR

part 280, PCB storage facilities under 40 CFR part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR parts 264 and 265, or corresponding state programs, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure under this Subsection. The total that may be assured must not exceed 43 percent of the local government's total annual revenue; and

c. the owner or operator must obtain an alternate financial assurance instrument for those costs that exceed the limits set in Subparagraphs I.4.a and b of this Section.

J. Local Government Guarantee. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by LAC 33:VII.1301 and this Section, by obtaining a written guarantee provided by a local government. The guarantor must meet the requirements of the local government financial test in Subsection I of this Section, and must comply with the terms of a written guarantee.

1. Terms of the Written Guarantee. The guarantee must be effective before the initial receipt of waste or before the effective date of this Chapter, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F. The guarantee must provide that:

a. if the owner or operator fails to perform closure, post-closure care, and/or corrective action of a facility covered by the guarantee, the guarantor will:

i. perform, or pay a third party to perform closure, post-closure care, and/or corrective action as required; or

ii. establish a fully funded trust fund, as specified in Subsection C of this Section, in the name of the owner or operator;

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 guarantor must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Management and Finance, Financial Services Division.

2. Recordkeeping and Reporting

a. The owner or operator must place a certified copy of the guarantee, along with the items required under Paragraph I.3 of this Section, into the facility's operating record before the initial receipt of waste or before the

effective date of this Chapter, whichever is later, in the case of closure or post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F.

b. The owner or operator is no longer required to maintain the items specified in this Paragraph when:

i. the owner or operator substitutes alternate financial assurance as specified in this Section; or

ii. the owner or operator is released from the requirements of this Section in accordance with LAC 33:VII.1301 and this Section.

c. If a local government guarantor no longer meets the requirements of Subsection I 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.

K. Use of Multiple Mechanisms. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by LAC 33:VII.1301 and this Section, by establishing more than one financial mechanism per facility, except that mechanisms guaranteeing performance rather than payment may not be combined with other instruments. The mechanisms must be as specified in Subsections C - H of this Section, except that financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care, and/or corrective action may be provided by a combination of mechanisms, rather than a single mechanism.

L. Discounting. The administrative authority may allow discounting of closure and post-closure cost estimates in Subsection A of this Section and/or corrective action costs in LAC 33:1301.A up to the rate of return for essentially risk-free investments, net of inflation, under the following conditions:

1. 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;

2. the state finds the facility in compliance with applicable and appropriate permit conditions;

3. the administrative authority determines that the closure date is certain, and the owner or operator certifies that there are no foreseeable factors that will change the estimate of site life; and

4. discounted cost estimates are adjusted annually to reflect inflation and years of remaining life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§1305. Financial Responsibility for Corrective Action for Type II Landfills

A. A permit holder of a Type II landfill required to undertake a corrective action program under LAC 33:VII.805 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.805. 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.

1. 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.805.

2. 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 of this Section if changes in the corrective action program or landfill conditions increase the maximum costs of corrective action.

3. 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 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.

B. The permit holder of each Type II landfill required to undertake a corrective action program under LAC 33:VII.805 must establish, in a manner in accordance with Subsection A of this Section, financial assurance for the most recent corrective action program. The financial assurance must be provided within 120 days after the selection of the corrective action remedy in LAC 33:VII.805.F. The permit holder must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with LAC 33:VII.805.G.8.c.i and ii. For the purpose of corrective action financial assurance only the words "corrective action" shall be substituted for the words "closure" or "post-closure" throughout Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Appendices

Appendix A

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:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering bodily injury and property damage in connection with [name of the insured, which must be either the permit holder, the applicant, or the operator. (Note: The operator will provide the liability-

insurance documentation only when the permit holder/applicant is a public governing body and the public governing body is not the operator.)] The insured's obligation to demonstrate financial responsibility is required in accordance with LAC 33:VII.1301.A. The coverage applies at [list the site identification number, site name, facility name, facility permit number, and facility address] for sudden and accidental occurrences. The limits of liability are per occurrence and annual aggregate, per site, exclusive of legal-defense costs.

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with Subclauses (a) through (e) below are hereby amended to conform with Subclauses (a) through (e) below:

(a). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this endorsement is attached.

(b). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated, as specified in LAC 33:VII.1301.E, F, or G.

(c). Whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements.

(d). Cancellation of this endorsement, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(e). Any other termination of this endorsement will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

3. Attached is the endorsement, which forms part of the policy [policy number] issued by [name of insurer], herein called the insurer, of [address of the insurer] to [name of the insured] of [address of the insured], this [date]. The effective date of said policy is [date].

4. I hereby certify that the wording of this endorsement is identical to the wording specified in LAC 33:VII.1301.C, effective on the date first written above and that insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

Appendix B

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:

1. [Name of insurer], the "insurer," of [address of insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name of insured, which must be either the permit holder or applicant of the facility], the "insured," of [address of insured] in connection with the insured's obligation to demonstrate financial responsibility under LAC 33:VII.1301.A.

The coverage applies at [list solid waste identification number, site name, facility name, facility permit number, and site address] for sudden and accidental occurrences. The limits of liability are each occurrence and annual aggregate, per site, exclusive of legal-defense costs. The coverage is provided under policy number [policy number], issued on [date]. The effective date of said policy is [date].

2. The insurer further certifies the following with respect to the insurance described in Paragraph 1:

(a). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy.

(b). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated, as specified in LAC 33:VII.1301.E, F, or G.

(c). Whenever requested by the administrative authority, the insurer agrees to furnish to him a signed duplicate original of the policy and all endorsements.

(d). Cancellation of the insurance, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(e). Any other termination of the insurance will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

3. I hereby certify that the wording of this certificate is identical to the wording specified in LAC 33:VII.1301.D as such regulations were constituted on the date first written above, and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

Appendix C

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:

1. A final judgment issued by a competent court of law in favor of a governmental body, person, or other entity and against [permit holder's or applicant's name] for sudden and accidental occurrences for claims arising out of injury to persons or property due to the operation of the solid waste site at the [name of permit holder or applicant] at [site location] as set forth in the LAC 33:VII.1301.A.

2. A sight draft bearing reference to the Letter of Credit No. [] drawn by the governmental body, person, or other entity, in

whose favor the judgment has been rendered as evidenced by documentary requirement in Paragraph 1.

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.1301.E.5, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s)
of issuing institution(s)
[date]

Appendix D

SOLID WASTE FACILITY TRUST AGREEMENT/STANDBY TRUST AGREEMENT

This Trust Agreement, the "Agreement," is entered into as of [date] by and between [name of permit holder or applicant], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of" or "a national bank" or "a state bank"], the "Trustee."

WHEREAS, the Department of Environmental Quality of the State of Louisiana, an agency of the state of Louisiana, has established certain regulations applicable to the Grantor, requiring that a permit holder or applicant for a permit of a solid waste processing or disposal facility shall provide assurance that funds will be available when needed for [closure and/or post-closure] care of the facility;

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility identified herein;

WHEREAS, the Grantor, acting through its duly authorized officers, has selected [the Trustee] to be the trustee under this Agreement, and [the Trustee] is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement:

(a). The term "Grantor" means the permit holder or applicant who enters into this Agreement and any successors or assigns of the Grantor.

(b). The term "Trustee" means the Trustee who enters into this Agreement and any successor trustee.

(c). The term "Secretary" means the Secretary of the Louisiana Department of Environmental Quality.

(d). The term "Administrative Authority" means the secretary or his designee or the appropriate assistant secretary or his designee.

SECTION 2. IDENTIFICATION OF FACILITIES AND COST ESTIMATES

This Agreement pertains to the facilities and cost estimates identified on attached Schedule A. [On Schedule A, list the site identification number, site name, facility name, facility permit number, and the annual aggregate amount of liability coverage or current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement.]

SECTION 3. ESTABLISHMENT OF FUND

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Louisiana Department of Environmental Quality. The Grantor and the Trustee intend that no third party shall have access to the Fund, except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. [Note: Standby Trust Agreements need not be funded at the time of execution. In the case of Standby Trust Agreements, Schedule B should be blank except for a statement that the Agreement is not presently funded, but shall be funded by the financial assurance document used by the Grantor in accordance with the terms of that document.] Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, in trust, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the administrative authority.

SECTION 4. PAYMENT FOR CLOSURE AND/OR POST-CLOSURE CARE OR LIABILITY COVERAGE

The Trustee shall make payments from the Fund as the administrative authority shall direct, in writing, to provide for the payment of the costs of [liability claims, closure and/or post-closure] care of the facility covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the administrative authority from the Fund for [liability claims, closure and/or post-closure] expenditures in such amounts as the administrative authority shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the administrative authority specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

SECTION 5. PAYMENTS COMPRISED BY THE FUND

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

SECTION 6. TRUSTEE MANAGEMENT

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines, which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing that persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims, except that:

(a). Securities or other obligations of the Grantor, or any owner of the [facility or facilities] or any of their affiliates, as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(b). The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c). The Trustee is authorized to hold cash awaiting investment or distribution, uninvested for a reasonable time and without liability for the payment of interest thereon.

SECTION 7. COMMINGLING AND INVESTMENT

The Trustee is expressly authorized, at its discretion:

(a). To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b). To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1, et seq., including one which may be created, managed, or underwritten, or one to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares at its discretion.

SECTION 8. EXPRESS POWERS OF TRUSTEE

Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a). To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b). To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c). To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all securities are part of the Fund;

(d). To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e). To compromise or otherwise adjust all claims in favor of, or against, the Fund.

SECTION 9. TAXES AND EXPENSES

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and other proper charges and disbursements of the Trustee, shall be paid from the Fund.

SECTION 10. ANNUAL VALUATION

The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the administrative authority a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee, within 90 days after the statement has been furnished to the Grantor and the administrative authority, shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

SECTION 11. ADVICE OF COUNSEL

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

SECTION 12. TRUSTEE COMPENSATION

The Trustee shall be entitled to reasonable compensation for its services, as agreed upon in writing from time to time with the Grantor.

SECTION 13. SUCCESSOR TRUSTEE

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall, in writing, specify to the Grantor, the administrative authority, and the present Trustee, by certified mail 10 days before such change becomes effective, the date on which it assumes administration of the trust. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

SECTION 14. INSTRUCTIONS TO THE TRUSTEE

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by the persons designated in the attached Exhibit A or such other persons as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the administrative authority to the Trustee shall be in writing and signed by the administrative authority. The Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or termination of the authority of any person to act on behalf of the Grantor or administrative authority hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or administrative authority, except as provided for herein.

SECTION 15. NOTICE OF NONPAYMENT

The Trustee shall notify the Grantor and the administrative authority, by certified mail, within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

SECTION 16. AMENDMENT OF AGREEMENT

This Agreement may be amended by an instrument, in writing, executed by the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist.

SECTION 17. IRREVOCABILITY AND TERMINATION

Subject to the right of the parties to amend this Agreement, as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

SECTION 18. IMMUNITY AND INDEMNIFICATION

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any direction by the Grantor or the administrative authority issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all reasonable expenses incurred in its defense in the event that the Grantor fails to provide such defense.

SECTION 19. CHOICE OF LAW

This Agreement shall be administered, construed, and enforced according to the laws of the state of Louisiana.

SECTION 20. INTERPRETATION

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers duly authorized [and their corporate seals to be hereunto affixed] and attested to as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in LAC 33:VII.1303.C.9, on the date first written above.

WITNESSES: GRANTOR:

By: _____
Its: _____
[Seal]

TRUSTEE:

By: _____
Its: _____
[Seal]

THUS DONE AND PASSED in my office in _____, on the _____ day of _____, 20 _____, in the presence of _____ and _____, competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after reading the whole.

Notary Public

Appendix E

SOLID WASTE FACILITY FINANCIAL GUARANTEE BOND

Date bond was executed: _____
Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name and business address]

[site identification number, site name, facility name, facility permit number and current closure and/or post-closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$ _____
Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the 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 solid waste facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the Louisiana Administrative Code, Title 33, Part VII, when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of the facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

OR, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to close is issued by the administrative authority or a court of competent jurisdiction,

OR, if the Principal shall provide alternate financial assurance as specified in LAC 33:VII.1303.A and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification or amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:VII.1303.A, and the conditions of the solid waste facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in LAC 33:VII. 1303.D.8, 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: \$ _____

Appendix F

SOLID WASTE FACILITY PERFORMANCE BOND

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility permit number, facility address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond (indicate closure and/or post-closure costs separately)]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the 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 solid waste facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

AND, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, 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 the *Louisiana Administrative Code* (LAC) Title 33, Part VII, Section 1303.A and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of LAC 33: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 standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has been found in violation of the post-closure requirements of LAC 33:VII, or of its permit for the facility for which this bond guarantees performance of post-closure, the Surety shall either perform post-closure in accordance with the closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33:VII.1303.A and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permit, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:VII.1303.A and the conditions of the solid waste facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in LAC 33:VII.1303.E.8, 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: \$ _____

Appendix G

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.1303.F.8, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[date]

Appendix H

SOLID WASTE FACILITY CERTIFICATE OF INSURANCE FOR CLOSURE AND/OR POST-CLOSURE CARE

Name and Address of Insurer: _____ (hereinafter called the "Insurer")
Name and Address of Insured: _____ (hereinafter called the "Insured")
(Note: Insured must be the permit holder or applicant)

Facilities covered: [list the site identification number, site name, facility name, facility permit number, address, and amount of insurance for closure and/or post-closure care] (These amounts for all facilities must total the face amount shown below.)

Face Amount: _____
Policy Number: _____
Effective Date: _____

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for [insert "closure and/or post-closure care"] for the facilities identified above. The Insurer further warrants that such policy conforms in all respects to the requirements of LAC 33:VII.1303.A, as applicable, and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the administrative authority, the Insurer agrees to furnish to the administrative authority a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the Insurer is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana and that the wording of this certificate is identical to the wording

specified in LAC 33:VII.1303.G.10, effective on the date shown immediately below.

[Authorized signature of Insurer]
[Name of person signing]
[Title of person signing]
Signature of witness or notary: _____
[Date]

Appendix I

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.1301.A," "LAC 33:VII.1303.A," or "LAC 33:VII.1301.A and 1303.A"].

[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.]

1. The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following solid waste facilities, whether in Louisiana or not, for which liability coverage is being demonstrated through the financial test specified in LAC 33:VII.1301.A. The amount of annual aggregate liability coverage covered by the test is shown for each facility:

2. The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following solid waste facilities, whether in Louisiana or not, for which financial assurance for [insert "closure," "post-closure," or "closure and post-closure"] is demonstrated through a financial test similar to that specified in LAC 33:VII.1303.A or other forms of self-insurance. The current [insert "closure," "post-closure," or "closure and post-closure"] cost estimates covered by the test are shown for each facility:

3. This firm guarantees through a corporate guarantee similar to that specified in [insert "LAC 33:VII.1303.A," or "LAC 33:VII.1301.A and 1303.A"], [insert "liability coverage," "closure," "post-closure," or "closure and post-closure"] care of the following solid waste facilities, whether in Louisiana or not, of which [insert the name of the permit holder or applicant] are/is a subsidiary of this firm. The amount of annual aggregate liability coverage covered by the guarantee for each facility and/or the current cost estimates for the closure and/or post-closure care so guaranteed is shown for each facility:

4. This firm is the owner or operator of the following solid waste facilities, whether in Louisiana or not, for which financial assurance for liability coverage, closure and/or post-closure care is not demonstrated either to the U.S. Environmental Protection Agency or to a state through a financial test or any other financial assurance mechanism similar to those specified in LAC 33:VII.1301.A and/or 1303.A. The current closure and/or post-

closure cost estimates not covered by such financial assurance are shown for each facility:

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

PART A. LIABILITY COVERAGE FOR ACCIDENTAL OCCURRENCES

[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1 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. 1403.H.1.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.1303.H.1.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.) \$ _____
 - 8. Is line 2 at least \$10 million? _____ YES NO
 - 9. Is line 2 at least 6 times line 1? _____ YES NO
 - *10. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 11. _____ YES NO
 - 11. Is line 7 at least 6 times line 1? _____ YES NO
- [Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.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.) \$ _____
- 7. Is line 5 at least \$10 million? _____ YES NO
- 8. Is line 5 at least 6 times line 1? _____ YES NO
- 9. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 10. _____ YES NO
- 10. Is line 6 at least 6 times line 1? _____ YES NO

[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.1303.H.1.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.) \$ _____
- 11. Is line 5 at least \$10 million? _____ YES NO
- 12. Is line 5 at least 6 times line 3? _____ YES NO
- *13. Are at least 90 percent of assets located in the U.S.? If not, complete line 14. _____ YES NO
- 14. Is line 10 at least 6 times line 3? _____ YES NO

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.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.) \$ _____
- 9. Is line 7 at least \$10 million? _____ YES NO
- 10. Is line 7 at least 6 times line 3? _____ YES NO
- *11. Are at least 90 percent of assets located in the U.S.? If not, complete line 12. _____ YES NO
- 12. Is line 8 at least 6 times line 3? _____ YES NO

(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.1303.H.4.e.

[Signature of chief financial officer for the firm]

[Typed name of chief financial officer]

[Title]

[Date]

Appendix J

SOLID WASTE FACILITY CORPORATE GUARANTEE FOR LIABILITY COVERAGE, CLOSURE, AND/OR POST-CLOSURE CARE

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the state of [insert name of state], hereinafter referred to as guarantor, to the Louisiana Department of Environmental Quality, obligee, on behalf of our subsidiary [insert the name of the permit holder or applicant] of [business address].

Recitals

1. The guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in the *Louisiana Administrative Code* (LAC), Title 33, Part VII, Section 1303.H.9.

2. [Subsidiary] is the [insert "permit holder," or "applicant for a permit"] hereinafter referred to as [insert "permit holder" or

"applicant"] for the following solid waste facility covered by this guarantee: [List the site identification number, site name, facility name, and facility permit number. Indicate for each facility whether guarantee is for liability coverage, closure, and/or post-closure and the amount of annual aggregate liability coverage, closure, and/or post-closure costs covered by the guarantee]

[Fill in Paragraphs 3 and 4 below if the guarantee is for closure and/or post-closure.]

3. "Closure plans" as used below refers to the plans maintained as required by LAC 33:VII, for the closure and/or post-closure care of the facility identified in Paragraph 2 above.

4. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to the Louisiana Department of Environmental Quality that in the event that [insert "permit holder" or "applicant"] fails to perform [insert "closure," "post-closure care," or "closure and post-closure care"] of the above facility in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor shall do so or shall establish a trust fund as specified in LAC 33:VII.1303.C, as applicable, in the name of [insert "permit holder" or "applicant"] in the amount of the current closure and/or post-closure estimates, as specified in LAC 33:VII.1303.A.

[Fill in Paragraph 5 below if the guarantee is for liability coverage.]

5. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to any and all third parties who have sustained or may sustain bodily injury or property damage caused by sudden and accidental occurrences arising from operations of the facility covered by this guarantee that in the event that [insert "permit holder" or "applicant"] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences arising from the operation of the above-named facilities, or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor will satisfy such judgment(s), award(s), or settlement agreement(s) up to the coverage limits identified above.

6. The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the administrative authority and to [insert "permit holder" or "applicant"] that he intends to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301.A" and/or "LAC 33:VII.1303.A"], as applicable, in the name of the [insert "permit holder" or "applicant"], within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [insert "permit holder" or "applicant"] has done so.

7. The guarantor agrees to notify the administrative authority, by certified mail, of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

8. The guarantor agrees that within 30 days after being notified by the administrative authority of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of [insert "liability coverage" or "closure and/or post-closure care"] he shall establish alternate financial assurance as specified in [insert "LAC 33:VII.1301.A" and/or "LAC 33:VII.1303.A"], as applicable, in the name of [insert "permit holder" or "applicant"], unless [insert "permit holder" or "applicant"] has done so.

9. The guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: [if the guarantee is for closure and post-closure insert "amendment or modification of the closure and/or post-closure care, the extension or reduction of the time of performance of closure and/or post-

closure"] or any other modification or alteration of an obligation of the [insert "permit holder" or "applicant"] pursuant to LAC 33:VII.

10. The guarantor agrees to remain bound under this guarantee for as long as the [insert "permit holder" or "applicant"] must comply with the applicable financial assurance requirements of [insert "LAC 33:VII.1301.A" and/or "LAC 33:VII.1303.A"] for the above-listed facility, except that guarantor may cancel this guarantee by sending notice by certified mail, to the administrative authority and to the [insert "permit holder" or "applicant"], such cancellation to become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the [insert "permit holder" or "applicant"], as evidenced by the return receipts.

11. The guarantor agrees that if the [insert "permit holder" or "applicant"] fails to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301.A" and/or "LAC 33:VII.1303.A"], as applicable, and obtain written approval of such assurance from the administrative authority within 60 days after a notice of cancellation by the guarantor is received by the administrative authority from guarantor, guarantor shall provide such alternate financial assurance in the name of the [insert "permit holder" or "applicant"].

12. The guarantor expressly waives notice of acceptance of this guarantee by the administrative authority or by the [insert "permit holder" or "applicant"]. Guarantor expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in LAC 33:VII.1303.H.9.I, effective on the date first above written.

Effective date: _____

[Name of Guarantor]

[Authorized signature for guarantor]

[Typed name and title of person signing]

Thus sworn and signed before me this [date].

Chapter 14. Statewide Beautification

§1401. Purpose

A. It is declared to be the purpose of these rules and regulations to:

1. control and reduce litter; and

2. create a statewide beautification program to enhance the tourist, recreational, and economic development of the state.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2521 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§1403. Definitions

A. The following words, terms, and phrases, when used in conjunction with LAC 33:VII. Subpart 1, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning:

Commission Cthe Louisiana Litter Reduction and Public Action Commission.

Dump Cto throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

Litter Call waste material, except as provided and defined in R.S. 30:2173(2), including but not limited to, disposable packages, containers, sand, gravel, rubbish, cans, bottles, refuse, garbage, trash, debris, dead animals, furniture or appliances, automotive parts including, but not limited to, tires and engines, trailers, boats and boating accessories, tools and equipment, and building materials, or other discarded materials of any kind and description. Litter shall

not include agricultural products that are being transported from the harvest or collection site to a processing or market site if reasonable measures are taken to prevent the agricultural product from leaving the transporting vehicle. Litter shall also not include recyclable cardboard being transported in compressed bundles to processing facilities. *Agricultural product*, as used in this definition, means all crops, livestock, poultry, and forestry; and all aquacultural, floracultural, horticultural, silvicultural, and viticultural products.

Local Governing Authority the governing authority of the parish or the governing authority of the municipality in which the littering offense was committed.

Public or Private Property the right-of-way of any road or highway, levee, any body of water or watercourse or the shores or beaches thereof, any park, playground, building, refuge, or conservation or recreation area, and residential or farm properties, timberland, or forests.

Section the Litter Reduction and Public Action Section located within and acting through the Office of Environmental Services of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2522 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§1405. Louisiana Litter Abatement Program

A. The purpose of the Louisiana Litter Abatement Program shall be to support the community-based litter abatement programs.

B. Program Award

1. Program awards shall be made available to local governments and nonprofit organizations.

2. Funding through the program shall be subject to the availability of funds.

3. All requests for awards shall be made in writing on a form provided by the department to the Litter Reduction and Public Action Section of the Office of Environmental Services.

4. The monies awarded through the award shall be used to further the administration and execution of the Keep Louisiana Beautiful Program. Allowable uses of award funding shall include, but not be limited to:

- a. Keep America Beautiful fees;
- b. Keep America Beautiful precertification training, education curriculums, and workshops;
- c. law enforcement seminars;
- d. litter surveys;
- e. projects, services, activities, and operational costs of litter abatement programs;
- f. materials and services for program development and training;
- g. direct expenditures for materials that can facilitate litter reduction, recycling, waste reduction, reuse, and general solid waste management programs;
- h. minimal advertising, public relations, and promotional materials necessary for publicity and promotion of program activities; and
- i. salary of the program coordinator.

5. Each successful applicant shall supplement award funds with a 25 percent match from other sources. All matching funds must be available to the program after the

date of the program award, and funds spent prior to the program award shall not be considered eligible in fulfilling the match requirement.

6. Awards shall be awarded based on a comparative basis as determined by the Litter Reduction and Public Action Section of the Office of Environmental Services.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2524 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

Chapter 15. Solid Waste Fees

§1501. Standard Permit Application Review Fee

A. Applicants for Type I, I-A, II, and II-A standard permits shall pay a \$2,500 permit application review fee for each facility, and the fee shall accompany each permit application submitted.

B. Applicants for Type III standard permits or beneficial-use permits shall pay a permit application review fee of \$500 for each facility, and the fee shall accompany each permit application submitted.

C. Permit holders providing permit modifications for Type I, I-A, II, and II-A facilities shall pay a \$1,000 permit-modification review fee, and the fee shall accompany each modification submitted. Permit holders providing mandatory modifications in response to these regulations shall pay a \$500 permit-modification fee, and the fee shall accompany each mandatory modification submitted. Permit modifications required by LAC 33:VII.805.A. will not be subject to a permit modification fee.

D. Permit holders providing permit modifications for Type III facilities or beneficial-use facilities shall pay a \$250 permit-modification review fee, and the fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§1503. Closure Plan Review Fee

A. Applicants for Type I, I-A, II, and II-A closures shall pay a \$1,000 closure-plan review fee, and the fee shall accompany each closure plan submitted.

B. Applicants for Type III or beneficial-use facilities closures shall pay a \$250 closure-plan review fee, and the fee shall accompany each closure plan submitted.

C. Permit holders providing closure-plan modifications for Type I, I-A, II, and II-A facilities shall pay a \$500 closure-plan modification review fee, and the fee shall accompany each modification submitted.

D. Permit holders providing closure-plan modifications for Type III or beneficial-use facilities shall pay a \$125 closure-plan modification review fee, and the fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§1505. Annual Monitoring and Maintenance Fee

A. An initial fee is charged for the processing of transporter notifications. The fee shall be calculated by the following formula: Initial Fee per Notification + Fee Based on Each Vehicle Owned by the Transporter = Notification Fee.

No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing. Fees are as follows:

1. initial fee: \$100; and
2. fee per vehicle: \$ 25.

B. All holders of permits for solid waste processing and/or disposal facilities that have not completed closure, including post-closure activities, in accordance with an approved plan, shall be charged an annual monitoring and maintenance fee for each permit. This annual monitoring and maintenance fee shall be calculated by the following formula: Base Fee per Permit + Fee Based on Tonnage = Annual Monitoring and Maintenance Fee.

1. Base fees are as follows:
 - a. \$6,000 for Type I facilities (including facilities that handle both industrial and nonindustrial waste);
 - b. \$1,500 for Type II facilities; and
 - c. \$500 for Type I-A, II-A, III, and beneficial-use facilities.
2. Tonnage fees will be based on the wet-weight tonnage, as reported in the previous year's disposer annual report, and are calculated as follows:
 - a. for industrial wastes (Type I facilities, except surface impoundments), \$0.60/ton;
 - b. for nonindustrial wastes (Type II facilities, except surface impoundments), \$0.15/ton for amounts exceeding 75,000 tons;
 - c. for surface impoundments, no tonnage fee;
 - d. for publicly operated facilities that treat domestic sewage sludge, no tonnage fee; and
 - e. for Type I-A, II-A, III, and beneficial-use facilities, no tonnage fee.
3. The maximum annual monitoring and maintenance fee per facility for Type I facilities (including facilities that handle both industrial and nonindustrial solid wastes) is \$80,000; the maximum fee per facility for Type II facilities is \$20,000 (surface impoundments, as noted above, are assessed only the base fee).

C. The annual monitoring and maintenance period shall be from July 1 through June 30, commencing upon promulgation of these regulations and terminating upon completion of closure or post-closure activities for the facility in accordance with the permit of the administrative authority. The annual monitoring and maintenance fee for facilities during post closure shall be 25 percent of the applicable base fee in Paragraph B.1 of this Section.

D. Fee payment shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice.

E. Late Payment Fee. Payments not received within 15 days of the due date will be charged a late payment fee. Any late payment fee shall be calculated from the due date indicated on the invoice.

1. Payments not received by the department by the fifteenth day from the due date will be assessed a five percent late payment fee on the original assessed fee.

2. Payments not received by the department by the thirtieth day from the due date will be assessed an additional five percent late payment fee on the original assessed fee.

3. Payments not received by the department by the sixtieth day from the due date will be assessed an additional five percent late payment fee on the original assessed fee.

F. Failure to pay the prescribed application fee or annual fee as provided herein, within 90 days after the due date, will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

G. The annual fees prescribed herein shall be effective, retroactively, for the state fiscal year in which these fee regulations are published in the *Louisiana Register* as adopted and each state fiscal year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

A public hearing will be held on April 24, 2002, 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. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. 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. Persons commenting should reference this proposed regulation by SW031. Such comments must be received no later than May 1, 2002, 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) 765-0389 or by e-mail to patsyd@deq.state.la.us. 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 SW031.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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: Reorganization of Solid Waste
Regulations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This proposed rule change may, initially, increase paperwork to incorporate changes in forms and the overall review format of a permit. The cost to perform these changes will be managed from funds that are currently in place.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Funding for the implementation of this proposed rule change will be managed from the current budget.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Permittees may see a slight decrease in permit application preparation costs in the future by constructing their own permits. However, consulting firms may experience some economic benefit when the rule takes effect because of reformatting of permits that are submitted after the promulgation date of these regulations.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition and employment should not experience any effect from the implementation of this proposed rule.

James H. Brent, Ph.D.
Assistant Secretary
0203#050

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
Office of the Governor
Office of Indian Affairs

American Indian Prestige License Plates (LAC 55:III.325)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 47:463.78 et seq., the Office of Indian Affairs hereby adopts the following rule to implement the provisions of Act 1254, the American Indian Prestige License Plate and the disbursement of funds thereof.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles

Chapter 3. License Plates
Subchapter A. Types of License Plates

- §325. American Indian Prestige License Plates**
- A. Application. All applications for the American Indian prestige license plates shall be issued upon application by any citizen of Louisiana in the same manner as any other motor vehicle license plate and shall be established only after one hundred applications for the plate have been received.
 - B. Fee. The fee for the American Indian prestige license shall be \$25 which shall be assessed every two years in addition to the standard motor vehicle registration license fee and a handling fee of \$3.50, which shall be retained by the department to offset a portion of the administrative costs. The monies received from the additional \$25 donation shall be used solely for academic or financial need-based scholarships for students of American Indian ancestry.

- C. Criteria for Scholarship Program
 - 1. Supplemental monies are awarded to Indian students who are enrolled members of one of the following Louisiana tribes and/or groups:
 - a. Adais Caddo TribeCRobeline, LA;
 - b. Chitimacha TribeCCharenton, LA;
 - c. Choctaw-Apache Tribe of EbarbCZwolle, LA;
 - d. Clifton ChoctawC Clifton, LA;
 - e. Coushatta TribeCELton, LA;
 - f. Four Winds CherokeeCLEesville, LA;
 - g. Jena Band of ChoctawCJena, LA;
 - h. Tunica BiloxiCMarksville, LA;
 - i. United Houma NationCGolden Meadow, LA;
 - j. Biloxi Chitimacha Conf. MuskogeeCHouma, LA;
 - k. Pointe-Au-ChienCPointe Aux Chenes, LA;
 - l. Talamali Band of ApalacheeCLibuse, LA.
 - 2. Applications will be reviewed on a competitive basis and the Review Committee will base selections on the following criteria:
 - a. financial needCincludes the number of family members, family income, background and economic status of the family and the cost of attending the institution;
 - b. heritageCparent(s) from a Louisiana tribe listed above;
 - c. academic achievementCincludes factors such as grade point average, honors or awards that indicate responsible thoughtful commitment to studies;
 - d. community serviceCincludes all service or involvement with the local, state or national community that is not a part of school activities;
 - e. school activitiesCincludes evidence of involvement in a variety of interests and commitments to the school community. Includes elected or appointed positions held in school, community and work-related areas;
 - f. essayCinclude a 500-700 word essay on your financial need.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.78.
HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Indian Affairs, LR 28:
All interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than April 25, 2002, and should be submitted to Pat Arnould, Office of Indian Affairs, P.O. Box 94004, Baton Rouge, LA 70804.

Pat Arnould
Deputy Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
RULE TITLE: American Indian Prestige License Plates

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation of this proposed rule will have no impact on the agency's costs. Any costs incurred in administering this program will be absorbed by the agency within its existing operating budget.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The implementation of the proposed rule will have the effect of increasing state general fund revenue, Transportation

Trust Fund, and Highway Fund #2 revenues for license plates sold.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated economic benefits would be to scholarship recipients who would have additional funds for their higher education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated the these scholarship funds will benefit these recipients in receiving an education and will assist these persons in obtaining future employment.

Pat Arnould
Deputy Director
0203#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services**

**Home and Community Based Services Waiver Program
Children's ChoiceCNon-Crisis Provisions**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services proposes to adopt the following Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopted a Rule implementing a new Home and Community Based Services waiver called Children's Choice which was designed to provide an alternative to the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver (*Louisiana Register*, volume 26, number 12). Children's Choice provides supplemental services, limited to \$7,500 per year per child for waiver services, to children with developmental disabilities who live with their families. Waiver recipients also receive all medical services covered by Medicaid, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services. Families of children whose names are on the MR/DD Waiver request for services registry (formally known as the MR/DD Waiver waiting list) may choose to either apply for Children's Choice or have the child remain on the MR/DD registry.

The department subsequently adopted provisions for additional supports outside of the \$7,500 limit on waiver service expenditures should certain catastrophic events occur after a child has been found eligible for Children's Choice (*Louisiana Register*, volume 27, number 7).

As a result of a lawsuit stipulation, the department agreed to allow recipients of Children's Choice Waiver services to restore their name to the request for services registry for the MR/DD Waiver when certain non crisis "good cause" provisions are met. In a continuing effort to address the concerns of families who will consider choosing Children's Choice, the department now proposes to adopt the non-crisis "good cause" provisions for restoration to the MR/DD request for services registry.

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. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. The proposed rule will allow recipients of Children's Choice Waiver services to restore their name to the MR/DD Waiver request for services registry for circumstances other than the crisis designation.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services (BCSS) amends the December 20, 2000 Rule to adopt the following provisions governing the restoration of a Children's Choice Waiver recipient's name to the Mentally Retarded/Developmentally Disabled (MR/DD) request for services registry for non-crisis A good cause@circumstances.

I. General Provisions

A. Restoring the recipient to the MR/DD request for services registry under non-crisis "good cause" provisions will allow that individual to be placed in the next available waiver slot that will provide the appropriate services, provided the recipient is still eligible when a slot becomes available. The fact that the recipient is being restored to the request for services registry does not require that the department immediately offer him/her a waiver slot if all slots are filled or to make a slot available to this recipient for which another recipient is being evaluated, even though that other recipient was originally placed on the request for services registry on a later date. Waiver services will not be terminated as a result of a recipient's name being restored to the registry.

B. If another MR/DD waiver would provide the recipient with the services at issue, the department may place the recipient in any waiver that would provide the appropriate services.

C. In the event that the waiver eligibility, other than for the MR/DD waiver, of a person who elected or whose legal representative elected that they receive services under the Children's Choice Waiver is terminated based on inability to assure health and welfare of the waiver participant, the department will restore him/her to the request for services registry for the MR/DD Waiver in the date order of the original request.

D. If and when a new "capped" adult waiver is adopted, a Children's Choice participant aging out of that program will be evaluated for both the capped waiver and the MR/DD Waiver, and transferred to the waiver whose services are most appropriate for them at that time, with a right of appeal of the department's decision.

II. Non-Crisis ProvisionsC Good Cause

A. A person who has elected or whose legal representative has elected that they receive services under Children's Choice Waiver shall be allowed to restore his or her name to the request for services registry for the MR/DD Waiver in original date order, when they meet all of the following criteria:

1. he/she would benefit from the services that are available in the MR/DD Waiver, but are not actually available to him or her through their current waiver or through Medicaid State Plan services; and

2. he/she would qualify for those services under the standards utilized for approving and denying the services to the MR/DD Waiver participants; and

3. there has been a change in circumstances since his or her enrollment in the Children's Choice Waiver that causes these other services to be appropriate. The change does not have to be a change in the recipient's medical condition, but can include loss of in-home assistance through a caretaker's decision to take on or increase employment, or to obtain education or training for employment. (Note: The temporary absence of a caretaker due to a vacation is not considered "good cause".); and

4. the person's original request date for the MR/DD Waiver has been passed on the request for services registry.

III. Determination Responsibilities and Appeals

The BCSS shall have the responsibility for making the determinations as to the matters set forth above. Persons who have elected or whose legal representatives have elected that they receive services under the Children's Choice Waiver have the right to appeal any determination of the Department as to matters set forth above, under the regulations and procedures applicable to Medicaid fair hearings.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, 446 North Twelfth Street, Baton Rouge, LA 70802-4613. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, April 25, 2002 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: Home and Community Based
Services Waiver ProgramC Children's
ChoiceC Non-Crisis Provisions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for SFY 2001-02, 2002-03, and 2003-04. It is anticipated that \$240 (\$120 SGF and \$120 FED) will be expended in SFY 2001-02 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 not impact federal revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed Rule will not have estimable costs and/or economic benefits for directly affected persons or non-governmental groups. This proposed Rule

establishes non-crisis provisions and criteria for Children's Choice waiver recipients' names to be restored to the MR/DD Wavier request for services registry.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition and employment.

Ben A. Bearden
Director
0203#033

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**

Hospice (LAC 50:XV.Chapters 31-43)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following Rule as LAC 50:XV.Chapters 31-43 under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

This text is being adopted in order to provide the rules necessary to implement the provisions of Act 756 of the 2001 Regular Session of the Louisiana Legislature, R.S. 46:159.1, which requires the department to develop and implement a pilot project for hospice care under the Medicaid State Plan for persons who are eligible for Medicaid benefits.

Section 9505 of Public Law 99-272 amended Title XIX of the Social Security Act to permit states, at their option, to provide hospice care to individuals eligible for Medicaid. Although hospice care is an optional service under the Medicaid Program, states that do not cover hospice care must provide reimbursement in certain circumstances for specified services provided in conjunction with Medicare hospice care for Medicare/Medicaid eligible individuals who live in Medicaid reimbursed nursing facilities. In compliance with this regulation, the bureau currently reimburses in certain circumstances for such services. The department also proposes to repeal in its entirety the final Rule requiring Medicaid payment for services provided in conjunction with Medicare hospice care for Medicare/Medicaid-eligible individuals who live in Medicaid-reimbursed nursing facilities (*Louisiana Register*, volume 19, number 6). The text of that Rule will be repromulgated as part of the proposed Rule in order to be codified for inclusion in the *Louisiana Administrative Code* and insure continued Medicaid payment in such circumstances.

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 will improve the family functioning, stability, and autonomy as described in R.S. 49:972, since hospice care is an approach to the delivery of care with attention to the needs of terminally ill persons and their families, and since hospice care will help provide consumer choice and a means for recipients to exercise their autonomy over end-of-life issues.

Title 50
PUBLIC HEALTHC MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 3. Hospice

Chapter 31. General Provisions

§3101. Introduction

A. Hospice care is an alternative treatment approach that is based on a recognition that impending death requires a change from curative treatment to palliative care for the terminally ill patient and supporting family. Palliative care focuses on comfort care and the alleviation of physical, emotional and spiritual suffering. Instead of hospitalization, its focus is on maintaining the terminally ill patient at home with minimal disruptions in normal activities and with as much physical and emotional comfort as possible.

B. The bureau will implement a pilot project for hospice care under the Medicaid State Plan for persons who are eligible for Medicaid benefits. The pilot project will terminate two years after the effective date of this proposed rule unless the department, prior to the termination date, promulgates an additional rule to either continue the pilot project or to establish hospice care as an ongoing Medicaid service program. During the two-year period, the bureau will monitor and evaluate the pilot project on an ongoing basis in order to determine whether or not to extend it.

C. The bureau will continue to make Medicaid payments under certain circumstances for specified services provided in conjunction with Medicare hospice care for dually eligible individuals who reside in Medicaid reimbursed nursing facilities as provided in §4307 of this Subpart and in accordance with §1905(o)(3) of the Social Security Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

Chapter 33. Provider Participation

§3301. Conditions for Participation

A. Coverage of Medicaid hospice care under the pilot project shall be in accordance with 42 U.S.C. 1396d(o), the Medicare Hospice Program guidelines as set forth in 42 CFR Part 418, and §4305-4308.2 of the Federal Centers for Medicare and Medicaid Services' *State Medicaid Manual*, except in so far as they clearly conflict, in which case the *State Medicaid Manual* will be followed.

B. In order to participate in the pilot project, a hospice shall maintain compliance with the Medicare conditions of participation for hospices as set forth in 42 CFR Part 418.50-418.100 and shall have a valid Medicaid provider agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

Chapter 35. Recipient Eligibility

§3501. Election of Hospice Care

A. In order to be eligible to elect hospice care under Medicaid, a recipient must be terminally ill. An individual is considered to be terminally ill if the individual has a medical prognosis that his or her life expectancy is six months or less if the illness runs its normal course.

B. An election statement must be filed with a particular hospice for the individual who meets the eligibility requirements as set forth in §3501.A above.

1. The election must be filed by the eligible individual or by a person authorized by law to consent to medical treatment for such individual.

2. For dually eligible recipients, hospice care must be elected for both the Medicaid and Medicare programs at once.

C. Duration (Periods). Subject to the conditions set forth in §3501, an individual may elect to receive hospice care during one or more of the following election periods:

1. an initial 90-day period;

2. subsequent 90-day period; and

3. subsequent periods of 60 days each. These periods require prior authorization as outlined in §4101 of these Rules.

D. Order of Election. The periods of care are available in the order listed and may be used consecutively or at different times during the recipient's life span. The hospice interdisciplinary team shall help manage the patient's hospice election periods by continually assessing the patient's appropriateness for Medicaid hospice care, especially before the patient enters a new election period.

E. An individual may designate an effective date for the election period that begins with the first day of hospice care or any subsequent day of hospice care, but an individual may not designate an effective date that is earlier than the date that the election is made.

F. Loss of Remaining Days in Period. When a recipient revokes or is discharged alive during an election period, the recipient loses any remaining days in the election period.

G. Election Statement Requirements. The election statement must include:

1. identification of the particular hospice that will provide care to the individual;

2. the individual's or his/her representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the individual's terminal illness;

3. acknowledgment that certain Medicaid services, as set forth in §3503 are waived by the election;

4. the effective date of the election, which may be the first day of hospice care or a later date, but may be no earlier than the date of the election statement; and

5. the signature of the individual or his/her representative.

H. Duration of Election. An election to receive hospice care will be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual:

1. remains in the care of a hospice; and

2. does not revoke the election under the provisions of §3505.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:

§3503. Waiver of Payment for Other Services

A. For the duration of an election of hospice care, an individual waives all rights to Medicaid payments for:

1. hospice care provided by a hospice other than the hospice designated by the individual;
2. any Medicaid services that are related to the treatment of the terminal condition for which hospice care was elected or a related condition or that are equivalent to hospice care, except for services provided by:
 - a. the designated hospice;
 - b. another hospice under arrangements made by the designated hospice; and
 - c. the individual's attending physician if that physician is not an employee of the designated hospice or receiving compensation from the hospice for those services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§3505. Revoking the Election of Hospice Care/Discharge

A. An individual or his/her representative may revoke the individual's election of hospice care for a particular election period at any time during an election period.

1. Required Statement of Revocation. To revoke the election of hospice care, the individual or his/her representative must file a statement with the hospice that includes:

- a. a signed statement that the individual or his/her representative revokes the individual's election for Medicaid coverage of hospice care for the remainder of that election period;
- b. the date that the revocation is to be effective. (An individual or his/her representative may not designate an effective date earlier than the date that the revocation is made.)

2. If a recipient is eligible for Medicare as well as Medicaid and elects hospice care, it must be revoked simultaneously under both programs.

3. Discharge

a. The hospice benefit is available only to individuals who are terminally ill; therefore, a hospice must discharge a patient if it discovers that the patient is not terminally ill.

b. Patients shall be discharged only in the circumstances as detailed in the Licensing Standards for Hospices (LAC 48:I.8229).

4. Service Availability upon Revocation or Discharge. An individual, upon discharge or revocation of the election of Medicaid coverage of hospice care for a particular election period:

- a. is no longer covered under Medicaid for hospice care; and
- b. resumes Medicaid coverage of the benefits waived as provided under §3503.

5. Re-Election of Hospice Benefits. If an election has been revoked in accordance with the provisions of this §2505 the individual or his/her representative may at any time file an election, in accordance with §3501, for any other election period that is still available to the individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§3507. Change of Designated Hospice

A. An individual or his/her representative may change, once in each election period, the designation of the particular hospice from which hospice care will be received. The change of the designated hospice is not a revocation of the election for the period in which it is made. To change the designation of hospice programs, the individual or his/her representative must file, with the hospice from which care has been received and with the newly designated hospice, a statement that includes:

1. the name of the hospice from which the individual has received care and the name of the hospice from which he or she plans to receive care; and
2. the date the change is to be effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

Chapter 37. Provider Requirements

§3701. Requirements for Coverage

A. To be covered, a Certification of Terminal Illness must be completed as set forth in §3703, the Election of Hospice Care Form must be completed in accordance with §3501, and a plan of care must be established in accordance with §3705. Prior authorization requirements stated in Chapter 41 of these rules are applicable to all election periods beyond the initial 90-day period and one subsequent 90-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§3703. Certification of Terminal Illness

A. The hospice must obtain written certification of terminal illness for each of the periods listed in §3501.C, even if a single election continues in effect for two, three, or more periods.

1. Timing of Certification

a. These certifications may be completed no earlier than two weeks before the beginning of each election period.

b. For the first 90-day period of hospice coverage, the hospice must obtain, no later than two calendar days after hospice care is initiated (that is, by the end of the third calendar day), certification of the terminal illness. If written certification is not obtained within two calendar days following the initiation of hospice care, a verbal certification must be made within two calendar days following the initiation of hospice care, with a written certification obtained before billing for hospice care. If these requirements are not met, no payment is made for the days prior to the certification. Instead, payment begins with the day of certification, i.e., the date verbal certification is obtained.

c. For the subsequent periods, a written certification must be on file in the recipient's record prior to the submission of a claim.

2. Content of Certification

a. The certification must specify that the individual's prognosis is for a life expectancy of six months or less if the terminal illness runs its normal course.

b. The certification of terminal illness shall be based on the physician's clinical judgment regarding the normal course of the individual's illness.

c. The written certification must include the signature(s) of the physician(s).

d. If verbal certification is made, the referral from the physician shall be received by a member of the hospice Interdisciplinary Group (IDG). The entry in the patient's clinical record of the verbal certification shall include at a minimum:

- i. the patient's name;
- ii. physician's name;
- iii. terminal diagnosis(es);
- iv. prognosis; and
- v. the name and signature of the IDG member taking the referral.

3. Sources of Certification

a. For the initial 90-day period, the hospice must obtain written certification statements (and oral certification statements if required) as provided in §3703.A.1 from:

- i. the hospice's medical director or physician member of the hospice's interdisciplinary group; and
- ii. the individual's attending physician if the individual has an attending physician. The attending physician is a doctor of medicine or osteopathy and is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.

b. For subsequent periods, the only requirement is certification by either the medical director of the hospice or the physician member of the hospice interdisciplinary group.

4. Maintenance of Records. Hospice staff must make an appropriate entry in the patient's clinical record as soon as they receive an oral certification; and file written certifications in the clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:

§3705. Plan of Care

A. A written plan of care must be established and maintained for each individual admitted to a hospice program in accordance with the provisions set forth in the Licensing Standards for Hospices (LAC 48:I.Chapter 82), and the care provided to an individual must be consistent with the plan and be reasonable and necessary for the palliation or management of the terminal illness as well as related conditions.

B. The plan of care must be established before services are provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§3707. Record Keeping

A. The hospice must maintain and retain the business and professional records sufficient to document fully and accurately the nature, scope, and details of the health care provided.

B. In accordance with the provisions set forth in the Licensing Standards for Hospices (LAC 48:I.Chapter 82), the hospice must establish and maintain a clinical record for every individual receiving care and services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28

§3709. Self-Assessment

A. In accordance with the provisions set forth in the Licensing Standards for Hospices (LAC 48:I.Chapter 82) the hospice must conduct an ongoing, comprehensive, integrated, self-assessment of the quality and appropriateness of care provided, including inpatient care, home care and care provided under arrangements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

Chapter 39. Covered Services

§3901. Medical and Support Services

A. Hospice is a package of medical and support services for the terminally ill individual. The following services are covered hospice services.

1. Nursing care provided by or under the supervision of a registered nurse.

2. Medical social services provided by a social worker who has at least a master's degree from a school of social work accredited by the Council on Social Work Education, and who is working under the direction of a physician.

3. Physicians' services performed by a physician (as defined in 42 CFR 410.20). In addition to palliation and management of the terminal illness and related conditions, physician employees of the hospice and physicians under contract to the hospice, including the physician member(s) of the interdisciplinary group, must also meet the general medical needs of the patients to the extent that these needs are not met by the attending physician. The medical director of the hospice is to assume overall responsibility for the medical component of the hospice's patient care program.

4. Counseling services must be available to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him or her to adjust to the individual's approaching death. Counseling includes bereavement counseling, provided after the patient's death as well as dietary, spiritual and any other counseling services for the individual and family provided while the individual is enrolled in the hospice.

a. There must be an organized program for the provision of bereavement services under the supervision of a qualified professional. The plan of care for these services should reflect family needs, as well as a clear delineation of services to be provided and the frequency of service delivery (up to one year following the death of the patient).

i. Bereavement counseling is a required hospice service, but it is not reimbursable.

b. Dietary counseling, when required, must be provided by a qualified individual.

c. The hospice must make reasonable efforts to arrange for visits of clergy and other members of religious organizations in the community to patients who request such visits and must advise patients of this opportunity.

d. Additional counseling may be provided by other members of the interdisciplinary group as well as by other qualified professionals as determined by the hospice.

5. Short-term inpatient care provided in a participating hospice inpatient unit, or a participating hospital or nursing facility that additionally meets the special hospice standards regarding staffing and patient areas. Services provided in an inpatient setting must conform to the written plan of care. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

6. Medical appliances and supplies, including drugs and biologicals. Only drugs as defined in §1861(t) of the Social Security Act and which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered. Appliances may include covered durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness. Equipment is provided by the hospice for use in the patient's home while he or she is under hospice care. Medical supplies include those that are part of the written plan of care.

a. The hospice must have a policy for the disposal of controlled drugs maintained in the patient's home when those drugs are no longer needed by the patient.

b. Drugs and biologicals shall be administered only by a licensed nurse or physician, an employee who has completed a state-approved training program in medication administration, the patient if his or her attending physician has approved, or any other individual in accordance with applicable state and local laws. The persons and each drug and biological they are authorized to administer must be specified in the patient's plan of care.

7. Home Health Aide Services Furnished by Qualified Aides and Homemaker Services. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Aide services must be provided under the general supervision of a registered nurse. Written instructions for patient care are to be prepared by a registered nurse. A registered nurse must visit the home site at least every 14 days when aide services are being provided, and the visit must include an assessment of the aide services.

8. Physical therapy, occupational therapy and speech-language pathology services provided for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

9. Any other item or service which is included in the plan of care and for which payment may otherwise be made under Medicaid is a covered service. The hospice is

responsible for providing any and all services indicated in the plan of care as necessary for the palliation and management of the terminal illness and related conditions.

10. Core Services

a. Nursing care, physicians' services, medical social services and counseling are core hospice services and must routinely be provided directly by hospice employees, except that physicians' services and counseling services may be provided through contract. Supplemental services may be contracted for during periods of peak patient loads and to obtain physician specialty services. The hospice may contract for a physician to be a member of the hospice's interdisciplinary group. Also, the hospice's Medical Director does not have to be an employee of the hospice. If contracting is used for any core services, professional, financial and administrative responsibility for the services must be maintained and regulatory qualification requirements of all staff must be assured.

b. If located in a non-urbanized area, a hospice may apply for a waiver of the core nursing, physical therapy, occupational therapy, speech language pathology, and dietary counseling requirements in accordance with 42 U.S.C. §1395x(dd).

11. Level of Care. Hospice care is divided into four categories of care rendered to the hospice patient.

a. Routine Home Care Day. A routine home care day is a day on which an individual who has elected to receive hospice care is at home and is not receiving continuous care.

b. Continuous Home Care Day. A continuous home care day is a day on which an individual who has elected to receive hospice care is not in an inpatient facility and receives hospice care consisting predominantly of nursing care on a continuous basis at home. Continuous home care is only furnished during brief periods of crisis and only as necessary to maintain the terminally ill patient at home.

i. If less skilled care is needed on a continuous basis to enable the person to remain at home, this is covered as routine home care.

ii. A period of crisis is a period in which a patient requires continuous care which is primarily nursing care to achieve palliation or management of acute medical symptoms. Nursing care must be provided by either a registered nurse or a licensed practical nurse and a nurse must be providing care for more than half of the period of care.

iii. A minimum of eight hours of care must be provided during a 24-hour day which begins and ends at midnight. This care need not be continuous, i.e., four hours could be provided in the morning and another four hours provided in the evening of that day.

iv. Homemaker and aide services may also be provided to supplement the nursing care.

c. Inpatient Respite Care Day. An inpatient respite care day is a day on which the individual receives care in an approved facility on a short-term basis to relieve the family members or other persons caring for the individual at home. An approved facility is one that meets the standards as provided in 42 CFR ' 418.98(b).

d. General Inpatient Care Day. A general inpatient care day is a day on which an individual receives general inpatient care in an inpatient facility that meets the standards

as provided in 42 CFR §418.98(a) and for the purpose of pain control or acute or chronic symptom management which cannot be managed in other settings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

Chapter 41. Prior Authorization

§4101. Prior Authorization of 60-day Periods

A. Prior authorization is not required for the initial 90-day election period or the subsequent 90-day election period. However, prior authorization is required for all subsequent 60-day election periods as specified in §3501.C of this Subpart. The prognosis of terminal illness will be reviewed. A patient must have a terminal prognosis and not just certification of terminal illness. Authorization will be made on the basis that a patient is terminally ill as defined in federal regulations. These regulations require certification of the patient's prognosis, rather than diagnosis. Authorization will be based on objective clinical evidence contained in the clinical record about the patient's condition and not simply on the patient's diagnosis.

B. Written Notice of Denial. In the case of a denial, a written notice of denial shall be submitted to the hospice.

C. Reconsideration and Appeals. If the hospice does not agree with the denial of a subsequent period the hospice can request an informal reconsideration by the intermediary. The hospice has 30 days from the date of denial on the denial letter to submit a written request for reconsideration of the initial denial. All appeals will be reviewed within 30 days from receipt of the written request. If the denial is upheld upon reconsideration and the hospice disagrees with the decision, the hospice has the right to request a fair hearing with the department's Bureau of Appeals, which will be in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

Chapter 43. Reimbursement

§4301. General

A. With the exception of payment for physician services, Medicaid reimbursement for hospice care is made at one of four predetermined rates, as detailed in §4305, for each day in which a Medicaid recipient is under the care of the hospice. The four rates are prospective rates; there are no retroactive adjustments other than the limitation on payments for inpatient care. The rate paid for any particular day varies depending on the level of care furnished to the recipient. The limitation on payment for inpatient care is described in §4309.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§4303. Levels of Care for Payment

A. Routine Home Care. The routine home care rate is paid for each day the patient is under the care of the hospice and not receiving one of the other categories of hospice care. This rate is paid without regard to the volume or intensity of

routine home care services provided on any given day and is also paid when the patient is receiving hospital care for a condition unrelated to the terminal condition. This rate is also paid in the following situations:

1. if the patient is in a hospital that is not contracted with the hospice; or
2. if the patient is receiving outpatient services in the hospital; or
3. for the day of discharge alive from general inpatient care or respite care level of care.

B. Continuous Home Care. Continuous home care is to be provided only during a period of crisis (see §3901.A.11.b). If less skilled care is needed on a continuous basis to enable the person to remain at home, this is covered as routine home care.

1. The continuous home care rate is divided by 24 hours in order to arrive at an hourly rate.
2. A minimum of eight hours must be provided.
3. For every hour or part of an hour of continuous care furnished, the hourly rate is paid for up to 24 hours a day.

C. Inpatient Respite Care. The inpatient respite care rate is paid for each day the recipient is in an approved inpatient facility and is receiving respite care (see §3901.A.11.c). Respite care may be provided only on an occasional basis and payment for respite care may be made for a maximum of five days at a time including the date of admission but not counting the date of discharge.

1. Payment for the sixth and any subsequent days is to be made at the routine home care rate.
2. Respite care may not be provided when the hospice patient is a nursing home resident.

D. General Inpatient Care. Payment at the inpatient rate is made when an individual receives general inpatient care in an inpatient facility for pain control or acute or chronic symptom management which cannot be managed in other settings. General inpatient care and nursing home or intermediate care facility for the mentally retarded room and board cannot be reimbursed for the same recipient on the same covered days of service.

1. For the day of discharge from an inpatient unit, the appropriate home care rate is to be paid unless the patient dies as an inpatient.
2. When the patient is deceased, the inpatient rate (general or respite) is to be paid for the discharge date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§4305. Hospice Payment Rates

A. The payment rates for each level of care will be those used under Part A of Title XVIII (Medicare), adjusted to disregard cost offsets attributable to Medicare coinsurance amounts. For routine home care, continuous home care, and inpatient respite care, only one rate is applicable for each day. For continuous home care, the amount of payment is determined based on the number of hours of continuous care furnished to the recipient on that day.

1. Local Adjustment of Payment Rates. The payment rates referred to in §4301 and this §4305 are adjusted for regional differences in wages. The bureau will compute the adjusted rate based on the geographic location at which the

service was furnished to allow for the differences in area wage levels, using the same method used under Part A of Title XVIII.

a. The hospice program shall submit claims for payment for hospice care only on the basis of the geographic location at which the services are furnished.

b. The nursing facility shall be considered an individual's home if the individual usually lives in the nursing facility.

2. Payment for Physician Services. The four basic payment rates for hospice care are designed to reimburse the hospice for the costs of all covered services related to the treatment of the recipient's terminal illness. This includes the administrative and general supervisory activities performed by physicians who are employees of or working under arrangements made with the hospice. These activities are generally performed by the physician serving as the medical director and the physician member of the hospice interdisciplinary group. Group activities include participation in the establishment of plans of care, supervision of care and services, periodic review and updating of plans of care, and establishment of governing policies. The costs for these services are included in the reimbursement rates for routine home care, continuous home care, and inpatient respite care.

a. The hospice is paid for other physicians' services, such as direct patient care services, furnished to individual patients by hospice employees and for physician services furnished under arrangements made by the hospice unless the patient care services were furnished on a volunteer basis.

b. The hospice is reimbursed in accordance with the usual Medicaid reimbursement policy for physicians' services. This reimbursement is in addition to the daily rates.

c. Physicians who are designated by recipients as the attending physician and who also volunteer services to the hospice are, as a result of their volunteer status, considered employees of the hospice in accordance with 42 CFR 418.3. All direct patient care services rendered by these physicians to hospice patients are hospice physician services, and are reimbursed in accordance with the procedures outlined in §4305.A.1. Physician services furnished on a volunteer basis are excluded from Medicaid reimbursement. The hospice may be reimbursed on behalf of a volunteer physician for specific services rendered which are not furnished on a volunteer basis (a physician may seek reimbursement for some services while furnishing other services on a volunteer basis). The hospice must have a liability to reimburse the physician for those physician services rendered. In determining which services are furnished on a volunteer basis and which services are not, a physician must treat Medicaid patients on the same basis as other patients in the hospice.

d. An independent attending physician is reimbursed in accordance with the usual Medicaid reimbursement methodology for physician services.

i. The only services billed by the attending physician are the physician's personal professional services. Costs for services such as lab or x-rays are not included on the attending physician's bill.

ii. Services provided by an independent attending physician must be coordinated with any direct care services provided by hospice physicians.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§4307. Payment for Long Term Care Residents

A. Instead of any payment otherwise made with respect to the facility's services, the hospice program will be paid an additional amount on routine home care and continuous home care days to take into account the room and board furnished by the facility for a Medicaid recipient:

1. who is residing in a nursing facility or intermediate care facility for the mentally retarded (ICF-MR);

2. who would be eligible under the State Plan for nursing facility services or services in an ICF-MR if he or she had not elected to receive hospice care;

3. who has elected to receive hospice care; and

4. for whom the hospice program and the nursing facility or ICF-MR have entered into a written agreement in accordance with the provisions set forth in the Licensing Standards for Hospices (LAC 48:I.Chapter 82), under which the hospice program takes full responsibility for the professional management of the individual's hospice care and the facility agrees to provide room and board to the individual.

B. This amount is determined in accordance with the rates established under the Social Security Act §1902(a)(13)(B).

C. This rate is designed to cover "room and board" which includes performance of personal care services, including assistance in the activities of daily living, administration of medication, maintaining the cleanliness of the patient's environment, and supervision and assistance in the use of durable medical equipment and prescribed therapies.

D. The rate of reimbursement is 100 percent of the per diem rate that would have been paid to the facility for that recipient in that facility under the State Plan, except that any Patient Liability Income (PLI) determined by the bureau will be deducted from the payment amount. It is the responsibility of the nursing facility or ICF-MR to collect the recipient's PLI.

E. Under those circumstances, payment to the nursing facility is discontinued, and payment is made to the hospice, which must then reimburse the nursing facility for room and board.

F. This rate is in addition to the routine home care rate or the continuous home care rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:

§4309. Limitation on Payments for Inpatient Care

A. Payments to a hospice for inpatient care are limited according to the number of days of inpatient care furnished to Medicaid patients.

1. During the 12-month period beginning November 1 of each year and ending October 31, the aggregate number of inpatient days (both for general inpatient care and inpatient respite care) may not exceed 20 percent of the aggregate total number of days of hospice care provided to all Medicaid recipients during that same period.

2. Once each year at the end of the hospices' "cap period" the bureau calculates a limitation on payment for inpatient care to ensure that Medicaid payment is not made for days of inpatient care in excess of 20 percent of the total number of days of hospice care furnished to Medicaid patients.

a. Medicaid recipients afflicted with acquired immunodeficiency syndrome (AIDS) are included in the calculation of this inpatient care limitation.

b. Any excess reimbursement is refunded by the hospice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§4311. Coinsurance for Medicare

A. For dually eligible recipients for whom Medicare is the primary payer for hospice services, Medicaid will also provide for payment of any coinsurance amounts imposed under §1813(a)(4) of the Social Security Act.

1. Drugs and Biologicals. The coinsurance amount for each prescription approximates 5 percent of the cost of the drug or biological to the hospice, determined in accordance with the drug copayment schedule established by the hospice, except that the coinsurance amount for each prescription may not exceed \$5. The cost of the drug or biological may not exceed what a prudent buyer would pay in similar circumstances.

2. Respite Care. The coinsurance amount for each respite care day is equal to 5 percent of the payment made under Medicare for a respite care day. The amount of the individual's coinsurance liability for respite care during a hospice coinsurance period may not exceed the inpatient hospital deductible applicable for the year in which the hospice coinsurance period began.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§4313. Services Not Related to Terminal Illness

A. Any covered Medicaid services not related to the treatment of the terminal condition for which hospice care was elected, that are provided during a hospice election period, are billed to the bureau for non-hospice Medicaid payment. Prior authorization is required for any covered Medicaid services not related to the treatment of the terminal condition if such prior authorization is required by the bureau for non-hospice recipients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

Implementation of this Rule shall be subject to the approval of the federal Centers for Medicare and Medicaid 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 responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, April 25, 2002 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: Hospice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will decrease state program costs by approximately \$64,270 for SFY 2002-03, \$92,588 for SFY 2003-04, and \$94,218 for SFY 2004-05. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in SFY 2002-2003 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 decrease federal revenue collections by approximately \$320,062 for SFY 2002-03, \$356,053 for SFY 2003-04, and \$365,587 for SFY 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will increase payments to providers of hospice care services, but will decrease payments overall to private providers of Medicaid services by \$607,869 for SFY 2002-03, \$626,105 for SFY 2003-04, and \$644,888 for SFY 2004-05. These estimates are based on a cost avoidance of approximately \$28 per day for each terminally ill that opts to receive services through the hospice program instead of traditional Medicaid services for the last six months of life.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will increase employment opportunities with hospice providers in order to serve the Medicaid patients (approximately 480) who elect hospice care.

Ben A. Bearden
Director
0203#032

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

Private Hospitals Outlier Payments

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 pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established a reimbursement methodology for payments to disproportionate share hospitals for catastrophic costs associated with providing medically necessary services to children under 6 years of age. The reimbursement methodology also addresses payments to all acute care hospitals for catastrophic costs associated with providing medically necessary services to infants one year of age or under. An outlier payment was calculated on an individual case basis and paid at cost if covered charges for medically necessary services exceeded 200 percent of the prospective payment (*Louisiana Register*, volume 20, number 6). The June 20, 1994 Rule was subsequently amended to revise the qualification and calculation for outlier payments. To qualify for an outlier payment, the covered charges for the case must exceed both \$150,000 and 200 percent of the prospective payment. Outlier cases qualifying under these criteria are reimbursed the marginal cost associated with the excess cost above the prospective payment amount (*Louisiana Register*, volume 22, number 2). The bureau now proposes to amend the February 20, 1996 Rule by changing the hospital-specific cost to charge ratio from the base period currently being utilized to a hospital-specific cost to charge ratio based on the hospital's cost report period ending in state fiscal year 2000 (July 1, 1999 through June 30, 2000). In addition, the bureau proposes to establish a deadline of six months subsequent to the date the claim is paid for receipt of the written request filing for outlier payments.

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 amends the February 20, 1996 Rule governing the reimbursement methodology and qualifications for outlier payments to disproportionate share hospitals for catastrophic costs associated with medically necessary services provided to children under six years of age and to acute care general hospitals for the catastrophic costs for medically necessary services provided to infants 1 year of age or under. The reimbursement methodology for calculating outlier payments for private hospitals is amended to change the hospital-specific cost to charge ratio from the base period currently being utilized to a hospital-specific cost to charge ratio based on the hospital's cost report period ending in state fiscal year (SFY) 2000 (July 1, 1999 through June 30, 2000). The cost to charge ratio for new hospitals and hospitals that did not provide Medicaid Neonatal Intensive Care Unit (NICU) services in SFY 2000 will be calculated based on the first full year cost reporting period that the hospital was open or that Medicaid NICU services were provided. In addition, a deadline of six months subsequent to the date the claim is paid is established for receipt of the written request filing for outlier payments.

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 Thursday, April 25, 2002 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: Private Hospitals C Outlier Payments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease state program costs by approximately \$35,231 for SFY 2001-02, \$1,291,478 for SFY 2002-03, and \$1,330,223 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-02 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 decrease federal revenue collections by approximately \$83,714 for SFY 2001-02, \$3,168,047 for SFY 2002-03, and \$3,263,088 for SFY 2003-04.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce the outlier payments to private hospitals through a revision in the reimbursement methodology for payments to disproportionate share hospitals for catastrophic costs associated with providing medically necessary services to children under six years of age. The reimbursement methodology also addresses payments to all acute care hospitals for catastrophic costs associated with providing medically necessary services to infants one year of age or under. This proposed rule will decrease reimbursement by approximately \$119,065 for SFY 2001-02, \$4,459,525 for SFY 2002-03, and \$4,593,311 for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0203#018

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

Nursing Facilities C Reimbursement Methodology
(LAC 50:VII.1301-1309)

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. 46:2742 and R.S. 46:153 and

pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule establishing a prospective reimbursement methodology for private nursing facilities (*Louisiana Register*, Volume 10, Number 6). The June 20, 1984 Rule was subsequently amended to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 6) and to adjust the percentile utilized for all cost components, except profit incentive, from the sixtieth to the sixty-second percentile (*Louisiana Register*, Volume 27, Number 12).

Act 694 of the 2001 Regular Session of the Louisiana Legislature mandated that the Department of Health and Hospitals establish a case-mix reimbursement methodology for nursing homes. In accordance with Act 694, the bureau now proposes to repeal the June 20, 1984 rule and establish a new reimbursement methodology based on a case-mix price-based reimbursement system for private and public nursing facilities.

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 repeals the June 20, 1984 Rule and establishes a system of prospective payment for nursing facilities based on recipient care needs that incorporates acuity measurements as determined under the Resource Utilization Group III (RUG III) resident classification methodology. This system establishes a facility specific price for the Medicaid nursing facility residents served. It also provides for enhanced reimbursement for Medicaid residents who require skilled nursing services for an infectious disease and technology dependent care. Facilities may furnish any or all of these levels of care to residents. Every nursing facility must meet the requirements for participation in the Medicaid Program.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1301. Definitions

Administrative and Operating Cost Component Cthe portion of the Medicaid daily rate that is attributable to the general administration and operation of a nursing facility.

Base Resident-Weighted Median Costs and Prices Cthe resident-weighted median costs and prices calculated in accordance with §1305 during rebase years.

Capital Cost Component Cthe portion of the Medicaid daily rate that is:

- 1. attributable to depreciation;
- 2. capital related interest;
- 3. rent;
- 4. lease and amortization expenses.

Care Related Cost Component Cthe portion of the Medicaid daily rate that is attributable to those costs indirectly related to providing clinical resident care services to Medicaid recipients.

Case Mix Ca measure of the intensity of care and services used by similar residents in a facility.

Case-Mix Index Ca numeric score within a specific range that identifies the relative resources used by similar residents and represents the average resource consumption across a population or sample.

Cost Neutralization Crefers to the process of removing cost variations associated with different levels of resident case mix. Neutralized cost is determined by dividing a facility's per diem direct care costs by the facility cost report period case-mix index.

Direct Care Cost Component Cthe portion of the Medicaid daily rate that is attributable to:

- 1. registered nurse (RN), licensed practical nurse (LPN) and nurse aide salaries and wages;
- 2. a proportionate allocation of allowable employee benefits; and
- 3. the direct allowable cost of acquiring RN, LPN and nurse aide staff from outside staffing companies.

Facility Cost Report Period Case-Mix Index Cthe average of quarterly facility-wide average case-mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the facility's cost reporting period that is used to determine the medians.

1. Example: a January 1, 2001 - December 31, 2001 cost report period would use the facility-wide average case-mix indices for quarters beginning January 1, 2001, April 1, 2001, July 1, 2001 and October 1, 2001.

2. When this system is implemented, if four quarters of acuity data are not available that coincide with the cost report period, a two quarter average of acuity data that most closely matches the cost reporting period will be used.

Facility-Wide Average Case-Mix Index Cthe simple average, carried to four decimal places, of all resident case-mix indices based on the first day of each calendar quarter.

Index Factor Cwill be based on the *Skilled Nursing Home without Capital Market Basket Index* published by Data Resources Incorporated (DRI-WEFA), or a comparable index if this index ceases to be published.

Pass-Through Cost Component Cincludes the cost of property taxes and property insurance.

Rate Year Ca one-year period from July 1 through June 30 of the next calendar year during which a particular set of rates are in effect. It corresponds to a state fiscal year.

Resident-Day-Weighted Median Cost Ca numerical value determined by arraying the per diem costs and total actual resident days of each nursing facility from low to high and identifying the point in the array at which the cumulative total of all resident days first equals or exceeds half the number of the total resident days for all nursing facilities. The per diem cost at this point is the resident-day-weighted median cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§1303. Cost Reports

A. Nursing facility providers under Title XIX are required to file annual cost reports as follows.

1. Providers of nursing facility level of care are required to report all reasonable and allowable cost on a regular nursing facility cost report. Effective for periods ending on or after June 30, 2002, the regular nursing facility cost report will be the skilled nursing facility cost report adopted by the Medicare program. This cost report is frequently referred to as the Health Care Financing Administration (HCFA) 2540.

2. In addition to filing the Medicare cost report, nursing facility providers must also file supplemental schedules designated by the bureau.

3. Providers of skilled nursing-infectious disease (SN-ID) and skilled nursing-technology dependent care (SN-TDC) services must file additional supplemental schedules designated by the bureau documenting the incremental cost of providing SN-ID and SN-TDC services to Medicaid recipients.

4. Separate cost reports must be submitted by central/home offices when costs of the central/home office are reported in the facility's cost report.

B. Cost reports must be prepared in accordance with the cost reporting instructions adopted by the Medicare Program using the definition of allowable and nonallowable cost contained in the Medicare/Medicaid provider reimbursement manual, with the following exceptions.

1. Cost reports must be submitted annually. The due date for filing annual cost reports is the first day of the fourth month following the facility's fiscal year end.

2. If the facility experiences unavoidable difficulties in preparing the cost report by the prescribed due date, a filing extension may be requested. A filing extension request must be submitted to the bureau prior to the cost report due date. Facility's filing a reasonable extension request will be granted an additional 60 days to file their cost report. Unreasonable or repeated extension requests will be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§1305. Rate Determination

A. For dates of service on or after July 1, 2002, each nursing facility's daily rate shall be the day-weighted average rate of their skilled nursing (SN), intermediate care I (IC-I) and intermediate care II (IC-II) daily rates in effect on June 30, 2002 as adjusted by legislative appropriations for State Fiscal Year 2003. The days used to determine the day-weighted average rate shall be the Medicaid days (as desk reviewed or audited) on the cost report for cost reporting periods ending July 1, 2000 through June 30, 2001. The Medicaid days used shall exclude SN/ID and SN/TDC days.

B. For dates of service on or after January 1, 2003, the Medicaid daily rates shall be based on a case-mix price-based reimbursement system. Rates shall be calculated from cost report and other statistical data. Effective January 1, 2003, the cost data used in rate setting will be from cost reporting periods ending July 1, 2000 through June 30, 2001. Effective July 1, 2005, and every second year thereafter, the

base resident-day-weighted median costs and prices shall be rebased using the most recently audited or desk reviewed cost reports that are available as of the April 1 prior to the July 1 rate setting. For rate periods between rebasing, an index factor shall be applied to the base resident-day weighted medians and prices.

C. Each facility's Medicaid daily rate is calculated as:

1. the sum of the facility's direct care and care related price;
2. the statewide administrative and operating price;
3. each facility's capital rate component;
4. each facility's pass-through rate component; and
5. the provider fee component.

D. Determination of Rate Components

1. Facility Specific Direct Care and Care Related Component. This portion of a facility's rate shall be determined as follows.

a. The per diem direct care cost for each nursing facility is determined by dividing the facility's direct care cost during the base year cost reporting period by the facility's actual total resident days during the cost reporting period. These costs shall be trended forward from the midpoint of the facility's base year cost report period to the midpoint of the rate year using the index factor. The per diem neutralized direct care cost is calculated by dividing each facility's direct care per diem cost by the facility cost report period case-mix index.

b. The per diem care related cost for each nursing facility is determined by dividing the facility's care related cost during the base year cost reporting period by the facility's actual total resident days during the base year cost reporting period. These costs shall be trended forward from the midpoint of the facility's base year cost report period to the midpoint of the rate year using the index factor.

c. The per diem neutralized direct care cost and the per diem care related cost is summed for each nursing facility. Each facility's per diem result is arrayed from low to high and the resident-day-weighted median cost is determined. Also for each facility, the percentage that each of these components represents of the total is determined.

d. The statewide direct care and care related price is established at 110 percent of the direct care and care related resident-day-weighted median cost.

e. The statewide direct care and care related floor is established at 90 percent of the direct care and care related resident-day-weighted median cost.

f. For each nursing facility, the statewide direct care and care related price shall be apportioned between the per diem direct care component and the per diem care related component using the facility-specific percentages determined in Subsection D.1.c of this §1305. On a quarterly basis, each facility's specific direct care component of the statewide price shall be multiplied by each nursing facility's average case-mix index for the prior quarter. Effective January 1, 2003 through June 30, 2005, the direct care component of the statewide price will be adjusted quarterly to account for changes in the facility-wide average case-mix index. Effective July 1, 2005 and thereafter, the direct care component of the statewide price will be adjusted quarterly to account for changes in the Medicaid average case-mix index. Each facility's specific direct care and care related price is the sum of each facility's case mix adjusted direct

care component of the statewide price plus each facility's specific care related component of the statewide price.

g. For each nursing facility, the statewide direct care and care related floor shall be apportioned between the per diem direct care component and the per diem care related component using the facility-specific percentages determined in Subparagraph D.1.c of this §1305. On a quarterly basis, each facility's specific direct care component of the statewide floor shall be multiplied by each facility's average case-mix index for the prior quarter. Effective January 1, 2003 through June 30, 2005, the direct care component of the statewide floor will be adjusted quarterly to account for changes in the facility-wide average case-mix index. Effective July 1, 2005 and thereafter, the direct care component of the statewide floor will be adjusted quarterly to account for changes in the Medicaid average case-mix index. Each facility's specific direct care and care related floor is the sum of each facility's case mix adjusted direct care component of the statewide floor plus each facility's specific care related component of the statewide floor.

h. Effective with cost reporting periods ending on or after January 1, 2003, a comparison will be made between each facility's direct care and care related cost and the direct care and care related floor. If the cost the facility incurred is less than the floor, the facility shall remit to the bureau the difference between these two amounts times the number of Medicaid days paid during the portion of the cost reporting period after December 31, 2002.

2. The administrative and operating component of the rate shall be determined as follows.

a. The per diem administrative and operating cost for each nursing facility is determined by dividing the facility's administrative and operating cost during the base year cost reporting period by the facility's actual total resident days during the base year cost reporting period. These costs shall be trended forward from the midpoint of the facility's base year cost report period to the midpoint of the rate year using the index factor.

b. Each facility's per diem administrative and operating cost is arrayed from low to high and the resident-day-weighted median cost is determined.

c. The statewide administrative and operating price is established at 107.5 percent of the administrative and operating resident-day-weighted median cost.

3. The capital component of the rate for each facility shall be determined as follows.

a. The capital cost component rate shall be based on a fair rental value (FRV) reimbursement system. Under a FRV system, a facility is reimbursed on the basis of the estimated current value of its capital assets in lieu of direct reimbursement for depreciation, amortization, interest, and rent/lease expenses. The FRV system shall establish a nursing facility's bed value based on the age of the facility and its total square footage.

b. Effective January 1, 2003, the new value per square foot shall be \$97.47. This value per square foot shall be increased by \$9.75 for land plus an additional \$4,000 per licensed bed for equipment. This amount shall be trended forward annually to the midpoint of the rate year using the change in the per diem unit cost listed in the three-fourths column of the R.S. Means Building Construction Data Publication, adjusted by the weighted average total city cost

index for New Orleans, Louisiana. The cost index for the midpoint of the rate year shall be estimated using a two-year moving average of the two most recent indices as provided in this Subparagraph. A nursing facility's fair rental value per diem is calculated as follows.

i. Each nursing facility's actual square footage per bed is multiplied by the January 1, 2003 new value per square foot, plus \$9.75 for land. The square footage used shall not be less than 300 square feet or more than 450 square feet per licensed bed. To this value add the product of total licensed beds times \$4,000 for equipment, sum this amount and trend it forward using the capital index. This trended value shall be depreciated, except for the portion related to land, at 1.5 percent per year according to the weighted age of the facility. Bed additions, replacements and renovations shall lower the weighted age of the facility. The maximum age of a nursing facility shall be 30 years. Therefore, nursing facilities shall not be depreciated to an amount less than 55 percent or [100 percent minus (1.5 percent*30)] of the new bed value. There shall be no recapture of depreciation.

ii. A nursing facility's annual fair rental value (FRV) is calculated by multiplying the facility's current value times a rental factor. The rental factor shall be the 20-year Treasury Bond Rate as published in the *Federal Reserve Bulletin* using the average for the calendar year preceding the rate year plus a risk factor of 2.5 percent with an imposed floor of 8.5 percent and a ceiling of 10 percent.

iii. The nursing facility's annual fair rental value shall be divided by the greater of the facility's annualized actual resident days during the cost reporting period or 70 percent of the annualized licensed capacity of the facility to determine the FRV per diem or capital component of the rate.

iv. The initial age of each nursing facility used in the FRV calculation shall be determined as of January 1, 2003, using each facility's year of construction. This age will be reduced for replacements, renovations and/or additions that have occurred since the facility was built provided there is sufficient documentation to support the historical changes. The age of each facility will be further adjusted each July 1 to make the facility one year older, up to the maximum age of 30 years, and to reduce the age for those facilities that have completed and placed into service major renovation or bed additions. This age of a facility will be reduced to reflect the completion of major renovations and/or additions of new beds. If a facility adds new beds, these new beds will be averaged in with the age of the original beds and the weighted average age for all beds will be used as the facility's age. If a facility performed a major renovation/replacement project (defined as a project with capitalized cost equal to or greater than \$1,000 per bed), the cost of the renovation project will be used to determine the equivalent number of new beds that project represents. The equivalent number of new beds would then be used to determine the weighted average age of all beds for this facility. The equivalent number of new beds from a renovation project will be determined by dividing the cost of the renovation/replacement project by the average FRV of the facility's existing beds immediately before the renovation project.

4. Pass-Through Component of the Rate. The pass-through component of the rate is calculated as follows.

a. The nursing facility's per diem property tax and property insurance cost is determined by dividing the facility's property tax and property insurance cost during the base year cost reporting period by the facility's actual total resident days. These costs shall be trended forward from the midpoint of the facility's base year cost report period to the midpoint of the rate year using the index factor.

5. Provider Fee Component of the Rate. The nursing facility's provider fees component of the rate shall be determined by the Department of Health and Hospitals.

6. Adjustment to the Rate. Adjustments to the Medicaid daily rate may be made when changes occur, that will eventually be recognized in updated cost report data (such as a change in the minimum wage, a change in FICA or a utility rate change). These adjustments would be effective until the next rebasing of cost report data or until such time as the cost reports fully reflect the change. Adjustments to rates may also be made when legislative appropriations would increase or decrease the rates calculated in accordance with this Rule. The secretary of the Department of Health and Hospitals makes the final determination as to the amount and when adjustments to the rates are warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§1307. Case-Mix Index Calculation

A. The Resource Utilization Groups-III (RUG-III) Version 5.12b, 34 group, index maximizer model shall be used as the resident classification system to determine all case-mix indices, using data from the minimum data set (MDS) submitted by each facility. Standard Version 5.12b case-mix indices developed by the Centers for Medicare and Medicaid Services (CMS) shall be the basis for calculating average case-mix indices to be used to adjust the direct care cost component. Resident assessments that cannot be classified to a RUG-III group will be excluded from the average case-mix index calculation.

B. Each resident in the facility, with a completed and submitted assessment, shall be assigned a RUG-III 34 group on the first day of each calendar quarter. The RUG-III group is calculated based on the resident's most current assessment, available on the first day of each calendar quarter, and shall be translated to the appropriate case-mix index. From the individual resident case-mix indices, two average case-mix indices for each Medicaid nursing facility shall be determined four times per year based on the first day of each calendar quarter.

C. The facility-wide average case-mix index is the simple average, carried to four decimal places, of all resident case-mix indices. The Medicaid average case-mix index is the simple average, carried to four decimal places, of all indices for residents where Medicaid is known to be the per diem payor source on the first day of the calendar quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§1309. State-Owned or Operated and Nonstate Government-Owned or Operated Facilities

A. Nonstate government-owned or operated nursing facilities participating in an inter-governmental transfer program and state-owned or operated nursing facilities will be paid a prospective reimbursement rate. The aggregate prospective payment rates for these facilities will be calculated on a quarterly basis using the state's best estimate of what facilities would be paid under Medicare's prospective payment system for skilled nursing facilities. The acuity measurements used in the quarterly rate calculations will be the acuity of each facility's Medicaid residents, as determined under Medicare's 44 RUG classification methodology. Adjustments to these gross Medicare prospective payment rates will be made to account for differences in coverage between the Medicare and Medicaid programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

All rate adjustments specified in this Rule are contingent upon appropriation by the Louisiana Legislature. Implementation of the provisions of this Rule shall be contingent upon the approval of the State Plan Amendment by U.S. Department of Health and Human Services, Centers for Medicare and Medicaid 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 responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, April 25, 2002 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: Nursing Facilities C Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that \$800 (\$400 SGF and \$400 FED) will be expended in SFY 2001-02 for the state's administrative expense for promulgation of this proposed rule and the final Rule. It is anticipated that the implementation of this proposed rule will decrease state program costs by approximately

\$2,918,739 for SFY 2002-03, \$7,049,594 for SFY 2003-04, and \$7,261,082 for SFY 2004-05.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately \$6,928,559 for SFY 2002-03, \$17,292,927 for SFY 2003-04, and \$17,811,714 for SFY 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will establish a new reimbursement methodology based on a case-mix price-based reimbursement system for private and public nursing facilities. This proposed rule will decrease reimbursement by approximately \$9,847,298 for SFY 2002-03, \$24,342,521 for SFY 2003-04, and \$25,072,796 for SFY 2004-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0203#091

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Office of Alcohol and Tobacco Control**

**Prohibition of Certain Unfair Business Practices
(LAC 55:VII.317)**

The Office of Alcohol and Tobacco Control, under the authority of R.S. 26:792 and 26:150 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., proposes to amend LAC 55:VII.317 pertaining to the prohibition of certain unfair competition and unlawful practices in the marketing of alcoholic beverages.

These proposed amendments provide that the prohibition against certain unfair competition and unlawful practices as provided by the Federal Alcohol Administration Act, 27 U.S.C., §205 apply to all alcoholic beverage dealers.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 3. Alcoholic Beverages

§317. Prohibition of Certain Unfair Business Practices

A. Definitions

Alcoholic Beverages—any fluid or any solid capable of being converted into fluid, suitable for human consumption, and containing more than one-half of one percent alcohol by volume, including malt, vinous, spiritous, alcoholic or intoxicating liquors, beer, porter, ale, stout, fruit juices, cider, or wine.

Beverages of High Alcoholic Content—alcoholic beverages containing more than 6 percent alcohol by volume.

Beverages of Low Alcoholic Content—alcoholic beverages containing not more than 6 percent alcohol by volume.

Brewer—any person who, directly or indirectly, personally or through any agency, engages in the making or production of malt beverages.

Bureau—the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department.

Commissioner—the Louisiana Commissioner of Alcohol and Tobacco Control.

Cost to Industry Members—the invoice cost, or the replacement cost, of the merchandise to the industry member, whichever is lower:

a. Less all trade discounts except customary discounts for cash and discounts from the state or any governmental agency allowed for the payment of collection of any taxes.

b. Plus, in the following order:

i. freight charges not otherwise included in the invoice cost or the replacement cost of the merchandise;

ii. cartage cost which shall be three-fourths of one percent of the cost to the industry member after adding freight charges but before adding cartage, any existing tobacco stamp excise tax, and markup;

iii. any existing tobacco stamp excise tax;

iv. a markup to cover a proportionate part of the cost of doing business which markup, in the absence of proof of a lesser cost, shall be two percent of the cost to the industry member after adding freight charges, cartage, and any existing tobacco stamp excise tax.

Exclusive Outlet—the requirement, by agreement or otherwise, that any retail dealer engaged in the sale of distilled spirits, wine, malt beverages, or malt liquors purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, malt beverages, or malt liquors sold or offered for sale by other persons.

Handle—sell, use, distribute, store, consume, or otherwise handle.

Importer—any dealer who imports alcoholic beverages from any state, territory, possession, or foreign country for handling in Louisiana.

Industry Member—any person engaged in business as a distiller, brewer, rectifier, blender or other producer, or as an importer or wholesaler, of distilled spirits, wine or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, but shall not include an agency of a state or political subdivision thereof, or an officer or employee of such agency.

Malt Beverages or Malt Liquors—beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

Manufacturer—any person who, directly or indirectly, personally or through any agency, engages in the making, blending, rectifying, or other processing of alcoholic beverages in Louisiana.

Person—any individual, municipality, industry, public or private corporation, partnership, firm, or any other entity.

Retail Dealer or Retailer—any person who offers for sale, exposes for sale, has in his possession for sale or

distribution, or sells alcoholic beverages in any quantity to persons other than licensed wholesale or retail dealers.

Tied House—when any retail dealer engaged in the sale of distilled spirits, wine, or malt beverages is induced to purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, malt beverages, or malt liquors sold or offered for sale by other persons through any of the following means:

a. by acquiring or holding after the expiration of any existing license any interest in any license with respect to the premises of the retail dealer;

b. by acquiring any interest in real or personal property owned, occupied, or used by the retail dealer in the conduct of his business;

c. by furnishing, giving, renting, lending, or selling to the retail dealer, any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to such exceptions as the commissioner of alcohol and tobacco control shall by regulation prescribe, having due regard for public health, the quantity and value of articles involved, established trade customs not contrary to the public interest and the purposes of this Section;

d. by paying or crediting the retail dealer for any advertising, display, or distribution service;

e. by guaranteeing any loan or the repayment of any financial obligation of the retail dealer;

f. by extending to the retail credit; or

g. by requiring the retail dealer to take and dispose of a certain quota of any of such products.

Wholesale Dealer or Wholesaler—any person who sells alcoholic beverages to licensed wholesale dealers or licensed retail dealers exclusively within the state or to any person for delivery beyond the borders of the state and who conducts a bona fide wholesale business and maintains a warehouse or warehouses for the storage and warehousing of alcoholic beverages in the area where domiciled and licensed by the state, and conducts and maintains systematic and regular solicitations, distribution, deliveries, and sales of the alcoholic beverages to licensed retail dealers located within the boundary of each parish and municipality in which the wholesale dealer makes any sale or delivery.

B. Prohibition Against Certain Business Practices in the Alcoholic Beverage Industry

1. The Bureau of Alcohol, Tobacco and Firearms of the United States Treasury prohibits exclusive outlet and tied house arrangements with respect to the marketing and sale of beverages of both high and low alcoholic content as authorized by the Federal Alcohol Administration Act (FAA Act), 27 U.S.C., §205.

2. The bureau's enforcement of this federal law requires Louisiana to have a similar law that imposes similar requirements for similar transactions.

3. The bureau enforces the provisions of the FAA Act prohibiting exclusive outlets and tied house arrangements in the marketing and sale of alcoholic beverages in Louisiana under the authority of R.S. 51:422, the Louisiana Unfair Sales Law, and R.S. 26:287.A(9) and (10), which provide for additional causes for suspension and revocation of permits.

4. Prohibitions against exclusive outlets and tied house arrangements with respect to the marketing and sale of alcoholic beverages in Louisiana has stabilized the industry and prevented unlawful and unfair inducements for the retail

purchase of alcohol and unlawful coercion, bribery, kickback demands, and other unfair and unlawful business practices.

5. It is in the best interest of the state's citizens that fair business dealings and unfettered competition govern the alcohol beverage industry in Louisiana, that it remain an industry dominated by fairness and integrity, and that it be safeguarded against the threat of corrupt and unfair business practices.

C. Marketing and Sale of Alcoholic Beverages in Louisiana

1. Exclusive outlet and tied house arrangements are unfair inducements to purchase goods or services by wholesalers or retailers, and it is unlawful for any person engaged in business as a distiller, brewer, rectifier, blender, manufacturer, or other producer, or as an importer or wholesaler of distilled spirits, wine, malt beverages or malt liquors, directly or indirectly or through an affiliate, to have exclusive outlet or tied house arrangements.

2. Exceptions

a. Equipment

i. In order to provide proper dispensing of alcoholic beverages by retail dealers, industry members may provide, without charge, coil cleaning service, tap markers which show brand, and tapping equipment such as rods, vents, taps, hoses, washers, couplings, vent tongues, and check valves.

ii. Accessories such as carbon dioxide gas tanks, regulators, and other draught equipment accessories with a reasonable open market price of more than \$5 but less than \$200 per item must be sold to retailers at a price no less than the cost to the industry member as defined herein. Such sales shall be made for cash only.

iii. Draught equipment accessories with a reasonable open market value of \$200 or more per item are not included under this exception.

b. Inside Signs

i. An industry member may furnish, give, rent, loan, or sell to a retailer inside signs that bear advertising matter. Inside signs include such things as mechanical devices, illuminated devices, clocks, neon signs, and other devices that are designed for permanent use in a retail account. These items may be furnished to an industry member if the total value of such materials in use at any one time for any one brand does not exceed \$225 to any one retail establishment, including all expenses incurred directly or indirectly by any industry member in connection with the purchase, manufacture, transportation, and assembly of such items and accessories. The industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or any expense incidental to their operation. In determining the value of these items for purposes of the limitation, value shall be the cost attributable to them at the time of their installation in the retail establishment.

ii. Display stackers, pricing cards, shelf talkers, rail strips, posters, and other such items constructed of paper, cardboard, and similar materials and which are designed and installed as point-of-sale material for temporary use in a retail account are not included under this section and may be provided without limitation. Prior approval of point-of-sale material is not required and will not be given.

iii. Product displays may be furnished by an industry member to a retailer, provided that the total value of

all product displays furnished by an industry member may not exceed \$155 per brand in use at any one time in any one retail establishment. Product display are racks, bins, barrels, casks, shelving, and the like from which alcoholic beverages are displayed or sold. Product displays shall bear conspicuous and substantial advertising matter.

c. Outside Signs. The furnishing of outside signs by an industry member to licensed retail dealers is prohibited.

d. Advertising Specialties, Utility Items, Merchandise, and Supplies

i. Trays, coasters, paper napkins, clothing, groceries, snack foods, paper and plastic bags, cups, pitchers, glasses, menu covers, menu sheets, meal checks, match books, ash trays, ice, and other items that are primarily of utility value to a retailer cannot be given away but may be sold to retailers by industry members and the price charged for such items must be no less than the cost to the industry member as defined herein.

ii. Other retailer advertising specialties and novelty items, such as foam scrapers, thermometers, litter bags, pencils, bottle openers, balloons, lapel pins, and key rings that bear advertising matter, and are primarily valuable to the retailer as point-of-sale advertising media but have no utility value to the retailer, may be furnished, given, or sold to a retailer if the total cost to any industry member of the retailer advertising specialties furnished, given, or sold in connection with any one retail establishment in any one calendar year does not exceed \$50.

iii. After the delivery of the retailer advertising specialties with a total cost to an industry member of \$50 has been made by the industry member to a retail establishment during any one calendar year, any future deliveries of such items to that particular retail establishment by such respective industry member during the remainder of the calendar year must be effected only by the sale of the items at their reasonable open market price in the locality where sold. Any items sold, furnished, or given away under this section must be itemized separately on the industry member's invoice and other records.

iv. Carbon dioxide gas or ice may be sold to a retailer only if sold at a reasonable open market price in the locality where sold.

e. Sponsorships

i. Wholesalers and manufacturers may sponsor events relating to or on the premises of retail dealers if nothing of value is given to retail dealers except as allowed elsewhere in this Section.

ii. T-shirts, caps, and similar items may be given to event contestants or patrons of the retail establishment but the total cost of these items may not exceed \$150 per event.

iii. An industry member shall not sponsor an event on the premises of a retail dealer within 60 days of their last sponsored event.

iv. Alcoholic beverage sales must be incidental to the event being sponsored.

v. Industry members shall not directly or indirectly require that the sponsor's product be the exclusive product offered for sale at the event.

vi. A manufacturer or wholesaler may donate alcohol and trophies of nominal value to unlicensed civic, religious, or charitable organizations.

vii. In conjunction with events held on regular licensed retail premises, all restrictions on advertising and signage will remain in full force and effect, except that temporary paper signs and posters may be used inside the premises to advertise the event for not more than 21 days.

f. Trade Calls

i. Bar spending during trade calls, where the alcohol purchased by a manufacturer or wholesaler for a consumer is consumed on retail licensed premises in the presence of the giver, shall be lawful so long as the state's laws regulating retail establishments such as the legal drinking age, etc., are observed and not more than \$150 is expended during the trade call.

ii. No trade calls may occur on college campuses.

iii. Manufacturers and wholesalers may be accompanied by entertainers, sports figures, and other personalities during trade calls.

iv. The trade calls may be pre-announced to consumers in the retail account through table tents, posters, and other inside signs.

v. No outside advertising of such events through signs or any media is allowed.

g. Except as otherwise provided by law, the gift of beer, wine or beverage alcohol as a purely social courtesy to unlicensed persons by a manufacturer or wholesaler is not prohibited.

h. Sampling. Beer, wine, or beverage alcohol sampling for the purpose of allowing a customer to taste a brand of beverage alcohol must 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.

i. A retail dealer, wholesaler or manufacturer may furnish the beer, wine, or beverage alcohol to be sampled and the cups to hold the beverages. The wholesaler or manufacturer may also provide and display point-of-sale material in an amount not to exceed \$150 in value. The display materials shall only be placed inside of the facility and shall not block the aisles or other entrances or exits.

ii. No retail dealer, wholesaler, or manufacturer shall furnish a sampling of beverage alcohol in a greater quantity than two ounces per brand of beverage alcohol to each individual and no individual shall consume more than two ounces of each brand 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.

iii. All samplings shall be limited in duration to one day.

iv. No more than two samplings per brand of beverage alcohol shall be conducted on the same licensed premises in any month.

v. 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 brand of beverage alcohol to be sampled at least one week prior to the date of the sampling.

i. Tubs and Other Single Containers. Tubs, ice chests, and other containers designed to hold single units of product and display them for sale in retail establishments may be furnished by manufacturers and wholesalers, provided that no more than two containers per retail location

may be furnished by an industry member and the value of the items furnished shall not exceed \$155.

j. Consignment Sales and Returns

i. It is unlawful for an industry member to sell, offer for sale, or contract to sell to any retailer, or for any retailer to purchase or contract to purchase any products under the following circumstances:

- (a). on consignment;
- (b). under conditional sale;
- (c). with the privilege of return;
- (d). on any basis other than a bona fide sale;
- (e). if any part of the sale involves, directly or indirectly, the acquisition of other products from the trade buyer or the agreement to acquire other products from the trade buyer; or

(f). if the return or exchange of a product is solely because it overstocked or slow-moving.

ii. Transactions involving the bona fide return of products for ordinary and usual commercial reasons arising after the product had been sold are not prohibited, but the industry member is under no obligation to accept such returns. "Ordinary and usual commercial reasons" include:

(a). the exchange of product for products that are unmarketable because of product deterioration, leaking containers or damaged labels;

(b). the correction of any discrepancy between products ordered and products delivered within a one-week period; or

(c). products on hand at the time a retail dealer closes a business or terminates business operations, in which case the return may be for cash or credit against outstanding indebtedness. This also includes a temporary seasonal event or temporary shutdown or slowdown where the industry member is able to show that the products are likely to spoil during the off season.

iii. Out-dated product or product that is within 21 days of date code expiration may be exchanged for other products. Products for which there is only a limited seasonal demand, such as holiday decanters and distinctive containers, may only be exchanged for non-distinctive like products.

D. Penalty. The commissioner of the Office of Alcohol and Tobacco Control may seek a suspension or revocation of the permit or permits of a violator and may impose such other penalties or administrative remedies against violators as are prescribed by law for violations of the Alcoholic Beverage Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:75.C, R.S. 26:150, R.S. 26:275.B, R.S. 26:287, R.S. 26:792, and R.S. 26:793.

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 26:2631 (November 2000), amended LR 28:

Family Impact Statement

1. The implementation of this proposed rule will have no effect on the stability of the family.
2. The 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 implementation of this proposed rule will have no effect on the functioning of the family.
4. The implementation of this proposed rule will have no effect on family earnings and family budgets.
5. The implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.
6. The implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested person may submit written data, views, arguments or comments regarding these proposed amendments to Melissa Gregg, Legal Counsel, Office of Alcohol and Tobacco Control, Department of Revenue, by mail to P.O. Box 66404, Baton Rouge, LA 70896 or by fax to (225) 925-3975.

All comments must be received no later than 4:30 p.m., Thursday, April 25, 2002. A public hearing will be held on Friday, April 26, 2002, at 10 a.m. at 8549 United Plaza Boulevard, Suite 220 Conference Room, Baton Rouge, Louisiana.

Murphy J. Painter
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Prohibition of Certain Unfair Business Practices

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Implementation of these proposed amendments, which provide that the unfair competition and unlawful practices laws of the Federal Alcohol Administration Act 27 U.S.C., §205, apply to all alcoholic beverage dealers, will ensure equality for all alcoholic beverage dealers and will have no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of these proposed amendments will have no impact on state or local revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
These proposed amendments provide that all alcoholic beverage dealers are governed by the unfair competition and unlawful practices laws of the Federal Alcohol Administration Act, 27 U.S.C., §205. There should be no impact on the costs, receipts, or income of alcoholic beverage dealers.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
These proposed amendments will ensure equal competition for alcoholic beverage dealers and have no impact on employment.

Murphy J. Painter
Commissioner
0203#023

John R. Rombach
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Withholding Tax Statements C Magnetic Media Label Requirements (LAC 61:I.1515)

Under the authority of R.S. 47:114 and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1515 relative to the labeling of magnetic media filings of withholding tax statements.

The secretary is authorized by R.S. 47:114.F.(2) to require employers who submit 250 or more withholding tax receipts to file the forms on magnetic media. This proposed rule requires a label to be attached to the outside of the magnetic media and specifies the information required on the label.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 15. Income: Withholding Tax

§1515. Withholding Tax Statements—Magnetic Media Label Requirements

A. Employers required to submit withholding tax receipts on magnetic media must attach a label to each tape, cartridge, or diskette. The Annual Reconciliation Form L-3 must accompany each submission.

B. Label Format. Labels must be typed and contain the following information:

1. external label for diskettes:
 - a. file name;
 - b. Louisiana account number;
 - c. transmitter name;
 - d. transmitter's complete mailing address;
 - e. tax year; and
 - f. diskette number and total number of diskettes for multi-volume files (example: disk 1 of 3, etc.);
2. external label for magnetic tape and tape cartridges:
 - a. file name;
 - b. Louisiana account number;
 - c. transmitter name;
 - d. transmitter's complete mailing address;
 - e. tax year;
 - f. recording code (ASCII or EBCDIC);
 - g. record length; and
 - h. block size.

C. The label must be attached to the magnetic media so as not to hinder the ability to process the media.

D. If annual reconciliation information is being filed for multiple employers, a list with each employer's name, Louisiana account number, and complete mailing address must accompany the media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:114.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, LR 28:

Family Impact Statement

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.

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 and 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.

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 15409, Baton Rouge, LA 70895-5409 or by fax to 225-219-2759. All comments must be received no later than 4:30 p.m., April 24, 2002. A public hearing will be held on April 25, 2002 at 9 a.m. in the River Room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Withholding Tax Statements C Magnetic Media Label Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed regulation requires a label to be attached to the outside of magnetic media submitted containing income tax withholding statements and prescribes the required information and the label layout and placement.

Implementation of this proposed regulation will result in minimal reduced agency processing costs incurred to identify and process improperly labeled income tax withholding statements submitted on magnetic media.

There will be no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed regulation will have no impact on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed regulation will require employers who file withholding tax receipts on magnetic media to properly label these filings. The impact on costs for these employers should be negligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0203#038

H. Gordon Monk
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

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

Child Care Assistance Program (CCAP) Definitions;
Conditions of Eligibility; Child Care Providers; Payment
(LAC 67:III.5102, 5103, 5107, and 5109)

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.

To provide for the eligibility of more applicants and eliminate or decrease co-payments required from participants, the agency proposes to increase the percentage of child care that the Child Care Assistance Program pays. Programmatic eligibility was increased from 60 percent to 75 percent of the state median income and the sliding fee scale at §5109 was adjusted by a Declaration of Emergency effective March 1, 2002. A change in the first aid training requirement for the benefit of Family Child Day Care Home Providers was also effected in the Emergency Rule.

The agency now also proposes these and other amendments for the following purpose: to remove the requirement that a Family Child Day Care Home provider provide proof of a clear tuberculin test, to further clarify when an eligible provider shall, or may, be terminated or permanently terminated, and to increase the State Maximum Rate for authorized services paid to an eligible provider.

In order to align CCAP policy with other program policy, a certification period up to 12 months will be allowed and change-reporting requirements will be amended. The agency also intends to change the term "case head" to "head of household" and to redefine this and the term "Training and Employment Mandatory Participant (TEMP)."

Title 67

SOCIAL SERVICES

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5102. Definitions

Head of Household Can individual who may apply for child care assistance for a child that customarily resides

more than half the time with him/her. The individual may be the parent of a child needing child care assistance or may be the 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 is living in the home but is under age 18 and not emancipated by law, or is disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or Veterans Administration Disability for a disability of 70 percent or more and not able to care for himself/herself and his/her child(ren) as verified by a doctor's statement.

Household Ca group of individuals who live together, consisting of the head of household, that person's legal spouse or non-legal spouse, (if the parent of a child in the household), the disabled adult parent who is unable to care for himself/herself and his/her child(ren) who are in need of care and all children under the age of 18 who are dependent on the head of household and/or spouse, including the minor unmarried parent (MUP) who is not legally emancipated and the minor unmarried parent's children.

Training or Employment Mandatory Participant (TEMP) Ca household member who is required to be employed or attending a job training or educational program, including the head of household, the head of household's spouse, and the minor unmarried parent age 16 or older whose children need child care assistance or in situations where the MUP, under age 16, and his/her child(ren) lives with a disabled parent/guardian who is unable to care for the MUP's child(ren) while the MUP goes to school/work.

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 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:

§5103. Conditions of Eligibility

A. - B.2. ...

3. The child must customarily reside more than half the time with the person who is applying for child care services. A child is considered to be residing with the head of household during scheduled absences from the home/day care, lasting up to six weeks, if there are definite plans for the child to return to the home/day care facility.

4. The head of household, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), including any minor unmarried parent age 16 or older 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 percent must be:

a. - d. ...

5. Household income does not exceed 75 percent of the State Median Income for a household of the same size. Income is defined as the gross earnings of the head of household, 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 may be assigned a certification period of up to 12 months.

D. Households shall report any change that affects eligibility or the amount of benefits. Changes in income shall be reported if the household's gross monthly income changes more than \$100 in earned income or \$25 in unearned income. Households shall report within 10 days of knowledge of the change. If the CCAP household unit is included in a Food Stamp Program Semi-Annual Reporting household, the CCAP household shall be subject to the semi-annual reporting requirements in accordance with §2013.

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 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:

§5107. Child Care Providers

A. The head of household, 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. - 1.b. ...

c. effective March 1, 2002, furnish verification of 12 clock hours of training in job-related subject areas approved by the Department of Social Services and current verification of first aid training by the provider's renewal each year.

d. retain a statement of good health signed by a physician or his designee which must have been obtained within the past three years and be obtained/provided every three years thereafter; and

B.1.e. - C. ...

D. Under no circumstance can the following be considered an eligible child care provider;

1. - 3. ...

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, unless approved in writing by a district judge of the parish and the local district attorney.

D.5. - E. ...

1. A Family Child Day Care Home or In-Home provider shall be permanently terminated as a CCAP eligible provider if the criminal background check shows that the provider has been convicted of, or pled no contest, to a crime listed in R.S. 15:587.1.C, unless approved in writing by a district judge of the parish and the local district attorney.

2. A provider shall be terminated as a CCAP eligible provider if:

a. the agency determines that a condition exists which threatens the physical or emotional health or safety of any child in care;

b. a criminal background check response shows that an adult living at a Family Child Day Care Home provider's residence, or working in the provider's home or on his home property, has been convicted of, or pled no contest to, a crime listed in R.S.15:587.1.C, unless approved in writing by a district judge of the parish and the local district attorney;

c. a Family Child Day care Home provider fails to pass the second inspection by the fire marshal;

d. the provider fails to timely return all requested forms, fees, etc. at renewal;

e. a Class A Center's license is not renewed;

f. a school child care provider no longer meets the BESE regulations; or

g. a school child care provider is no longer Brumfield vs. Dodd approved.

3. A Family Child Day Care Home provider may be permanently terminated as a CCAP eligible provider if the provider is verified to have more than six children in his/her care.

4. A provider may be terminated as a CCAP eligible provider if the provider violates the terms of the provider agreement.

F. - G. ...

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 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:

§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 may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "copayment." The sliding fee scale is based on a percentage of the state median income.

Sliding Fee Scale For Child Care Assistance Recipients Effective March 1, 2002C 75 Percent Of Projected Median Income

Number in Household	2	3	4	5	6	DSS %
Monthly Household Income	0 - 968	0 - 1219	0 - 1471	0 - 1723	0 - 1974	100%
	969 - 1535	1220 - 1908	1472 - 2281	1724 - 2654	1975 - 3027	95%
	1536 - 2101	1909 - 2596	2282 - 3090	2655 - 3585	3028 - 4079	85%
	above 2101	above 2596	above 3090	above 3585	above 4079	0%

Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0 - 2226	0 - 2478	0 - 2729	0 - 2981	0 - 3233	100%
	2227 - 3199	2479 - 3372	2730 - 3543	2982 - 3716	3234 - 3888	95%
	3200 - 4172	3373 - 4265	3544 - 4357	3717 - 4450	3889 - 4543	85%
	above 4172	above 4265	above 4357	above 4450	above 4543	0%

Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0 - 3484	0 - 3736	0 - 3988	0 - 4239	0 - 4491	100%
	3485 - 4060	3737 - 4232	3989 - 4405	4240 - 4577	4492 - 4749	95%
	4061 - 4636	4233 - 4728	4406 - 4821	4578 - 4914	4750 - 5006	85%
	Above 4636	Above 4728	Above 4821	Above 4914	Above 5006	0%

Number in Household	17	18	19	20		DSS %
Monthly Household Income	0 - 4743	0 - 4994	0 - 5246	0 - 5498		100%
	4744 - 4921	4995 - 5093	5247 - 5266			95%
	4922 - 5099	5094 - 5192	5267 - 5285			85%
	above 5099	above 5192	above 5285			0%

B. - 1.a. ...
 b. the State Maximum Rate for authorized services as indicated below:

Class A Centers		
	Regular Care	Special Needs Care
Daily	\$16.00	\$20.00
Hourly	\$2.00	\$2.50

All Other Provider Types		
	Regular Care	Special Needs Care
Daily	\$13.00	\$16.00
Hourly	\$1.62	\$2.00

1.c. - 2.a. ...
 b. the State Maximum Rate for authorized services as indicated below:

Class A Centers		
	Regular Care	Special Needs Care
Daily	\$16.00	\$20.00
Hourly	\$2.00	\$2.50

All Other Provider Types		
	Regular Care	Special Needs Care
Daily	\$13.00	\$16.00
Hourly	\$1.62	\$2.00

B.1.c. - E. ...

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 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:

Family Impact Statement

This Rule will have no impact on the stability and functioning of the family or on parental rights. This Rule may have an impact on the budget of an affected family by eliminating or decreasing copayments required from participants and by increasing the percentages paid by DSS.

Interested persons may submit written comments by April 25, 2002 to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065. She is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on April 25, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 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).

Gwendolyn P. Hamilton
 Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Child Care Assistance Program
(CCAP)C Definitions; Conditions of Eligibility; Child
Care Providers; Payment**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule change increases Child Care Assistance Program (CCAP) costs by increasing the State Median Income for eligibility from 60 percent to 75 percent (effected March 1). The State Maximum Rate for authorized services paid to eligible providers is being increased effective July 1. These changes will increase expenditures by approximately \$13,500,000 in FY 01/02 and \$48,200,000 in FY 02/03 and 03/04. However, increases will be kept within the current budgeted funding of the Child Care and Development Fund (federal block grant) and will not require any additional state or federal funds. The immediate implementation cost to state government is the cost of publishing the rule, programming changes, and printing related policy revisions. This cost is minimal, and funds for such actions are included in the program's annual budget. There are no costs or savings to local governmental units.

**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)**

The proposed rule results in no new costs to affected persons or non-governmental groups. The amounts shown in Item I. represent the projected economic benefits to affected CCAP recipients and providers. The rule will allow more participants to be eligible for child care assistance. It will benefit applicants and participants who meet the new State Median Income criteria as it will eliminate or decrease their copayments by increasing the percentages paid by DSS. It will also benefit providers as they will receive higher fees for each child cared for.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed actions will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0203#047

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Family Independence Temporary Assistance Program
(FITAP) and Kinship Care Subsidy Program
(KCSP)C Application, Eligibility, and Furnishing
AssistanceC Substance Abuse Treatment Program
(LAC 67:III.1291 and 5391)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 2, Chapter 12, Family Independence Temporary Assistance Program (FITAP) and Subpart 13, Chapter 53, Kinship Care Subsidy Program (KCSP) by adding §§1291 and 5391.

In order to provide funding for payment for the cost of substance abuse screening, assessment, testing, and nonmedical treatment of FITAP and KCSP recipients (and certain post-FITAP and -KCSP recipients), and to fund the cost of conducting a pilot project in ten parish offices, the agency implemented the Substance Abuse Treatment Program pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature. The program was effected by a Declaration of Emergency signed September 28, 2001, and renewed January 26, 2002.

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 D. Special Initiatives

§1291. Substance Abuse Treatment Program

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of FITAP recipients as well as certain post-FITAP recipients.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, specifically, family members who receive FITAP benefits. A needy family member who loses eligibility for FITAP benefits for any reason shall continue to be eligible for these services for the one-year period following the loss of FITAP benefits.

D. Services are considered non-assistance by the agency.

E. A pilot project will be conducted in the following parish offices: Orleans (Uptown District), Jefferson (West Bank), East Baton Rouge (North District), Terrebonne, St. Landry, Calcasieu, Rapides, Caddo, Ouachita, and Tangipahoa. OAD will assume responsibility for the screening and referral process provided below.

1. Compliance. All adult recipients of FITAP must be free from the use of or dependency on illegal drugs or abuse of or dependency on alcohol. All applicants for and recipients of FITAP benefits, age 18 and over, must satisfactorily comply with the requirements of the substance abuse screening, testing, education and rehabilitation process. An illegal drug is a controlled substance as defined in R.S. 40:961 et seq., Controlled Dangerous Substance.

2. Screening and Referral Process. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs or the abuse of or dependency on alcohol, at initial application and redetermination of eligibility using a standardized substance abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorders (OAD).

a. When the screening process indicates that there is reason to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, or when there is other evidence that a recipient is using or dependent

on illegal drugs or abusing or dependent on alcohol, the recipient will be referred to OAD to undergo appropriate substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

b. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs or abuse or dependency on alcohol received from a reliable source, the caseworker will refer the recipient to OAD to undergo appropriate substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

c. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs and not abusing or dependent on alcohol, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of substance abuse. If the formal assessment determines that the recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, OAD will determine the extent of the problem and recommend the most appropriate and cost effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

3. Child care and transportation costs required for participation in the substance abuse screening, testing, education, and rehabilitation program will be paid by the Office of Family Support.

4. If residential treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

5. Failure to Cooperate. Failure or refusal of a recipient to participate in substance abuse screening, testing, or participation in the education and rehabilitation program, without good cause, will result in the following.

a. The recipient's needs will be removed from the FITAP cash benefits for three months. Eligibility of the other family members will continue during this three-month period.

b. If the recipient cooperates during this three-month period, the recipient will regain eligibility for cash benefits effective the fourth month.

c. If the recipient does not cooperate during this three-month period, the FITAP cash case for the entire family will be closed effective the fourth month and will remain closed until the individual cooperates.

d. A subsequent failure to cooperate will result in case closure until the recipient cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes substance abuse screening, testing, or satisfactory

participation for two weeks in an education and rehabilitation program.

6. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs or abuse or be dependent on alcohol, the recipient will be ineligible for FITAP cash benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is substance abuse free. The eligibility of other family members will not be affected as long as the individual participates in the education and rehabilitation program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

**Subpart 13. Kinship Care Subsidy Program (KCSP)
Chapter 53. Application, Eligibility, and Furnishing
Assistance**

Subchapter D. Special Initiatives

§5391. Substance Abuse Treatment Program

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of KCSP recipients as well as certain post-KCSP recipients.

B. These services meet the TANF goal to end the dependence of needy families on government benefits by providing them with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, specifically, family members who receive KCSP benefits. A needy family member who loses eligibility for KCSP benefits for any reason shall continue to be eligible for these services for the one-year period following the loss of KCSP benefits.

D. Services are considered non-assistance by the agency.

E. A pilot project will be conducted in the following parish offices: Orleans (Uptown District), Jefferson (West Bank), East Baton Rouge (North District), Terrebonne, St. Landry, Calcasieu, Rapides, Caddo, Ouachita, and Tangipahoa. OAD will assume responsibility for the screening and referral process provided below:

1. Compliance. All recipients of KCSP benefits, age 18 and over, must satisfactorily comply with the requirements of the substance abuse screening, testing, education, and rehabilitation process.

2. Screening and Referral Process. All applicants for and recipients of KCSP age 18 and over will be screened for the use of or dependency on illegal drugs or the abuse of or dependency on alcohol, at initial application and redetermination of eligibility using a standardized substance abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorders (OAD). An illegal drug is a controlled substance as defined in R.S. 40:961 et seq., Controlled Dangerous Substance.

a. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, or when there is other evidence that a recipient is using or dependent

on illegal drugs or abusing or dependent on alcohol, the recipient will be referred to OAD to undergo appropriate substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

b. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs or abuse of or dependency on alcohol, received from a reliable source, the caseworker will refer the recipient to OAD to undergo appropriate substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

c. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs or not abusing or dependent on alcohol, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of substance abuse. If the formal assessment determines that the recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, OAD will determine the extent of the problem and recommend the most appropriate and cost-effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

3. If inpatient treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

4. Failure to Cooperate. Failure or refusal of a recipient to participate in substance abuse screening, testing, or participation in the education and rehabilitation program, without good cause, will result in ineligibility of the recipient until he/she cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes substance abuse screening, substance abuse testing, or satisfactory participation for two weeks in an education and rehabilitation program.

5. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs or abuse or be dependent on alcohol, the recipient will be ineligible for KCSP benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is substance abuse free.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Family Impact Statement

1. What effect will this rule have on the stability of the family? Implementation of this programs should lead to increased self-sufficiency by providing substance abuse

treatment to drug and/or alcohol dependent individuals resulting in improved family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This rule will have no effect on 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? The program aims to effect immediate and long-term improvement of the functioning of the family unit.

4. What effect will this have on family earnings and family budget? This rule has no immediate effect on family earnings or budget.

5. What effect will this have on the behavior and personal responsibility of children? This rule should have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, the program is strictly an agency function.

All interested persons may submit written comments through April 25, 2002, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed rule will be held on April 25, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning 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 (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Family Independence Temporary Assistance Program (FITAP) and Kinship Care Subsidy Program (KCSP)C Application, Eligibility, and Furnishing AssistanceC Substance Abuse Treatment Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost for the Substance Abuse Treatment Program for recipients of Family Independence Temporary Assistance Program (FITAP) and the Kinship Care Subsidy Program (KCSP) for FY 01/02 is \$757,866 and \$254,134 for FY 02/03. Costs of preparing and publishing rulemaking are routinely included in the agency's budget. Future expenditures are subject to legislative appropriation.

There are no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Through interagency transfer, the Department of Health and Hospitals, Office for Addictive Disorders (OAD), will receive increased revenues totaling \$1,012,000 to be expended in the provision of services. OAD advised that it intends to spend an estimated \$757,866 to provide services from October 2001 through June 2002 and \$254,134 for the period July-

September 2002. There is no effect on revenue collection of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits to non-governmental groups.

The appropriated funds will provide services to the targeted groups with the long-term goal of improving the economic position of these groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Any new positions associated with the initiatives will be at the discretion of the Office for Addictive Disorders and will be subject to the same terms of availability and appropriation of TANF funds. OAD projects that 30 new employees will be hired for the pilot program.

Ann S. Williamson
Assistant Secretary
0203#048

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Weights, Measures and Standards**

**Critical Off-Road Equipment Permit Requirements
(LAC 73:I.1709)**

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 amend a rule entitled "Critical Off-Road Equipment Permit Requirements," in accordance with R.S. 32:386-389.

Title 73

WEIGHTS, MEASURES AND STANDARDS

Part I. Weights and Standards

**Chapter 17. Requirements for Permitting Off-Road
Equipment**

**§1709. Critical Off-Road Equipment Permit
Requirements**

A. ...

B. The owner shall provide escort service during the move in accordance with the department's escort procedures and regulations to control traffic with the following exception: Equipment classified as critical off-road equipment in which no single axle is in excess of 30,000 pounds, no tandem axles are in excess of 54,000 pounds and no tridum axles are in excess of 60,000 pounds shall be exempt from the escort requirement.

C. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32.2, et seq. and R. S. 32:386-389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by Weights, Measures and Standards, LR 22:120 (February 1996), LR 28:

Family Impact Statement

The proposed adoption of this rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

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, 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: Critical Off-Road Equipment Permit
Requirements**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs to the department. The permits that are the subject of this Rule have been issued for some time. This Rule simply allows certain loads classified as "critical off-road" equipment to travel without an escort.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The department anticipates no effect on revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule change should benefit the industry that moves certain critical off-road equipment if they are no longer required to utilize escorts when they move on Louisiana highways.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The implementation of this rule change should have a favorable effect on competition and employment because the operators of the applicable permit loads will realize a savings on each job.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

0203#046

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Weights, Measures and Standards**

Definition of "Measurable Precipitation"
(LAC 73:I.501)

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 amend the definitions contained in Part I, Chapter 5 of Title 73 to include the definition of "Measurable Precipitation," in accordance with the provisions of R.S. 32:388.

Title 73

WEIGHTS, MEASURES AND STANDARDS

Part I. Weights and Standards

Chapter 5. Legal Limitations for Size and Weight

§501. Definitions

* * *

*Measurable Precipitation*Ca minimum of 1 inch of precipitation in a 24-hour period as recorded by a National Weather Service recognized observation station.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:388.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 7:410 (August 1981), amended by Weights, Measures, and Standards, LR 22:120 (February 1996), LR 28:

Family Impact Statement

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.
2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.
4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.
5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.
6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

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, 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: Definition of "Measurable
Precipitation"**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be cost to state or local governmental units to implement this rule. It simply states current policy for both Department of Transportation and Development weight enforcement personnel, as well as the mobile weight enforcement personnel employed by Louisiana State Police. (An identical rule has been published by Louisiana State Police in LAC 55:I.2303.)

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rulemaking should have 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)

Other than clarification of existing rules for the trucking industry that hauls solid waste, directly affected persons and nongovernmental groups will no be affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment as a result of this rulemaking.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

0203#045

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Weights, Measures and Standards**

Enforcement Procedures and Penalties
(LAC 73:I.1101)

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 amend Chapter 11 of Title 73 entitled "Enforcement Procedures and Penalties," in accordance with R.S. 32:389.C.(8).

Title 73

WEIGHTS, MEASURES AND STANDARDS

Part I. Weights and Standards

Chapter 11. Enforcement Procedures and Penalties

§1101. General Procedures

- A. All vehicles, rated one ton or over are required to stop at DOTD stationary enforcement units except the following:
1. automobiles, including those towing another vehicle;
 2. pickup trucks under one ton, if they are not towing another vehicle;
 3. vans, if they have less than one-ton capacity;
 4. recreational vehicles, if they are not oversize or overweight;
 5. buses;

6. wreckers towing a vehicle which would not be required to stop at the scales.

B. In accordance with R.S. 32:389.C.(8), failure to stop at stationary scales is excused if a serious traffic hazard has been created. "Serious traffic hazard" is defined as "a situation in which motor vehicles fill the interstate ramps leading to weight enforcement locations causing excess vehicles to extend past the ramp entrance into the travel lanes or into the shoulder of the travel lanes, as recognized and indicated with the flashing indicator lights activated by DOTD personnel at the location. The flashing indicator lights must be activated and flashing in order for a vehicle to legally bypass the weight enforcement location."

C. Penalty for vehicles failing to stop at stationary scales, or disregarding the mobile unit's efforts to stop a vehicle or combination of vehicles is \$100 fine. is provided for in R.S. 32:388.A.

D. Any owner or driver who disagrees with a penalty or the enforcement of these laws must pay the penalty assessed and give the officer notice at the time of payment of his or her intention to file suit for its recovery. Any owner or operator has 90 days to file suit against the Department of Transportation and Development in the state district court located either in the parish in which the violation occurred, in the parish of domicile of the vehicle, or in East Baton Rouge Parish. No court may restrain the collection of any penalty assessed by DOTD. Provisions for appeal of violation tickets are set forth in §1201.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by Weights, Measures and Standards, LR 22:120 (February 1996), LR 28:

Family Impact Statement

The proposed adoption of this rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.
2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.
4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.
5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.
6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

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. Such comments should be submitted to Denny Silvio,

Weights and Standards Administrator, P.O. Box 94042, Baton Rouge, LA 70804-9052, (225)377-7100.

Kam K. Movassaghi, P.E., Ph.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Enforcement Procedures and Penalties

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no cost to state or local governmental units to implement this rule. It simply explains the situations in which vehicles are not required to stop at weight enforcement locations. These procedures have been in effect since approximately 1995.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rulemaking should have 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)

Other than clarification of existing rules for the trucking industry, directly affected persons and nongovernmental groups will not be affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment as a result of this rulemaking.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

0203#044

NOTICE OF INTENT

**Department of Treasury
Deferred Compensation Commission**

**Public Employees Deferred Compensation Plan
(LAC 32:VII.Chapters 1-19)**

Editor's Note: In accordance with OSR uniform formatting procedure, these rules have been moved from Title 71 to Title 32 for topical placement.

Under the authority of R.S. 42:1301-1308, and §457 of the *Internal Revenue Code* of 1986 as amended, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of the Treasury, Deferred Compensation Commission advertises its intent to amend the Public Employees Deferred Compensation Plan. The proposed amendments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

The State of Louisiana Public Employees Deferred Compensation Plan (the "Plan") was adopted by the Louisiana Deferred Compensation Commission (the commission), effective September 15, 1982. The Plan was established in accordance with R.S. 42:1301-1308, and §457 of the *Internal Revenue Code of 1986*, as amended, for the purpose of providing supplemental retirement income to

employees and independent contractors by permitting such individuals to defer a portion of compensation to be invested and distributed in accordance with the terms of the Plan. The Plan was repealed and repromulgated in its entirety in the (volume 24, number 10) October 20, 1998 *Louisiana Register* for codification in *Louisiana Administrative Code* format.

Title 32
GROUP BENEFITS

Part VII. Public Employee Deferred Compensation
Chapter 1. Administration

§101. Definitions

Administrator or Plan Administrator the person, persons or entity appointed by the Louisiana Deferred Compensation Commission to administer the Plan pursuant to LAC 71:VII.103.A, if any.

Age 50 or Older Catch-up the deferred amount described pursuant to LAC 71:VII.303.C.

Beneficiary the person, persons or entities designated by a participant pursuant to LAC 71:VII.301.A.5.

* * *

Compensation all payments paid by the employer to an employee or independent contractor as remuneration for services rendered, including salaries and fees, and, to the extent permitted by Treasury regulations or other similar guidance, accrued vacation and sick leave pay.

* * *

Includible Compensation (for purposes of the limitation set forth in LAC 71:VII.303.A), compensation for services performed for the employer as defined in IRC §457(e)(5).

* * *

IRCC the *Internal Revenue Code of 1986*, as amended, or any future United States Internal Revenue law. References herein to specific section numbers shall be deemed to include Treasury regulations thereunder and Internal Revenue Service guidance thereunder and to corresponding provisions of any future United States internal revenue law.

* * *

Limited Catch-Up the deferred amount described in LAC 71:VII.305.A.

Normal Retirement Age

1. the age designated by a participant, which age shall be between:

a. the earliest date on which such participant is entitled to retire under the public retirement system of which that participant is a member without actuarial reduction in his or her benefit, and

b. age 70 1/2, provided, however, that if a participant continues in the employ of the employer beyond 70 1/2, *normal retirement age* means the age at which the participant severs employment.

2. If the participant is not a member of a defined benefit plan in any public retirement system, the participant's *normal retirement age* may not be earlier than age 50, and may not be later than age 70 1/2.

3. If a participant continues to be employed by employer after attaining age 70 1/2, not having previously elected an alternate *normal retirement age*, the participant's alternate *normal retirement age* shall not be later than the mandatory retirement age, if any, established by the employer, or the age at which the participant actually severs

employment with the employer if the employer has no mandatory retirement age.

Participant an individual who is eligible to defer compensation under the Plan, and has executed an effective deferral authorization. *Participant* also includes an employee or independent contractor who has severance from employment but has not received a complete distribution of his or her interest in deferred compensation under the Plan.

* * *

Plan the State of Louisiana Public Employees Deferred Compensation Plan established by this document and any applicable amendment.

* * *

Qualified Domestic Relations Order or QDRO as specified in LAC 71:VII.1503.B.

Severance from Employment or Severs Employment

1. *severance* of the participant's employment with the employer. A participant shall be deemed to have severed employment with the employer for purposes of this Plan when both parties consider the employment relationship to have terminated and neither party anticipates any future employment of the participant by the employer. In the case of a participant who is an independent contractor, *severance from employment* shall be deemed to have occurred when:

a. the participant's contract for services has completely expired and terminated;

b. there is no foreseeable possibility that the employer shall renew the contract or enter into a new contract for services to be performed by the participant; and

c. it is not anticipated that the participant shall become an employee of the employer.

2. with respect to an employee, the permanent *severance* of the employment relationship with the employer on account of such employee's:

a. retirement;

b. discharge by the employer;

c. resignation;

d. layoff; or

e. in the case of an employee who is an appointed or elected officer, the earlier of:

i. the taking of the oath of office of such officer's successor, or

ii. the cessation of the receipt of compensation.

3. If an employee incurs a break in service for a period of less than 30 days or transfers among various Louisiana governmental entities, such break or transfer shall not be considered a *severance from employment*.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1962 (October 1998), amended LR 28:

§105. Duties of Commission

A.1. - 7. ...

8. appointing an emergency committee comprised of at least three individuals. Applications for a withdrawal of deferred compensation based on an unforeseeable emergency shall be approved or disapproved by such committee.

8.a. - b.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1963 (October 1998), amended LR 28:

Chapter 3. Plan Participation, Options and Requirements

§301. Enrollment in the Plan

A. The following rules apply to compensation deferred under the Plan.

1. A participant may not defer any compensation unless a deferral authorization providing for such deferral has been completed by the participant and accepted by the commission prior to the beginning of such payroll period. With respect to a new employee, compensation will be deferred in the payroll period during which a participant first becomes an employee if a deferral authorization providing for such deferral is executed on or before the first day on which the participant becomes an employee. Any prior employee who was a participant in the Plan and is rehired by employer may resume participation in the Plan by entering into a participation agreement. Unless distributions from the Plan have begun due to that prior severance from employment, however, any deferred commencement date elected by such employee with respect to those prior Plan assets shall be null and void.

2. - 3. ...

4. Notwithstanding LAC 71:VII.301.A.1, to the extent permitted by applicable law, the administrator may establish procedures whereby each employee becomes a participant in the Plan and, as a term or condition of employment, elects to participate in the Plan and consents to the deferral by the employer of a specified amount for any payroll period for which a participation agreement is not in effect. In the event such procedures are in place, a participant may elect to defer a different amount of compensation per payroll period, including zero, by entering into a participation agreement.

5. Beneficiary. Each participant shall initially designate in the participation agreement a beneficiary or beneficiaries to receive any amounts, which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing with the commission a written notice on a form approved by the commission. If no such designation is in effect at the time of participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:

§303. Deferral Limitations

A. Except as provided in LAC 71:VII.305.A.1-2.a-b, the maximum that may be deferred under the Plan for any taxable year of a participant shall not exceed the lesser of:

1. the applicable dollar amount in effect for the year, as adjusted for the calendar year in accordance with IRC §457(e)(15); or

2. 100 percent of the participant's includible compensation, each reduced by any amount specified in Subsection B of this §303 that taxable year.

B. The deferral limitation shall be reduced by any amount excludable from the participant's gross income

attributable to elective deferrals to another eligible deferred compensation plan described in IRC §457(b).

C. A participant who attains age 50 or older by the end of a Plan year and who does not utilize the limited catch-up for such Plan year may make a deferral in excess of the limitation specified in Subsection A.1-2 of this §303, up to the amount specified in and subject to any other requirements under IRC §414(v).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:

§305. Limited Catch-up

A. For one or more of the participant's last three taxable years ending before the taxable year in which normal retirement age under the Plan is attained, the maximum deferral shall be the lesser of:

1. twice the otherwise applicable dollar limit under IRC §457(e)(15) for that taxable year; reduced by any applicable amount specified in LAC 71:VII.303.B; or

2. the sum of:

a. the limitations established for purposes of §303.A of these rules, for such taxable year (determined without regard to this §305); also

b. so much of the limitation established under §303.A of the Plan or established in accordance with IRC §457(b)(2) and the regulations thereunder under an eligible deferred compensation plan sponsored by an entity other than the employer and located in the same state for prior taxable years (beginning after December 31, 1978 and during all or any portion of which the participant was eligible to participate in this Plan) and has not theretofore been used under §§303.A or 305.A hereof or under such other plan (taking into account the limitations under and participation in other eligible deferred compensation plans in accordance with the *Internal Revenue Code*); provided, however, that this §305 shall not apply with respect to any participant who has previously utilized, in whole or in part, the limited catch-up under this Plan or under any other eligible deferred compensation plan (within the meaning of IRC §457 and the regulations thereof).

B. If a participant is not a member of a defined benefit plan in any public retirement system, normal retirement age may not be earlier than age 50, and may not be later than age 70 1/2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:

§307. Participant Modification of Deferral

A. The participant shall be entitled to modify the amount (or percentage) of deferred compensation once each enrollment period with respect to compensation payable no earlier than the payroll period after such modification is entered into by the participant and accepted by the commission. Notwithstanding the above, if a negative election procedure has been implemented pursuant to §301.A.4 of this Chapter, a participant may enter into or modify a participation agreement at any time to provide for no deferral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:

§309. Employer Modification of Deferral

A. The commission shall have the right to modify or disallow the periodic deferral of compensation elected by the participant:

1. in excess of the limitations stated in LAC 71:VII.303.A and 305.A;

2. - 6. ...

B. And to the extent permitted by and in accordance with the *Internal Revenue Code*, the employer or administrator may distribute the amount of a participant's deferral in excess of the distribution limitations stated in LAC 71:VII.301, 303, 305, 307 and 309 notwithstanding the limitations of LAC 71:VII.701.A; provided, however, that the employer and the commission shall have no liability to any participant or beneficiary with respect to the exercise of, or the failure to exercise, the authority provided in this LAC 71:VII.309.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:

§311. Revocation

A. A participant may, at any time, revoke his or her deferral authorization by notifying the commission, in writing, on forms acceptable to the commission. Upon the acceptance of such notification, deferrals under the plan shall cease no later than the commencement of the first pay period beginning at least 30 days after acceptance; provided, however, that the commission shall not be responsible for any delay which occurs despite its good faith efforts. In no event shall the revocation of a participant's deferral authorization permit a distribution of deferred compensation, except as provided in §701.A of these rules, and shall be subject to the terms and provisions of the affected investment.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:

§313. Re-Enrollment

A. A participant who revokes the participation agreement as set forth in §311.A above may execute a new participation agreement to defer compensation payable no earlier than the payroll period after such new participation agreement is executed by the participant and accepted by the commission.

B. A former participant who is rehired after retirement may rejoin the Plan as an active participant unless ineligible to participate under other Plan provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:

Chapter 5. Investments

§505. Participant Accounts

A. The commission shall maintain or cause to be maintained one or more individual deferred compensation ledger account or similar individual account(s) for each participant. Such accounts shall include separate accounts, as necessary, for IRC §457 Deferred Compensation, IRC §457 rollovers, IRA rollovers, other qualified plan and IRC §403(b) plan rollovers, and such other accounts as may be appropriate from time to time for plan administration. At regular intervals established by the commission, each participant's account shall be:

A.4. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:

Chapter 7. Distributions

§701. Conditions for Distributions

A. Payments from the participants §457 Deferred Compensation Plan account to the participant or beneficiary shall not be made, or made available, earlier than:

1. the participant's severance from employment pursuant to LAC 71:VII.703.A or death; or

2. the participant's account meets all of the requirements for an in-service *de minimus* distribution pursuant to LAC 71:VII.705.A and B; or

3. the participant incurs an approved unforeseeable emergency pursuant to LAC 71:VII.709.A; or

4. the participant transfers an amount to a defined benefit governmental plan pursuant to LAC 71:VII.705.C; or

5. April 1 of the calendar year following the calendar year in which the participant attains age 70 1/2.

B. Payments from a participant's rollover account(s) may be made at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:

§703. Severance from Employment

A. Distributions to a participant shall commence following the date in which the participant severs employment, in a form and manner determined pursuant to LAC 71:VII.713.A, 715.A and 717.A.

B. Upon notice to participants, and subject to LAC 71:VII.701.A., 703.B and 721.A, the administrator may establish procedures under which a participant whose total §457 deferred compensation account balance is less than an amount specified by the administrator (not in excess of \$5,000 or other applicable limit under the *Internal Revenue Code*) will receive a lump sum distribution on the first regular distribution commencement date (as the employer or administrator may establish from time to time) following the participant's severance from employment, notwithstanding any election made by the participant pursuant to LAC 71:VII.721.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:

§705. In-Service Distributions

A. Voluntary In-Service Distribution of *De Minimis* Accounts. A participant who is an active employee shall receive a distribution of the total amount payable to the participant under the Plan if the following requirements are met:

1. the portion of the total amount payable to the participant under the Plan does not exceed an amount specified from time to time by the commission (not in excess of \$5,000 or other applicable limit under the *Internal Revenue Code*);

2. the participant has not previously received an in-service distribution of the total amount payable to the participant under the Plan;

3. no amount has been deferred under the Plan with respect to the participant during the two-year period ending on the date of the in-service distribution; and

4. the participant elects to receive the distribution.

B. Involuntary In-Service Distribution of *De Minimis* Accounts. Upon notice to participants, and subject to LAC 71:VII.721.A, the commission may establish procedures under which the Plan shall distribute the total amount payable under the Plan to a participant who is an active employee if the following requirements are met:

1. the portion of the total amount payable to the participant under the Plan does not exceed an amount specified from time to time by the commission (not in excess of \$5,000 or other applicable limit under the *Internal Revenue Code*);

2. the participant has not previously received an in-service distribution of the total amount payable to the participant under the Plan; and

3. no amount has been deferred under the Plan with respect to the participant during the two-year period ending on the date of the in-service distribution.

C. Purchase of Defined Benefit Plan Service Credit

1. If a participant is also a participant in a defined benefit governmental plan (as defined in IRC §414(d)), such participant may request the commission to transfer amounts from his or her account for:

a. the purchase of permissive service credit (as defined in IRC §415(n)(3)(A)) under such plan; or

b. a repayment to which IRC §415 does not apply by reason of IRC §415(k)(3).

2. Such transfer requests shall be granted in the sole discretion of the commission, and if granted, shall be made directly to the defined benefit governmental plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:

§707. Deferred Commencement Date at Separation from Service

A. Following the date in which the participant severs employment, the participant may select a deferred commencement date for all or a portion of the participant's account balance. If the participant elects to defer the entire account balance, the future commencement date may not be

later than April 1 of the calendar year following the calendar year in which the participant attains age 70 1/2

B. If the participant is an independent contractor:

1. in no event shall distributions commence prior to the conclusion of the 12-month period beginning on the date on which all such participant's contracts to provide services to or on behalf of the employer expire; and

2. in no event shall a distribution payable to such participant pursuant to §703.A of these rules commence if, prior to the conclusion of the 12-month period, the participant performs services for the employer as an employee or independent contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:

§709. Unforeseeable Emergency

A. If a participant has incurred a genuine unforeseeable emergency and no other resources of financial relief are available, the commission may grant, in its sole discretion, a participant's request for a payment from the participant's account. Any payment made under this provision shall be in a lump sum.

1. The commission shall have the right to request and review all pertinent information necessary to assure that hardship withdrawal requests are consistent with the provisions of IRC §457.

2. In no event, however, shall an unforeseeable emergency distribution be made if such hardship may be relieved:

a. through reimbursement or compensation by insurance or otherwise;

b. by liquidation of the participant's assets, to the extent the liquidation of the participant's assets would not itself cause a severe financial hardship; or

c. by cessation of deferrals under this Plan.

3. The amount of any financial hardship benefit shall not exceed the lesser of:

a. the amount reasonably necessary, as determined by the commission, to satisfy the hardship; or

b. the amount of the participant's account.

4. Payment of a financial hardship distribution shall result in mandatory suspension of deferrals for a minimum of six months from the date of payment (or such other period as mandated in Treasury regulations).

5. Currently, the following events are not considered unforeseeable emergencies under the Plan:

a. enrollment of a child in college;

b. purchase of a house;

c. purchase or repair of an automobile;

d. repayment of loans;

e. payment of income taxes, back taxes, or fines associated with back taxes;

f. unpaid expenses including rent, utility bills, mortgage payments, or medical bills;

g. marital separation or divorce; or

h. bankruptcy (except when bankruptcy resulted directly and solely from illness or casualty loss).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:

§711. Death Benefits

A. Upon the participant's death, the participant's remaining account balance(s) will be distributed to the beneficiary commencing after the administrator receives satisfactory proof of the participant's death (or on the first regular distribution commencement date thereafter as the employer or administrator may establish from time to time), unless prior to such date the beneficiary elects a deferred commencement date, in a form and manner determined pursuant to LAC 71:VII.713.A and 717.A.

B. If there are two or more beneficiaries, the provisions of this §711 and of §717.A of these rules shall be applied to each beneficiary separately with respect to each beneficiary's share in the participant's account.

C. If the beneficiary dies after beginning to receive benefits but before the entire account balance has been distributed, the remaining account balance shall be paid to the estate of the beneficiary in a lump sum.

D. Under no circumstances shall the commission be liable to the beneficiary for the amount of any payment made in the name of the participant before the commission receives satisfactory proof of the participant's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:

§713. Payment Options

A. A participant's or beneficiary's election of a payment option must be made at least 30 days prior to the date that the payment of benefits is to commence. If a timely election of a payment option is not made, benefits shall be paid in accordance with §715.A of this Chapter 7. Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one of the following payment options:

1. a single lump-sum payment;
2. installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) which extends no longer than the life expectancy of the participant or beneficiary as permitted under the requirements of IRC §401(a)(9);
3. installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) automatically adjusted for cost-of-living increases based on the rise in the *Consumer Price Index for All Urban Consumers* (CPI-U) from the third quarter of the last year in which a cost-of-living increase was provided to the third quarter of the current year. Any increase shall be made in periodic payment checks beginning the following January;
4. partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years, as described in Subsection A of this §713.
5. annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the participant or for the lifetime of the participant and beneficiary in compliance with IRC §401(a)(9);
6. such other forms of installment payments as may be approved by the commission consistent with the requirements of IRC §401(a)(9).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:

§715. Default Distribution Option

A. In the absence of an effective election by the participant, beneficiary or other payee, as applicable, as to the commencement and/or form of benefits, distributions shall be made in accordance with the applicable requirements of IRC §§ 401(a)(9) and 457(d), and proposed or final Treasury regulations thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:

§717. Limitations on Distribution Options

A. No distribution option may be selected by a participant or beneficiary under this §717 unless it satisfies the requirements of IRC §§401(a)(9) and 457(d) and proposed or final Treasury regulations thereunder.

B. If installment payments are designated as the method of distribution, the minimum distribution shall be no less than \$100 per check and the payments made annually must be no less than \$600.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:

§719. Taxation of Distributions

A. To the extent required by law, income and other taxes shall be withheld from each benefit payment, and payments shall be reported to the appropriate governmental agency or agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998).

§721. Transfers and Rollovers

A. Transfers to the Plan. If the participant was formerly a participant in an eligible deferred compensation plan maintained by another employer, and if such plan permits the direct transfer of the participant's interest therein to the Plan, then the Plan shall accept assets representing the value of such interest; provided, however, that the participant has separated from service with that former employer and become an employee of employer. Such amounts shall be held, accounted for, administered and otherwise treated in the same manner as compensation deferred by the participant except that such amounts shall not be considered compensation deferred under the Plan in the taxable year of such transfer in determining the maximum deferral under LAC 71:VII.303.A.1-2. The commission may require such documentation from the predecessor plan, as it deems necessary to confirm that such plan is an eligible deferred compensation plan within the meaning of IRC §457, and to assure that transfers are provided under such plan. The commission may refuse to accept a transfer in the form of assets other than cash, unless the commission agrees to hold such other assets under the Plan.

B. In-Service Transfers from the Plan. If a participant separates from service prior to his or her required beginning date, and becomes a participant in an eligible deferred compensation plan of another governmental employer, and provided that payments under this Plan have not begun, such participant may request a transfer of his or her account to the eligible deferred compensation plan of the other employer. Requests for such transfers must be made in writing to the commission and shall be granted in the sole discretion of the commission. If an amount is to be transferred pursuant to this provision, the commission shall transfer such amount directly to the eligible deferred compensation plan of the other employer. Amounts transferred to another eligible deferred compensation plan shall be treated as distributed from this Plan and this Plan shall have no further responsibility to the participant or any beneficiary with respect to the amount transferred.

C. Rollovers to the Plan

1. The Plan shall accept a rollover contribution on behalf of a Participant or Employee who may become a participant. A *rollover contribution*, for purposes of this Subsection, is an eligible rollover contribution (as defined in IRC §402(f)(2)) from any:

- a. plan qualified under IRC §401(a) or 403(a);
- b. tax-sheltered annuity or custodial account described in IRC §403(b);
- c. individual retirement account or annuity described in IRC §408;
- d. eligible deferred compensation plan described in IRC §457(b).

2. Prior to accepting any rollover contribution, the commission may require that the participant or employee establish that the amount to be rolled over to the Plan is a valid rollover within the meaning of the *Internal Revenue Code*. A participant's rollover contribution shall be held in a separate rollover account or accounts, as the commission shall determine from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:

§723. Eligible Rollover Distributions

A. General. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this §723, a distributee may elect, at the time and in the manner prescribed by the employer, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

B. Definitions. For purposes of this §723, the following definitions shall apply:

Eligible Rollover Distribution Can eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for:

- a. a specified period of 10 years or more;

b. any distribution to the extent such distribution is required under IRC §401(a)(9);

c. any distribution that is a deemed distribution under the provisions of IRC §72(p);

d. the portion of any distribution that is not includable in gross income; and any hardship distribution or distribution on account of unforeseeable emergency.

Eligible Retirement Plan Can eligible retirement plan is an individual retirement account described in IRC §408(a), an individual retirement annuity described in IRC §408(b), an annuity plan described in IRC §403(a) that accepts the distributee's eligible rollover distribution, a qualified trust described in IRC §401(a) (including §401(k)) that accepts the distributee's eligible rollover distribution, a tax-sheltered annuity described in IRC §403(b) that accepts the distributee's eligible rollover distribution, or another eligible deferred compensation plan described in IRC §457(b) that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

Distributee Cincludes an employee or former employee, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in IRC §414(p), are distributees with regard to the interest of the spouse or former spouse.

Direct Rollover Ca payment by the Plan to the eligible retirement plan specified by the distributee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:

§725. Elections

A. Elections under this Chapter 7 shall be made in such form and manner as the commission may specify from time to time. To the extent permitted by and in accordance with the *Internal Revenue Code*, any irrevocable elections as to the form or timing of distributions executed prior to January 1, 2002, are hereby revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:

§727. Practices and Procedures

A. The commission may adopt practices and procedures applicable to existing and new distribution elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:

Chapter 9. Leave of Absence

§901. Paid and Unpaid Leave of Absence

A. Paid Leave of Absence. If a participant is on an approved leave of absence from the employer with compensation, or on approved leave of absence without compensation that does not constitute a severance from employment within the meaning of IRC §402(d)(4)(A)(iii) which under the employer's current practices is generally a leave of absence without compensation for a period of one

year or less, said participant's participation in the Plan may continue.

B. Unpaid Leave of Absence. If a participant is on an approved leave of absence without compensation and such leave of absence continues to such an extent that it becomes a severance from employment within the meaning of IRC §402(e)(4)(A)(iii), said participant shall have severed employment with the employer for purposes of this Plan. Upon termination of leave without pay and return to active status, the participant may execute a new participation agreement to be effective when permitted by LAC 71:VII.313.B of the Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:

Chapter 11. Participant Loans

§1101. Authorization of Loans

A. The commission may direct the administrator to make loans to participants on or after the effective date of Treasury regulations or other guidance under IRC §457 and to the extent allowable under and in accordance with IRC §457. Such loans shall be made on the application of the participant in a form approved by the administrator and on such terms and conditions as are set forth in this Chapter 11, provided, however, that the administrator may adopt rules or procedures specifying different loan terms and conditions, if necessary or desirable, to comply with or conform to such Treasury regulations or other guidance and other applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:

§1103. Maximum Loan Amount

A. In no event shall any loan made to a participant be in an amount which shall cause the outstanding aggregate balance of all loans made to such participant under this Plan exceed the lesser of:

1. \$50,000, reduced by the excess (if any) of:
 - a. the highest outstanding balance of loans from the Plan to the participant during the one-year period ending on the day before the date on which the loan is made;
 - b. over the outstanding balance of loans from the Plan to the participant or the beneficiary on the date on which the loan is made; or
2. one-half of the participant's total amount deferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:

§1105. Repayment of Loan

A. Each loan shall mature and be payable, in full and with interest, within five years from the date such loan is made, unless:

1. the loan is used to acquire any dwelling unit that within a reasonable time (determined at the time the loan is made) will be used as the principal residence of the participant; or

2. loan repayments are, at the employer's election, suspended as permitted by IRC §414(u)(4) (with respect to qualified military service).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:

§1107. Loan Terms and Conditions

A. In addition to such rules as the administrator may adopt, which rules are hereby incorporated into this Plan by reference, all loans to participants shall comply with the following terms and conditions.

1. Loans shall be available to all participants on a reasonably equivalent basis.

2. Loans shall bear interest at a reasonable rate to be fixed by the administrator based on interest rates currently being charged by commercial lenders for similar loans. The administrator shall not discriminate among participants in the matter of interest rates, but loans granted at different times may bear different interest rates based on prevailing rates at the time.

3. Each loan shall be made against collateral, including the assignment of no more than one-half of the present value of the participant's total amount deferred as security for the aggregate amount of all loans made to such participant, supported by the participant's collateral promissory note for the amount of the loan, including interest.

4. Loan repayments must be made by payroll deduction. In all events, payments of principal and interest must be made at least quarterly and such payments shall be sufficient to amortize the principal and interest payable pursuant to the loan on a substantially level basis.

5. A loan to a participant or beneficiary shall be considered a directed investment option for such participant's account balance.

6. No distribution shall be made to any participant, or to a beneficiary of any such participant, unless and until all unpaid loans, including accrued interest thereon, have been satisfied. If a participant terminates employment with the employer for any reason, the outstanding balance of all loans made to him shall become fully payable and, if not paid within 30 days, any unpaid balance shall be deducted from any benefit payable to the participant or his beneficiary. In the event of default in repayment of a loan or the bankruptcy of a participant who has received a loan, the note will become immediately due and payable, foreclosure on the note and attachment of security will occur, the amount of the outstanding balance of the loan will be treated as a distribution to the participant, and the defaulting participant's accumulated deferrals shall be reduced by the amount of the outstanding balance of the loan (or so much thereof as may be treated as a distribution without violating the requirements of the *Internal Revenue Code*).

7. The loan program under the Plan shall be administered by the administrator in a uniform and nondiscriminatory manner. The administrator shall establish procedures for loans, including procedures for applying for loans, guidelines governing the basis on which loans shall be approved, procedures for determining the appropriate interest rate, the types of collateral which shall be accepted

as security, any limitations on the types and amount of loans offered, loan fees and the events which shall constitute default and actions to be taken to collect loans in default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:

Chapter 13. Plan Amendment or Termination

§1301. Termination

A. The commission may at any time terminate this Plan; provided, however, that no termination shall affect the amount of benefits, which at the time of such termination shall have accrued for participants or beneficiaries. Such accrued benefits shall include any compensation deferred before the time of the termination and income thereon accrued to the date of the termination.

B. Upon such termination, each participant in the Plan shall be deemed to have revoked his agreement to defer future compensation as provided in LAC 71:VII.311.A as of the date of such termination. Each participant's full compensation on a non-deferred basis shall be restored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:

§1303. Amendments to the Plan

A. The commission may also amend the provisions of this Plan at any time; provided, however, that no amendment shall affect the amount of benefits which at the time of such amendment shall have accrued for participants or beneficiaries, to the extent of compensation deferred before the time of the amendment and income thereon accrued to the date of the amendment, calculated in accordance with LAC 71:VII.505.A and the terms and conditions of the investment options hereunder; and provided further, that no amendment shall affect the duties and responsibilities of the trustee unless executed by the trustee.

B. Copies of Amendments. The administrator shall provide a copy of any plan amendment to any trustee or custodian and to the issuers of any investment options.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:

§1305. Disclaimer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1971 (October 1998), repealed LR 28:

Editor's Note: Disclaimer text is included in §1505 of these rules.

Chapter 15. Taxes, Nonassignability and Disclaimer

§1501. Tax Treatment of Amounts Deferred

A. It is intended that pursuant to IRC §457, the amount of deferred compensation shall not be considered current compensation for purposes of federal and state income taxation. This rule shall also apply to state income taxation unless applicable state laws provide otherwise. Such amounts shall, however, be included as compensation to the extent required under the Federal Insurance Contributions Act (FICA). Payments under this Plan shall supplement

retirement and death benefits payable under the employer's group insurance and retirement plans, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1971 (October 1998), amended LR 28:

§1503. Nonassignability

A. It is agreed that neither the participant, nor any beneficiary, nor any other designee shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments hereunder, which payments and right thereto are expressly declared to be nonassignable and nontransferable; and in the event of attempt to assign or transfer, the commission shall have no further liability hereunder, nor shall any unpaid amounts be subject to attachment, garnishment or execution, or be transferable by operation of law in event of bankruptcy, or insolvency, except to the extent otherwise required by law.

B. Qualified Domestic Relations Orders approved by the commission shall be administered as follows.

1.a. To the extent required under a final judgment, decree, or order made pursuant to a state domestic relations law, herein referred to as a Qualified Domestic Relations Order (QDRO) which is duly filed upon the commission, any portion of a participant's account may be paid or set aside for payment to an alternate payee.

NOTE: For purposes for this §1503, an alternate payee is a person or persons designated by a domestic relations order who may be a spouse, former spouse, or a child of the participant.

b. Where necessary to carry out the terms of such a QDRO, a separate account shall be established with respect to the alternate payee, and such person(s) shall be entitled to make investment selections with respect thereto in the same manner as the participant. All costs and charges incurred in carrying out the investment selection shall be deducted from the account created for the alternate payee making the investment selection.

2. Any amounts so set aside for an alternate payee shall be paid out immediately in a lump sum, unless the QDRO directs a different form of payment or later payment date. Nothing in this §1503.B shall be construed to authorize any amounts to be distributed under the employer's plan at a time or in a form that is not permitted under IRC §457. Any payment made to a person other than the participant pursuant to this §1503.B shall be reduced by required income tax withholding. Such withholding and income tax reporting shall be done under the terms of the *Internal Revenue Code* as amended from time to time.

3. The commission's liability to pay benefits to a participant shall be reduced to the extent that amounts have been paid or set aside for payment to an alternate payee pursuant to this §1503.B. No amount shall be paid or set aside unless the commission, or its agents or assigns, has been provided with satisfactory evidence releasing them from any further claim by the participant with respect to these amounts. The participant shall be deemed to have released the commission from any claim with respect to such amounts in any case in which the commission has been notified of or otherwise joined in a proceeding relating to a QDRO, which sets aside a portion of the participant's account for an alternate payee, and the participant fails to

obtain an order of the court in the proceeding relieving the employer from the obligation to comply with the QDRO.

4. The commission shall not be obligated to comply with any judgment, decree or order which attempts to require the Plan to violate any plan provision or any provision of §457 of the *Internal Revenue Code*. Neither the commission nor its agents or assigns shall be obligated to defend against or set aside any judgment, decree, or order described herein or any legal order relating to the division of a participant's benefits under the plan unless the full expense of such legal action is borne by the participant. In the event that the participant's action (or inaction) nonetheless causes the commission, its agents or assigns to incur such expense, the amount of the expense may be charged against the participant's account and thereby reduce the commission's obligation to pay benefits to the participant. In the course of any proceeding relating to divorce, separation, or child support, the commission, its agents and assigns shall be authorized to disclose information relating to the participant's individual account to the participant's spouse, former spouse or child (including the legal representatives of the alternate payee), or to a court.

5. Any Conforming Equitable Distribution Order (CEDO), filed prior to January 2002 may be amended to comply with this §1503.B, pursuant to a Qualified Domestic Relations Orders (QDRO), which is duly filed upon the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:

§1505. Disclaimer

A. The commission makes no endorsement, guarantee or any other representation and shall not be liable to the Plan or to any participant, beneficiary, or any other person with respect to:

1. the financial soundness, investment performance, fitness, or suitability (for meeting a participant's objectives, future obligations under the Plan, or any other purpose) of any investment option in which amounts deferred under the Plan are actually invested; or

2. the tax consequences of the Plan to any participant, beneficiary or any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:

Chapter 17. Employer Participation

§1701. Additional Compensation Deferred

A. Notwithstanding any other provisions of this Plan, the employer may add to the amounts payable to any participant under the Plan additional deferred compensation for services to be rendered by the participant to the employer during a payroll period, provided:

1. the participant has elected to have such additional compensation deferred, invested, and distributed pursuant to this Plan, prior to the payroll period in which the compensation is earned; and

2. such additional compensation deferred, when added to all other compensation deferred under the Plan, does not exceed the maximum deferral permitted by LAC 71:VII.303.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1972 (October 1998), amended LR 28:

Chapter 19. Applicable Terms

§1901. Interpretation

A. Governing Law. This Plan shall be construed under the laws of the state of Louisiana.

B. Section 457. This Plan is intended to be an eligible deferred compensation plan within the meaning of §457 of the *Internal Revenue Code*, and shall be interpreted so as to be consistent with such Section and all regulations promulgated thereunder.

C. Employment Rights. Nothing contained in this Plan shall be deemed to constitute an employment agreement between any participant and the employer and nothing contained herein shall be deemed to give a participant any right to be retained in the employ of the employer.

D. Days and Dates. Whenever time is expressed in terms of a number of days, the days shall be consecutive calendar days, including weekends and holidays, provided, however, that if the last day of a period occurs on a Saturday, Sunday or other holiday recognized by the employer, the last day of the period shall be deemed to be the following business day.

E. Word Usage. Words used herein in the singular shall include the plural and the plural the singular where applicable, and one gender shall include the other genders where appropriate.

F. Headings. The headings of articles, sections or other subdivisions hereof are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Plan, the text shall control.

G. Entire Agreement. This Plan document shall constitute the total agreement or contract between the commission and the participant regarding the Plan. No oral statement regarding the Plan may be relied upon by the participant. This Plan and any properly adopted amendment, shall be binding on the parties hereto and their respective heirs, administrators, trustees, successors, and assigns and on all designated beneficiaries of the participant.

AUTHORITY NOTE: Promulgated in accordance with RS 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:

Family Impact Statement

1. The Effect on the Stability of the Family. None. There will be no impact on the Stability of the family.

2. The Effect of the Authority and Rights of Parents Regarding the education and Supervision of their Children. None. There will be no impact on the Authority and Rights of Parents Regarding the Education and Supervision of their Children.

3. The Effect of the Functioning of the Family. None. There will be no impact on the functioning of the family.

4. The Effect on Family Earnings and Family budget. None. There will be no impact on family earnings and family budget.

5. The Effect on the behavior and Personal Responsibility of Children. None. There will be no impact 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. None. There will be no impact on the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons may submit comments to Joseph A. Dionisi, Administrator, Louisiana Deferred Compensation Plan, 2237 South Acadian Thruway, Suite 702, Baton Rouge, LA 70808. Telephone: (225) 926-8082. Fax: (225) 926-4447

A public hearing will be held on Tuesday, April 16, 2002, at 11 a.m., at the above address. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said hearing. The deadline for the receipt of all comments is April 16, 2002, at 11 a.m.

Individuals with disabilities who require special service should contact the Louisiana Deferred Compensation Plan office prior to the hearing.

Emery Bares
Chairman

0203#024

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Experimental Fisheries Program Permits (LAC 76:VII.701)

The secretary of Department of Wildlife and Fisheries hereby advertises its intent to amend the following rule which provides for the harvest of underutilized species under the experimental fisheries program and the issuance of permits.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 7. Experimental Fisheries Programs

§701. Permits

A. - B.9. ...

10. Permitted vessel and permitted gear is the specific gear and vessel designated on the permit.

11. When a permit is issued, only the permitted specie(s) can be retained. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

12. The permittee shall have the permit in possession at all times when using permitted gear or harvesting permitted specie(s). Permit holder shall be on board permitted vessel when operating under conditions of permit. No permit is transferable without written permission from the department secretary.

13. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee.

14. If citation(s) are issued to any permittee for violation of a Class Two fish or game law or conditions regulated by the permit, all permittee's permits shall be suspended until such time as the permittee appears before

the department's officials for the purpose of reviewing the citation(s) issued. The secretary, after reviewing the proceedings, may reinstate or revoke the permit, and the permittee may lose all rights and privileges to participate in the program.

15. Any violation of the conditions of the permit shall result in the immediate suspension of the permit and forfeiture of the deposit and may result in the permanent revocation of the permit.

C. - D.8. ...

9. The harvest of shad (*Dorosoma sp.*) and skipjack (*Alosa chrysochloris*) with an experimental seine.

a. Closed Seasons, Times and Areas

i. The season for the commercial taking of shad and skipjack under the provision of the experimental seine permit shall be closed during the months of July, August, September and October of each year. Shad and skipjack may not be taken commercially with an experimental seine at any time outside of this season.

ii. Commercial harvest of shad and skipjack with an experimental seine under the provisions of this section shall not be allowed on Saturday and Sunday. There shall be no commercial taking of shad and skipjack with an experimental seine during the period after sunset and before sunrise.

iii. Experimental seines shall not be used in areas closed to seining.

b. Commercial Taking

i. Only shad and skipjack may be taken; all other species shall be immediately returned to waters from which they were caught; no other fish may be in the possession of the permitted and all fish on board of the permitted vessel shall have the head and caudal fin (tail) intact.

ii. An experimental seine is a seine with a mesh size not less than 1 inches bar and 2 inches stretched and not more than 2 inches bar and 4 inches stretched, not exceeding 1,200 feet in length. The experimental seine may not be constructed of monofilament.

iii. Only "strike" fishing will be permitted; this means the school of fish to be taken must be visible from the surface and the seine then placed around the selected school.

iv. The use of more than one experimental seine from any one or more vessels at any time is prohibited.

v. No more than two vessels may fish an experimental seine at one time.

vi. Experimental seines shall not be used in a manner that unduly restricts navigation of other vessels.

vii. Net shall not be left unattended as defined in Title 56. Experimental seine shall be actively fished at all times by the permittee.

viii. Each experimental seine shall have attached to each end a 1-gallon jug painted international orange and marked with black lettering; the word "experimental" and the permit number shall be legibly displayed on the jug.

ix. The permitted gear shall only be fished in the freshwater areas of the state.

x. All provisions of Title 56 shall apply to persons involved in any experimental fishery or possessing any commercial gear.

c. Commercial Limits. During the season, there shall be no daily take or possession limit for the commercial

harvest of shad and skipjack by properly licensed and permitted fishermen.

d. Permits

i. Any person who has been convicted of an offense under the provisions of the experimental fishery permit program shall not participate in the harvest, in any manner, of fish taken under an experimental permit.

ii. No person shall receive more than one experimental seine permit to commercially take shad and skipjack.

iii. This permit along with other applicable licenses authorize the bearer to sell his shad and skipjack herring.

iv. Violating any provision or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in Title 56.

v. The permitted gear must be properly licensed as a fish seine.

e. General Provisions. Effective with the closure of the season for using the experimental seine permit for shad and skipjack, the possession of the experimental seine on the waters of the state shall be prohibited. Nothing shall prohibit the possession, sale, barter or exchange off the water of shad and skipjack legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

10. Shad (*Dorosoma sp.*) and Skipjack (*Alosa chrysochloris*) Gill Net Permit (Lake Des Allemands Only)

a. Closed Seasons, Times and Areas

i. The season for the commercial taking of shad and skipjack under the provision of the experimental gill net permit shall be closed during the months of July, August, September and October of each year. Shad and skipjack may not be taken commercially with an experimental gill net at any time outside of this season.

ii. Commercial harvest of shad and skipjack with an experimental gill net under the provisions of this section shall not be allowed on Saturday and Sunday. There shall be no commercial taking of shad and skipjack with an experimental gill net during the period after sunset and before sunrise.

iii. Experimental gill net shall not be used in areas closed to gill netting.

b. Commercial Taking

i. Only shad and skipjack may be taken; all other species shall be immediately returned to waters from which they were caught; no other fish may be in the possession of the permitted and all fish on board of the permitted vessel shall have the head and caudal fin (tail) intact.

ii. An experimental gill net is a gill net with a mesh size not less than 1 inch bar and 2 inches stretched and not more than 2 inches bar and 4 inches stretched, not exceeding 1,200 feet in length.

iii. Only "strike" gill net fishing will be permitted; this means the school of fish to be taken must be visible from the surface and the gill net then placed in or directly near the selected school. Once deployed, the experimental gill net is to remain stationary until being run (gill net

remains in place while fish are removed) or gill net is retrieved (gill net remains in place until lifted into boat).

iv. The use of more than one experimental gill net from any one or more vessels at any time is prohibited.

v. No more than two vessels may fish an experimental gill net at one time.

vi. Experimental gill net shall not be used in a manner that unduly restricts navigation of other vessels.

vii. Net shall not be left unattended as defined in Title 56.

viii. Each experimental gill net shall have attached to each end a 1-gallon jug painted international orange and marked with black lettering; the word "experimental" and the permit number shall be legibly displayed on the jug.

ix. The permitted gear shall only be fished in Lac Des Allemands. Streams, bayous, canals and other connecting waterbodies are not included in this permit.

x. All provisions of Title 56 shall apply to persons involved in any experimental fishery or possessing any commercial gear.

c. Commercial Limits. During the season, there shall be no daily take or possession limit for the commercial harvest of shad and skipjack by properly licensed and permitted fishermen.

d. Permits

i. Any person who has been convicted of an offense under the provisions of the experimental fishery permit program shall not participate in the harvest, in any manner, of fish taken under an experimental permit.

ii. No person shall receive more than one gill net permit to commercially take shad and skipjack.

iii. This permit along with other applicable licenses authorize the bearer to sell his shad and skipjack herring.

iv. Violating any provision or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in Title 56.

v. The permitted gear must be properly licensed as a freshwater gill net.

e. General Provisions. Effective with the closure of the season for using the experimental gill net permit for shad and skipjack, the possession of the experimental gill net on the waters of the state shall be prohibited. Nothing shall prohibit the possession, sale, barter or exchange off the water of shad and skipjack legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

11. Experimental Freshwater River Shrimp (*Macrobrachium ohione*) Permit

a. May experimentally fish a wire mesh shrimp net, 1/4 inch bar, 6 feet in length in the Intercoastal Canal and Mississippi River within 1.5 miles of the boat ramp adjacent to the locks in Port Allen.

b. Only freshwater river shrimp may be taken; all other species shall be immediately returned to waters from which they were caught; no other fish may be in the possession of the permittee.

c. The permittee shall have the permit in possession at all times when using permitted gear; permittee shall be on board permitted vessel when operating under conditions of permit.

d. The permitted gear must be properly licensed as a Shrimp Trawl and may be fished in freshwater areas only.

e. Permitted gear must be marked using a 1 gallon jug painted international orange and marked with black lettering; the word "experimental" and the permit number should be legibly displayed on the jug.

f. This permit may be canceled at any time if in the judgment of the secretary or his designee, the permit is being used for purposes other than that for which the permit was issued.

g. Violating any provision or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in Title 56.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:571.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), amended LR 12:847 (December 1986), amended by the Office of Fisheries, LR 15:1098 (December 1989), amended by the Wildlife and Fisheries Commission, LR 28:

Family Impact Statement

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.

Interested persons may submit comments relative to the proposed Rule to Bennie Fontenot, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Tuesday, May 7, 2002.

James H. Jenkins, Jr.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Experimental Fisheries ProgramC Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have 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)

The proposed rule changes may increase fishing costs and negatively impact receipts and income of 25 permitted fishermen currently participating in the experimental fisheries program. The proposed changes in minimum mesh size, maximum gear length, season, time and area closures, and prohibition on the use of monofilament webbing may require some permitted fishermen to purchase new gear,

cause decreases in the quantity of fish harvested and/or increase effort in order to maintain current harvest levels. In addition, the proposed season, time and area closures and vessel number restriction will not only restrict fishing effort, but could cause permitted fishermen to redirect their fishing effort to other fisheries that may be less profitable. This could result in decreased income and cause some fishermen to exit the fisheries.

The magnitude of impact on costs and income to the 25 permitted fishermen will depend on their ability to adjust to the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have no net significant impact on competition and employment in the public and private sectors.

James L. Patton
Undersecretary
0203#035

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

General and WMA Hunting (LAC 76:XIX.111)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

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.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

**§111. General and Wildlife Management Area
Hunting Rules and Regulations**

A. Hunting Seasons and Wildlife Management Area Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the Department of Wildlife and Fisheries a sum of money equal

to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire rifle, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours during the open rabbit season. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is one per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally from September 1 through February 28 during legal shooting hours by any legal hunting method with no limit. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than BB lead or F steel and during gun deer seasons anyone taking nutria must display 400 square inches of "hunter orange" and wear a "hunter orange" cap or hat. Pelting or selling of carcasses is illegal except when taken by a licensed trapper during the trapping season. Trespass upon private property without consent for the purpose of taking nutria is punishable by fines and possible jail time (R.S. 56:265).

4. Blackbirds and Crows. The season for crows shall be September 1 through January 2 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans.

5. Pheasant. Closed.

6. Falconry. Special permit required. Resident and migratory game species except turkeys may be taken. Seasons and bag limits are the same as for statewide and WMA regulations except squirrels may be taken by licensed falconers until the last day of February. Refer to LAC 76:V.301 for specific Falconry Rules.

7. Licensed Hunting Preserve. October 1-April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve Rules.

8. Deer Management Assistance Program (DMAP). Land enrolled in the voluntary program will be assessed a

\$25 registration fee and \$0.05/acre fee. Deer management assistance tags must be in the possession of the hunter and attached and locked to antlerless deer (including those taken on either-sex days and those taken with bow or muzzleloader) through the hock in a manner that it cannot be removed before the deer is moved from the site of the kill. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. Refer to LAC 76:V.111 for specific DMAP Rules.

9. Farm Raised White-Tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

Exotics for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission (LWFC).

Supplemented Hunting Preserve for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is authorized in writing by the LDAF and LDWF to permit hunting.

White-Tailed Deer for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

b. Seasons

i. Farm-Raised White-Tailed Deer: Consult the regulations pamphlet.

ii. Exotics: year round.

c. Methods of Take

i. White-Tailed Deer: Same as outside.

ii. Exotics: Exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

d. Shooting Hours

i. White-Tailed Deer: Same as outside.

ii. Exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit

i. Farm-Raised White-Tailed Deer: Same as outside.

ii. Exotics: No limit.

f. Hunting Licenses

- i. White-Tailed Deer: Same as outside.
- ii. Exotics: No person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-Tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

D. Hunting General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. No person born on or after September 1, 1969 shall hunt with a firearm unless that person has first been issued a certificate of satisfactory completion of a firearm and hunter education course taught or approved by the Department of Wildlife and Fisheries. However, a person younger than 16 years of age may hunt without such certificate if he is accompanied by and is under the direct and immediate supervision of a person 18 years of age or older.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer or turkey. A separate wild turkey stamp is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of Taking Resident Game Birds and Quadrupeds

a. Use of a longbow (including compound bow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey and migratory game birds. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a muzzleloader rifle larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

b. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and

sunrise. With a special permit issued by the department, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a regional office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the department. This permit shall be valid for 30 days from the date of issuance. Contact the local regional office for details.

7. Threatened and Endangered Species. Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Unregulated Quadrupeds. Holders of a legal hunting license may take coyotes, unmarked hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to "chase only" during still hunting segments of the firearm and archery only season for deer. Foxes and bobcats are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

10. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with bow, muzzleloader and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. Sex Identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the state of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile

of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

E. General Deer Hunting Regulations

1. One antlered and one antlerless (when legal on private lands) deer per day except on Wildlife Management Areas, Federal Refuges and National Forest Lands where the daily limit shall be one deer per day. Six per season (all segments included) by all methods of take.

2. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically allowed.

3. Deer hunting restricted to legal bucks only, except where otherwise allowed.

4. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

5. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

6. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

7. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. Except in wildlife management areas, a leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

8. Areas not specifically designated as open are closed.

9. Muzzleloader Segment. (Special license and muzzleloader firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Muzzleloader license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except Area 5 and as specified on Public Areas. It is unlawful to carry a gun, other than a muzzleloader, including those powered by air or other means, while hunting during the special muzzleloader segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Muzzleloader Firearms For Special Season. Rifles or pistols, .44 caliber minimum, or shotguns

10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

10. Archery Segment. Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Residents 60 years of age and older may use a crossbow without a special permit or license. Either sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, archer's must conform to the bucks only regulations. Either sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and Arrow Regulations. Hunting arrows for deer must have well-sharpened metal broadhead blades not less than 7/8 inch in width. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only.

(b). to have in possession or use any poisoned or drugged arrow, arrows with explosive tips, or any bow drawn, held or released by mechanical means except that hand held releases are lawful.

(c). to hunt deer with a bow having a pull less than 30 pounds.

(d). to hunt with a bow or crossbow fitted with an infrared or laser sight.

11. Hunter Orange. Any person hunting deer shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" during the open deer gun season including muzzleloader season. Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange."

12. Special Handicapped Either-Sex Deer Season on Private Land. See regulations pamphlet for dates. Restricted to individuals with Physically Challenged Hunter Permit.

13. Special Youth Deer Hunt. See regulations pamphlet for dates. Youth must be under the age of 16, must have proof of successfully completing a department-approved hunter safety course, and must be accompanied by an adult licensed to hunt big game.

F. Description of Areas

1. Area 1

a. All of the following parishes are open: East Feliciana, St. Helena, Concordia, Franklin, Tensas, East Baton Rouge, Madison, Washington.

b. Portions of the following parishes are also open.

i. CatahoulaCAll except that portion lying west of Boeuf River from Caldwell parish line to Ouachita River, north and east of Ouachita River to La. 559 at Duty Ferry, west of La. 559 to La. 124. North and west of La. 124 westward to LaSalle parish line.

ii. GrantCEast of U.S. 165 and south of La. 8.

iii. LaSalleCPortion south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to La. 124. South of La. 124 eastward to Catahoula Parish line.

iv. LivingstonCNorth of I-12.

v. RapidesCEast of U.S. 165 and north of Red River.

vi. St. TammanyCAll except that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

vii. TangipahoaCNorth of I-12.

viii. West FelicianaCAll except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes.

i. CatahoulaCSouth of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to La. 8 at Harrisonburg, west of La. 8 to La. 913, west of La. 913 and La. 15 to Deer Creek.

ii. East Feliciana and East Baton RougeCEast of Thompson Creek from the Mississippi state line to La. 10. North of La. 10 from Thompson Creek to La. 67 at Clinton, west of La. 67 from Clinton to Mississippi state line. South of Mississippi state line from La. 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of La. 67 from La. 64 north to Parish Line, south of Parish Line from La. 64 eastward to Amite River. West of Amite River southward to La. 64, north of La. 64 to La. 37 at Magnolia, east of La. 37 northward to La. 64 at Indian Mound, north of La. 64 from Indian Mound to La. 67. Also, that portion of East Feliciana Parish east of La. 67 from parish line north to La. 959, south of La. 959 east to La. 63, west of La. 63 to Amite River, west of Amite River, southward to parish line, north of parish line westward to La. 67.

iii. FranklinCAll

iv. St. HelenaCNorth of La. 16 from Tickfaw River at Montpelier westward to La. 449, east and south of La. 449 from La. 16 at Pine Grove northward to La. 1045, south of La. 1045 from its junction with La. 449 eastward to the Tickfaw River, west of the Tickfaw River from La. 1045 southward to La. 16 at Montpelier.

v. TangipahoaCThat portion of Tangipahoa Parish north of La. 10 from the Tchefuncte River to La. 1061

at Wilmer, east of La. 1061 to La. 440 at Bolivar, south of La. 440 to the Tchefuncte River, west of the Tchefuncte River from La. 440 southward to La. 10.

vi. Washington and St. TammanyCEast of La. 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from La. 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to La. 21. Also, that portion of Washington Parish west of La. 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany parish line to the Tangipahoa parish line, east of the Tangipahoa parish line to the Mississippi state line, south of the Mississippi state line to its junction with La. 25.

vii. West FelicianaCWest of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of U.S. 61 and La. 966, east of La. 966 from U.S. 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open.

i. Bienville, Jackson, Union, Bossier, Lincoln, Webster, Caddo, Natchitoches, Winn, Claiborne, Red River, DeSoto, Sabine, Caldwell.

ii. except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open.

i. AllenCNorth of U.S. 190 from the parish line westward to Kinder, east of U.S. 165 from Kinder northward to La. 10 at Oakdale, north of La. 10 from Oakdale, westward to the parish line.

ii. AvoyellesCThat portion west of I-49.

iii. CatahoulaCThat portion lying west of Boeuf River from Caldwell parish line to Ouachita River, north and east of Ouachita River to La. 559 at Duty Ferry. West of La. 559 to La. 124. North and west of La. 124 westward to LaSalle parish line.

iv. EvangelineCAll except the following portions: east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte, and north of U.S. 167 east of Ville Platte.

v. GrantCAll except that portion south of La. 8 and east of U.S. 165.

vi. Jefferson Davis CNorth of U.S. 190.

vii. LaSalleCAll except south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to La. 124. South of La. 124 eastward to Catahoula parish line.

viii. MorehouseCWest of U.S. 165 (from Arkansas state line) to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to

Bastrop, west of La. 139 to junction of La. 593, west and south of La. 593 to Collinston, west of La. 138 to junction of La. 134 and north of La. 134 to Ouachita line at Wham Brake.

ix. OuachitaCAll except south of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Brake.

x. RapidesCAll except north of Red River and east of U.S. 165. South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill, and north of La. 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and U.S. 167 to junction of U.S. 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.

xi. VernonCNorth of La. 10 from the parish line westward to La. 113, south of La. 113 eastward to the parish line. Also the portion north of La. 465, west of La. 117 from Kurthwood to Leesville, and north of La. 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes.

i. Claiborne and WebsterCCaney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).

ii. OuachitaCEast of Ouachita River.

iii. RapidesCWest of U.S. 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to U.S. 165, east of U.S. 165 northward to U.S. 167 at Alexandria. North of La. 465 from Vernon Parish line to La. 121, west of La. 121 to I-49, west of I-49 to La. 8, south and east of La. 8 to La. 118 (Mora Road), south and west of La. 118 to Natchitoches Parish line.

iv. VernonCEast of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to La. 465, east and north of La. 465 to Rapides Parish line.

3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open.

i. AllenCSouth of U.S. 190 and west of La. 113.

ii. BeauregardCWest of La. 113. ALSO east of La. 27 from the parish line north to DeRidder and north of U.S. 190 westward from DeRidder to Texas line.

iii. CalcasieuCSouth of U.S. 90. Also east of La. 27 from Sulphur northward to the parish line.

iv. IberiaCWest of U.S. 90 and north of La. 14.

v. Jefferson Davis CAll except north of U.S. 190.

vi. LafayetteCWest of I-49 and U.S. 90.

vii. RapidesCSouth of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill and north of La. 113 from Union Hill to Vernon Parish line.

viii. St. LandryCWest of U.S. 167.

ix. VernonCWest and north of La. 113, south of La. 465, east of La. 117 from Kurthwood to Leesville, and south of La. 8 from Leesville to Texas state line.

4. Area 4

a. All of East Carroll and Richland parishes are open.

b. Portions of the following parishes are open.

i. MorehouseCEast of U.S. 165 (from Arkansas state line) to Bonita, south and east of La. 140 to junction of La. 830-4 (Cooper Lake Road), east of La. 830-4 to Bastrop, east of La. 139 at Bastrop to junction of La. 593, east and north of La. 593 to Collinston, east of La. 138 to junction of La. 134 and south of La. 134 to Ouachita line at Wham Brake.

ii. OuachitaCSouth of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Bake.

5. Area 5

a. All of West Carroll Parish is open.

i. All deer hunting with firearms is for bucks only including muzzleloader season.

6. Area 6

a. All of Orleans Parish is closed to all forms of deer hunting.

b. All of the following parishes are open: Ascension, Plaquemines, St. John, Assumption, Pointe Coupee, St. Martin, Iberville, St. Bernard, Jefferson, St. Charles, Lafourche, St. James, West Baton Rouge.

c. Portions of the following parishes are also open.

i. AvoyellesCAll except that portion west of I-49.

ii. EvangelineCThat portion east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte and north of U.S. 167 east of Ville Platte.

iii. IberiaCEast of U.S. 90.

iv. LafayetteCEast of I-49 and U.S. 90.

v. LivingstonCSouth of I-12.

vi. RapidesCSouth of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

vii. St. LandryCEast of U.S. 167.

viii. St. MaryCNorth of U.S. 90.

ix. St. TammanyCThat portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

x. TangipahoaCSouth of I-12.

xi. TerrebonneCNorth of La. 182 from Assumption Parish line eastward to Houma, east of Houma Navigation Canal southward to the Gulf of Mexico.

xii. West FelicianaCWest of Mississippi River, known as Raccourci and Turnbull Islands.

d. Still hunting only in all or portions of the following parishes.

i. AvoyellesCNorth of La. 1 from Simmesport westward to La. 115 at Marksville, east of La. 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to La. 1 at Simmesport.

ii. PlaqueminesCEast of the Mississippi River.

iii. RapidesCSouth of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

iv. St. Bernard - All of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.

v. St. JohnCSouth of Pass Manchac from Lake Pontchartrain to U.S. 51, east of U.S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U.S.

51 to Lake Pontchartrain. West of Lake Pontchartrain from La. 638 to Pass Manchac.

vi. St. Landry C Those lands surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10, and south by La. 103.

7. Area 7

a. Portions of the following parishes are open.

i. Iberia and St. Mary Parishes - South of La. 14 and west U.S. Hwy. 90.

ii. Terrebonne C South of La. 182 from Assumption Parish line eastward to Houma, west of Houma Navigation Canal southward to the Gulf of Mexico.

8. Area 8

a. Portions of the following parishes are open.

i. Allen C That portion east of La. 113 from the parish line to U.S. 190, north of U.S. 190 eastward to Kinder, west of U.S. 165 northward to La. 10 at Oakdale and south of La. 10 from Oakdale eastward to parish line;

ii. Vernon C That portion east of La. 113 from the parish line northward to Pitkin, and south of La. 10 from Pitkin southward to the parish line;

iii. Beauregard C That portion lying east of La. 113. Also that portion west of La. 27 from parish line northward to DeRidder, south of U.S. 190 from DeRidder to Texas state line;

iv. Calcasieu C That portion lying east of La. 27 from the parish line southward to Sulphur and north of U.S. 90 from Sulphur to the Texas state line.

G Wildlife Management Area Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. Wildlife management area seasons may be altered or closed anytime by the Department Secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 3:00 a.m. unless otherwise specified. On days when Daily permits are required, permit stations will open 2 hours before legal shooting hours. Hunters must check out and exit the WMA no later than two hours after sunset, except for Lake Boeuf, Salvador/Timken and Pointe-aux-Chenes or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt deer according to the regular season dates applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF regional office for additional information.

f. Dumping garbage or trash on WMAs except in designated locations is prohibited.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Commercial activities prohibited without prior approval or unless otherwise specified.

i. Damage to or removal of trees, shrubs, hard mast (acorn, pecans, etc.) and wild plants is prohibited without prior approval. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to five gallons per person per day. Persons engaged in commercial activities must obtain a permit from the Region Office.

j. Burning of marshes is prohibited except by permit. Permits may be obtained from the Fur and Refuge Division.

k. Nature trails. Access to trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

l. Deer seasons are for legal buck deer unless otherwise specified.

m. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

n. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and State Seed Grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

2. Permits

a. Daily. Daily permits when required shall be obtained at permit stations on or near each WMA after first presenting a valid hunting license to a department employee. Hunters must retain permit in possession while hunting. Hunters may enter the area no earlier than two hours before legal shooting time unless otherwise specified. Hunters must checkout daily and exit the area not later than two hours after sunset unless otherwise specified.

b. Self Clearing Permits. A Self-Clearing Permit is required for all activities (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise specified. The Self-Clearing Permit will consist of three portions: check in, check out and a Vehicle Tag. On WMAs where Self-Clearing Permits are required, all persons must obtain a WMA Self-Clearing Permit from an Information Station. The check in portion must be completed and put in a permit box before each day's activity on the day of the activity. the check out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a camp. each person must leave the Vehicle Tag portion of his permit on the dashboard of the vehicle used to enter into the WMA in such a way that it can be easily read from outside of the vehicle. This must be done only when the vehicle is parked and left unattended on the WMA. In an ATV, boat or other type vehicle was used to enter the WMA, then the vehicle tag must be attached to that vehicle in such a manner that it can be readily seen and read. When Mandatory Deer Checks are specified on WMAs, hunters must check deer at a check station. Call the appropriate Region office for the location of

the deer check station on these WMAs. (Self-Clearing Permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

c. Wild Louisiana Stamp. Persons using WMAs or other department administered lands for purposes other than hunting and fishing, such as camping, shooting on rifle ranges, berry picking, hiking, photography, bird-watching and the like, must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement.

3. Special Seasons

a. Youth Deer Hunt. Only youths younger than 16 years of age may hunt. All other seasons are closed except Handicapped Seasons. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of a hunter safety certification, a valid Louisiana hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Contact the appropriate region office for special check station locations when daily permits are required and maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

b. Handicapped Season. For hunters possessing a Physically Challenged Hunter Permit only. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Handicapped Seasons. Pointe-aux-Chenes will have an experimental Lottery Handicapped waterfowl hunt. Contact New Iberia Office, Fur and Refuge Division for details.

c. Deer Lottery Hunts. Hunts restricted to those persons selected as a result of the pre-application lottery. Consult the regulations pamphlet for deadlines. A non-refundable application fee must be sent with application. Contact region offices for applications. Consult regulations pamphlet for WMAs offering lottery hunts.

d. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at Self Clearing station. Contact Region Offices for more details. Consult separate Turkey Hunting Regulations pamphlet for WMAs offering lottery hunts.

e. Trapping. Permits to take fur bearers from WMAs may be obtained at appropriate offices when required. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. On WMAs where permits are required, each trapper must submit an annual trapping report to the Region Office where his permit was obtained. Non-compliance will result in forfeiture of trapping privileges on the WMAs. Permits may be obtained only between hours of 8 a.m. to 4:30 p.m.

on normal working days at region offices. Hunter orange required when a deer gun season is in progress. A permit is required to carry a firearm outside of the normal hunting season and is available at the Region Office.

f. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. Nighttime Experimental Season dates for specific WMAs are for nighttime raccoon hunting and permits may be required. There is no bag limit for raccoons at night unless specified in the annual regulations pamphlet. Raccoon hunters with dogs must submit an annual report of their kill to the region office for WMAs where permits are required. Non-compliance will result in forfeiture of raccoon or all hunting privileges on WMAs. Permits, when required, may be obtained at region offices only between hours of 8 a.m. to 4:30 p.m. on normal working days.

g. Commercial Fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines allowed on Dewey Wills WMA north of La. 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

h. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

i. Additional Department Lands. The department manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Rapides, Vernon, Evangeline, St. Helena and other parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate Wildlife and Fisheries Region Office for specific information and any additional season dates.

4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under Wildlife Management Area listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season.

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails or their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On Wildlife Management Areas, Federal Refuges and National Forest Lands the daily limit shall be one deer per day, six per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included). Unmarked hogs may be taken on some WMAs by properly licensed hunters from the beginning of archery season on the area until February 28 and only with guns/ammunition or bow and arrow legal for specified seasons in progress. Consult the specific WMA for additional information. Proper licenses and permits are required for hunting.

d. Hunters who kill deer on WMAs that require daily permits must have deer checked at the check station on same day of kill.

e. Deer hunting on WMAs is restricted to still hunting only. No WMA will be open for deer during early still hunt season unless specified in the regulation pamphlet.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed.

g. On Wildlife Management Areas and Refuges, all deer stands must be removed from the area no later than two hours after the end of legal shooting hours each day. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

h. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal, poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. All decoys must be removed from the WMA daily.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the department. This action is necessary to prevent preemption of hunting space.

l. Hunters shall not hunt, take or pursue birds or animals from moving vehicles on any WMA. No person shall take birds or animals from or by any motor boat or sail boat unless the motor has been completely shut off and/or the sail furled and its progress therefrom has ceased.

m. Spot lighting (shining) from vehicles is prohibited on all WMAs.

n. Horses and mules may be ridden on Wildlife Managements Areas except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified.

o. All hunters except waterfowl hunters and dove hunters (including archers and small game hunters) on WMAs must display 400 square inches of "hunter orange" and wear a "hunter orange" cap during open gun season for deer. Quail hunters, woodcock hunters and archers (while on the ground) as well as hunters participating in special dog seasons for rabbit and squirrel are required to wear a minimum of a "hunter orange" cap. Also all persons afield during hunting seasons are encouraged to display "hunter orange".

p. Archery Season for Deer. The archery season on WMAs is the same as outside and is open for either sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or handicapped hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Muzzleloader Season for Deer. See WMA deer schedule.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16-day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to Department-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed 16 consecutive days. Permits are required for the mooring of houseboats on Pass-a-Loutre and Atchafalaya

Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by State and Federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

7. Restricted Areas

a. All oil and gas production facilities (wells, dumping stations and storage facilities) are off limits.

b. No unauthorized entry or hunting in restricted areas or refuges.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting and bird dog training when allowed. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight 750 pounds, length 85 inches, and width 48 inches. ATV tires are restricted to those no larger than 25 x 12 with a maximum lynch lug height and a maximum allowable tire pressure of 7 psi. as indicated on the tire by the manufacturer.

b. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

c. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within wildlife management areas due to property damages

resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

d. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

e. Airboats, aircraft, personal water craft and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA.

f. No internal combustion engines allowed in certain Greentree reservoirs.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Motorized vehicles, including ATVs, and motorcycles, are restricted entirely to designated roads and ATV trails as indicated on WMA maps. WMA maps available at all region offices. This restriction does not apply to bicycles.

j. Use of special ATV trails for handicapped persons is restricted to special ATV handicapped permittees. Handicapped ATV permittees are restricted to handicapped ATV trails or other ATV trails only as indicated on WMA maps. Persons 60 years of age and older, with proof of age, are also allowed to use special handicapped trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Handicapped persons should make application for a Physically Challenged Hunter Program Permit with the department.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to handicapped-only ATV trails will be marked with blue colored paint. Routes of all trails are as indicated on WMA maps. Deviation from the trails indicated on the map constitutes a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 3 a.m. ATVs are prohibited from March 1 through August 31. except certain trails may be open during this time period to provide access for fishing or other purpose. These trails will be marked by signs at the entrance of the trail and designated on WMA maps. Raccoon hunters may use ATVs during nighttime raccoon take seasons only.

n. Caution: Many department-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

10. Commercial Activities. Hunting Guides/Outfitters: No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any Wildlife Management Area,

regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

11. Wildlife Management Areas Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, dove, woodcock, snipe, rail and gallinule). Consult regulations pamphlet.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet.

14. Archery. Consult regulations pamphlet.

15. Hogs. Consult regulations pamphlet.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet.

17. Wildlife Management Areas Hunting Schedule and Regulations

a. Alexander State Forest. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas.

b. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the Department of Wildlife and Fisheries at any time. ATVs, ATCs and motorcycles prohibited.

c. Attakapas. Free-ranging livestock prohibited.

d. Bayou Macon. All night activities prohibited except as otherwise provided. Mules are allowed for nighttime raccoon hunting.

e. Bayou Pierre

f. Bens Creek

g. Big Colewa Bayou. All nighttime activities prohibited.

h. Big Lake. Free-ranging livestock prohibited.

i. Biloxi

j. Bodcau

k. Boeuf. Free-ranging livestock prohibited.

l. Boise-Vernon

m. Buckhorn. Free-ranging livestock prohibited.

n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self Clearing Permit required once per year. Free-ranging livestock prohibited. All game harvested must be reported. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details.

o. Dewey W. Wills. Crawfish: 100 pounds per person per day.

p. Elm Hall. No ATVs allowed.

q. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self Clearing Permit required once per year. Special regulations apply to ATV users.

r. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. Free-ranging livestock prohibited. No hunting in restricted area.

s. Jackson-Bienville. ATVs are allowed on non-public maintained gravel roads and timber management woods, roads and trails.

t. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.

u. Lake Boeuf

v. Lake Ramsay. Foot traffic only - all vehicles restricted to Parish Roads.

w. Little River

x. Loggy Bayou

y. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.

z. Ouachita. Waterfowl Refuge: North of La. Hwy. 15 closed to all hunting, fishing and trapping during duck season including early teal season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided.

aa. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the Department Pass-a-Loutre WMA map. ATVs, ATCs and motorcycles prohibited on this area. Oyster harvesting is prohibited.

bb. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting will be closed when the river stage at Pearl River reaches 16.5 feet except waterfowl hunting south of Hwy. 90. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open noon until 4 p.m. Friday, and 8 a.m. to 4:30 p.m. Saturday and Sunday with a fee.

cc. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self Clearing Permit required once per year. Special federal regulations apply to ATV users.

dd. Plum Creek (Formerly Georgia-Pacific). Except as otherwise provided, all nighttime activities prohibited.

ee. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for dove hunting and experimental youth deer hunt as specified in regulation pamphlet. Point Farm: Gate will be open during each Saturday of the second split of dove season and all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational

purposes only and any commercial use is prohibited. Mudboats or vessels with engines larger than 25 h.p. prohibited in the Montegut and Grand Bayou marsh management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue. Vehicles prohibited on Point Farm properties unless authorized by the department. ATVs, ATCs and motorcycles prohibited on this area.

ff. Pomme de Terre. Commercial Fishing: permitted Monday through Friday, except closed during duck season. Commercial Fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside except allowed after 2 p.m. only during waterfowl season. Crawfish: April 1 - July 31, recreational only, 100 lbs. per boat or group daily. Free-ranging livestock prohibited.

gg. Red River. Free-ranging livestock prohibited. Crawfishing prohibited on Wetland Restoration Areas.

hh. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided.

NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. Waterfowl hunting after 2 p.m. prohibited. All vehicles including ATVs prohibited.

ii. Sabine

jj. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

kk. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 hp are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes - "Baie Des Chactas" and Baie du Cabanage" and the Rathborne Access ditch. Operation of the above described internal combustion engines in interior ditches is prohibited except by experimental permit to be obtained from the New Orleans Office, Fur and Refuge Division, Room 217. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. Special Use Permits may be issued for persons interested in clearing existing ditches (trenasses). Permits will be considered on a

case-by-case basis. Contact Pointe-aux-Chenes. ATVs, ATCs and motorcycles prohibited on this area.

ll. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Organized trail rides prohibited. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. No motorized vehicles allowed off designated roads. Free-ranging livestock prohibited.

mm. Sherburne. Crawfishing: Recreational crawfishing only on the North and South Farm Complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing allowed on the remainder of the area. Permit is required. Free-ranging livestock prohibited. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. Vehicular traffic prohibited on east Atchafalaya River levee within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne Wildlife Management Area will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

nn. Sicily Island Hills. Firearms and any game harvested cannot be transported through the area except during the corresponding open season on area. Free-ranging livestock prohibited.

oo. Soda Lake. No motorized vehicles allowed. All trapping and hunting prohibited except archery hunting for deer.

pp. Spring Bayou. Commercial Fishing: permitted Monday through Friday except slat traps and hoop nets permitted any day. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this camp site. Water skiing allowed only in Old River and Grand Lac.

qq. Thistlethwaite. No hunting or trapping in restricted area (See WMA Map). All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas.

rr. Three Rivers. Free-ranging livestock prohibited in area.

ss. Tunica Hills. All vehicles restricted to Parish roads. ATVs restricted to designated trails. Driving on food plots prohibited. Access to restricted areas is unauthorized. Refer to WMA map. Camping prohibited on area. North of Hwy. 66 (Angola Tract) closed to the general public March 1-September 30 except spring turkey hunting access allowed for those individuals drawn for special lottery hunt.

tt. Union. All nighttime activities prohibited except as otherwise provided.

uu. West Bay. Road Travel and Hunting Restrictions: All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. Hunting prohibited on roads designated for motorized vehicular travel.

vv. Wisner

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:

Family Impact Statement

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).

Public hearings will be held at the following locations: Region 1C March 19, 6:30 p.m., Minden Civic Center, Minden, Louisiana; Region 2C March 18, 7 p.m., Ruston Civic Center, Ruston, Louisiana; Region 3C March 19, 7 p.m., Alexandria Convention Center, Alexandria, Louisiana; Region 4C March 12, 7 p.m., Concordia Parish Community Center, Ferriday, Louisiana; Region 5C March 20, 7 p.m., Burton Coliseum, Chalkley Room, Lake Charles, Louisiana; Region 6C March 14, 7 p.m., East Houma Bingo Hall, Houma, Louisiana; Region 7C March 14, 7 p.m., Elmer E. Lyons Auditorium, Covington High School, Covington, Louisiana. Also comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings from April through July. Interested persons may submit written comments relative to the proposed rule until Tuesday, May 7, 2002 to Tommy Prickett, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: General and WMA Hunting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule amends permanent rules and regulations for the state at large as well as Wildlife Management Areas. Establishment of hunting regulations is an annual process. The cost of implementing the proposed rules, aside from staff time, is the production of the regulation pamphlet. Cost of printing the 2001-2002 state hunting pamphlet was \$14,163 and no major increase in expenditures is anticipated. Local government units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State hunting license fee collections are between \$8 million and \$9 million annually. Additionally, hunting and related activities generate approximately \$25 million in state sales tax, \$5.6 million in state income tax and \$24 million in local sales tax revenues annually (Southwick and Assoc., 1997). Failure to

adopt rule changes would result in no hunting season being established and a potential loss of some of these revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Over 400,000 hunters and numerous businesses that provide goods and services to hunters are directly affected by this proposal. Hunting in Louisiana generates in excess of \$596,000,000 annually through the sale of outdoor related equipment, associated items and trip-related expenditures (Southwick and Assoc., 1997). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of commerce revenues associated with these activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting in Louisiana provides 15,271 jobs (Southwick and Assoc., 1997). Not establishing hunting seasons might have a negative and direct impact on these jobs.

James L. Patton
Undersecretary
0203#034

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Resident Game Hunting Season C2002-2003
(LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

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.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§101. General

A. The Resident Game Hunting Season, 2002-2003 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:

§103. Resident Game Birds and Animals 2002-2003

A. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	Nov. 16-Feb. 28	10	20
Rabbit	Oct. 5-Feb. 28	8	16
Squirrel	Oct. 5-Feb. 9	8	16
Deer	See Schedule	1 antlered and 1 antlerless (when legal on private lands)	6/season (Only 2 may be legal bucks)

C. Deer Hunting Schedule

Area	Archery	Muzzleloader (All Either Sex)	Still Hunt (No Dogs Allowed)	With or Without Dogs
1	Oct. 1-Jan. 31	Nov. 16-Nov. 22 Jan. 18-Jan. 26	Nov. 23-Dec. 6 Jan. 6-Jan. 17	Dec. 7-Jan. 5
2	Oct. 1-Jan. 31	Oct. 26-Nov. 1 Jan. 11-Jan. 19	Nov. 2-Dec. 6	Dec. 7-Jan. 10
3	Sept. 14-Jan. 15	Oct. 5-Oct. 11 Dec. 2-Dec. 6	Oct. 12-Dec. 1 Dec. 7-Jan. 1	
4	Oct. 1-Jan. 31	Nov. 9-Nov. 15 Jan. 11-Jan. 19	Nov. 16-Jan. 10	
5	Oct. 1-Jan. 31	Nov. 16-Nov. 22 Jan. 11-Jan. 19 Bucks Only	Nov. 23-Dec. 1	
6	Nov. 1-Feb. 2	Dec. 9-Dec. 20	Nov. 23-Dec. 8	Dec. 21-Feb. 2
7	Oct. 1-Jan. 31	Oct. 12-Oct. 18 Nov. 9-Nov. 15	Oct. 19-Nov. 8 Nov. 16-Dec. 1	Dec. 2-Jan. 1
8	Sept. 14-Jan. 15	Oct. 5-Oct. 11 Dec. 2-Dec. 6	Oct. 12-Dec. 1	Dec. 7-Jan. 1

D. Modern Firearm Schedule (Either Sex Seasons)

Parish	Modern Firearm Either-Sex Days
Acadia	Oct. 12-13, 19-20, 26-27, Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1
Allen	Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
	Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
Ascension	Nov. 23-24, 27-30, Dec. 1, 21-22
Assumption	Nov. 23-24, 27-30, Dec. 1, 21-22
Avoyelles	Area 2: Nov. 2-3, 23-24, 29-30, Dec. 1, 7-8
	Area 6: Nov. 23-24, 29-30, Dec. 1, 21-22
Beauregard	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
	Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
Bienville	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
Bossier	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
Caddo	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
Calcasieu	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
	Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
Caldwell	Nov. 2-3, 23-24, 29-30, Dec. 1, 7-8
Cameron	Oct. 12-13, 19-20, 26-27, Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1
Catahoula	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8
	Area 2: Nov. 2-3, 23-24, 29-30, Dec. 1, 7-8
Claiborne	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
Concordia	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15, 21-22
DeSoto	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
East Baton Rouge	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
East Carroll	Nov. 16-17, 23-24, 29-30, Dec. 1, 7-8, 14-15, 21-22, East of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison parish line. Nov. 16-17, 29-30, Dec. 1 the remainder of the parish.
East Feliciana	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Evangeline	Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
	Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
Franklin	Nov. 23-24, 27-30, Dec. 1
Grant	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8
	Area 2: Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8

Parish	Modern Firearm Either-Sex Days
Iberia	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
	Area 6: Nov. 23-24, 27-30 Dec. 1, 21-22, 28-29
	Area 7: Oct. 19-20, Nov. 16-17, 23-24, 29-30, Dec. 1, 7-8
Iberville	Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
Jackson	Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
Jefferson	Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
Jefferson Davis	Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
Lafayette	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-24, 29-30, Dec. 1
	Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
Lafourche	Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
LaSalle	Area 1: Nov. 23-24, 29-30, Dec. 1, 7-8
	Area 2: Nov. 2-3, 23-24, 29-30, Dec. 1, 7-8
Lincoln	Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
Livingston	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
	Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
Madison	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15, 21-22
Morehouse	Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
	Area 4: Nov. 16-17, 29-30, Dec. 1
Natchitoches	Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8
Orleans	Closed to all deer hunting
Ouachita	Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
	Area 4: Nov. 16-17, 29-30, Dec. 1
Plaquemines	Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
Pointe Coupee	Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
Rapides	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8
	Area 2: Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8
	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 29-30, Dec. 1, 7-8
	Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22
Red River	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
Richland	Nov. 16-17, 29-30, Dec. 1
Sabine	Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8
St. Bernard	Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
St. Charles	Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
St. Helena	Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
St. James	Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
St. John	Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
St. Landry	Area 3: Oct. 12-13, Nov. 29-30, Dec. 1, 7-8
	Area 6: Nov. 23-24, 29-30, Dec. 1, 21-22
St. Martin	Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
St. Mary	Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
	Area 7: Oct. 19-20, Nov. 16-17, 23-24, 29-30, Dec. 1, 7-8
St. Tammany	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
	Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
Tangipahoa	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
	Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
Tensas	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15, 21-22
Terrebonne	Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
	Area 7: Oct. 19-20, Nov. 16-17, 23-24, 29-30, Dec. 1, 7-8
Union	Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
Vermillion	Oct. 12-13, 19-20, 26-27, Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1
	Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
Vernon	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
	Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
	Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
Washington	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Webster	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
West Baton Rouge	Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29
West Carroll	Closed
West Feliciana	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Winn	Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8

E. Farm Raised White-tailed Deer on Supplemented Shooting Preserves

Archery	Modern Firearm	Either Sex
Oct. 1-Jan. 31 (Either Sex)	Nov. 1-Jan. 31	Nov. 1-7 Dec. 1-7 Jan. 1-7

F. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), amended LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:

Family Impact Statement

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.

Public hearings will be held at the following locations: Region 1C March 19, 6:30 p.m., Minden Civic Center, Minden, Louisiana; Region 2C March 18, 7 p.m., Ruston Civic Center, Ruston, Louisiana; Region 3C March 19, 7 p.m., Alexandria Convention Center, Alexandria, Louisiana; Region 4C March 12, 7 p.m., Concordia Parish Community Center, Ferriday, Louisiana; Region 5C March 20, 7 p.m., Burton Coliseum, Chalkley Room, Lake Charles, Louisiana; Region 6C March 14, 7 p.m., East Houma Bingo Hall, Houma, Louisiana; Region 7C March 14, 7 p.m., Elmer E. Lyons Auditorium, Covington High School, Covington, Louisiana. Also comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings from April through July. Interested persons may submit written comments relative to the proposed rule until Tuesday, May 7, 2002 to Tommy Prickett, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Resident Game Hunting Season C 2002-2003

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of hunting regulations is an annual process. The cost of implementing the proposed rules, aside from staff time, is the production of the regulation pamphlet. Cost of printing the 2001-2002 state hunting pamphlet was \$14,163 and no major increase in expenditures is anticipated. Local government units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State hunting license fee collections are between \$8 million and \$9 million annually. Additionally, hunting and related activities generate approximately \$25 million in state sales tax, \$5.6 million in state income tax and \$24 million in local sales tax revenues annually (Southwick and Assoc., 1997). Failure to adopt rule changes would result in no hunting season being established and a potential loss of some of these revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Over 400,000 hunters and numerous businesses that provide goods and services to hunters are directly affected by this proposal. Hunting in Louisiana generates in excess of \$596,000,000 annually through the sale of outdoor related equipment, associated items and trip-related expenditures (Southwick and Assoc., 1997). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of commerce revenues associated with these activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting in Louisiana provides 15,271 jobs (Southwick and Assoc., 1997). Not establishing hunting seasons might have a negative and direct impact on these jobs.

James L. Patton
Undersecretary
0203#036

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Insurance Office of the Commissioner

Bulletin #01-03
February 26, 2002

To: All Admitted Insurance Companies, Licensees and Interested Parties
Re: Electronic Signatures

This Bulletin is to notify all persons and entities licensed or authorized to transact business in the State of Louisiana of authorization to use electronic signatures in transacting the business of insurance. Act No. 244 of the 2001 Louisiana Legislative Session, effective July 1, 2001, enacts the Uniform Electronic Transactions Act, which provides for the use of electronic signatures. Prior to Act No. 244, Act No. 1304 of the 1999 Louisiana Legislative Session, effective July 12, 1999, authorized the use of electronic signatures, subject to the commissioner of insurance promulgating a rule to regulate the use of electronic signatures. Because Act No. 244 governs the use of electronic signatures, it prescribes the necessary guidelines and limitations; therefore, no rule will be promulgated by the commissioner of insurance.

For the purposes of this Bulletin, the following terms are defined pursuant to Act 244 (R.S. 9:2602) as follows:

Electronic Signature Can electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Electronic Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

Person Can individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

Record Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Act. No. 244 (R.S. 9:2601, et seq.) provides the necessary guidelines for insurers, agents, and other persons regulated by the Louisiana Department of Insurance to follow with respect to the use of electronic signatures in the business of insurance.

- The Act does not require a signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.
- The Act only applies to transactions between parties who have each consented to conduct transactions by electronic means.

- LSA-R.S. 9:2605 provides for use of electronic signatures and variation by agreement.
- LSA-R.S. 9:2607 provides for legal recognition of electronic signatures.
- LSA-R.S. 9:2609 provides for attribution and effect of electronic signatures.
- LSA-R.S. 9:2611 provides for notarization and acknowledgement by electronic signature.
- LSA-R.S. 9:2613 provides for the admissibility of an electronic signature into evidence in a proceeding.
- R.S. 9:2618 provides for acceptance and distribution of electronic records by governmental agencies in this state.

Please be guided accordingly.

J. Robert Wooley
Acting Commissioner

0203#088

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
Shores	Caddo Pine Island	S	Shores	1	990442
City of Shreveport	Shreveport	S	City of Shreveport	1	990443
City of Shreveport	Shreveport	S	City of Shreveport	2	990444
Bobbie J. Langston	Caddo Pine Island	S	H C Langston Et Al	3	053445
Bobbie J. Langston	Caddo Pine Island	S	H C Langston Et Al	4	057294
Bobbie J. Langston	Caddo Pine Island	S	H C Langston Et Al SWD	1	973013
Cecil Brand	Caddo Pine Island	S	Hemperly-Hitchcock N	11	165009
Cecil Brand	Caddo Pine Island	S	Hemperly-Hitchcock N	1	165951
Cecil Brand	Caddo Pine Island	S	Hemperly-Hitchcock N	9	187254
Cecil Brand	Caddo Pine Island	S	Hemperly-Hitchcock N	2	189212
Cecil Brand	Caddo Pine Island	S	Hemperly-Hitchcock N	3	190805

Cecil Brand	Caddo Pine Island	S	Hemperly-Hitchcock N	4	190847
Cecil Brand	Caddo Pine Island	S	Hemperly-Hitchcock N	10	191380
Cecil Brand	Caddo Pine Island	S	Hemperly-Hitchcock N	5	201986
Cecil Brand	Caddo Pine Island	S	Hemperly-Hitchcock N	6	201987
Cecil Brand	Caddo Pine Island	S	Hemperly-Hitchcock N	7	204854
Cecil Brand	Caddo Pine Island	S	Hemperly-Hitchcock N	8	204855
Eurovest Oil & Gas, Inc.	Serena	M	Serena SWD	1	970216
Eurovest Oil & Gas, Inc.	Serena	M	E 2 SUD; White	1	118087
Gulf States Petroleum Corp.	Patterson	L	DISC B 2 RB SUB; Martin	1	096962
Gulf States Petroleum Corp.	Patterson	L	Martin	1-D	098741
Harold Gauging Service, Inc.	St. Martinville	L	VUA; Conoco Fee Fournet D	5	034514
Harold Gauging Service, Inc.	St. Martinville	L	E Fournet SWD	2	056681
Harold Gauging Service, Inc.	St. Martinville	L	VUB; Elmer Fournet Conoco Fee E	4	067037
Harold Gauging Service, Inc.	St. Martinville	L	VUA; Cocono Fee Fournet D	7	088971
Harold Gauging Service, Inc.	St. Martinville	L	VUB; Elmer Fournet Conoco Fee E	5	176939
Harold Gauging Service, Inc.	St. Martinville	L	VUA; Conoco Fee Fournet D	8	180521
Harold Gauging Service, Inc.	St. Martinville	L	VUA; Conoco Fee Fournet D	9	186552
Harold Gauging Service, Inc.	St. Martinville	L	VUA; Conoco Fee Fournet D	10	192342
Harold Gauging Service, Inc.	St. Martinville	L	Elmer Fournet E	2	206322
Precio Energy, LLC	Leeville	L	GG RA SUA; SL 13604	1	212506
Northwest Oil & Gas	Caddo Pine Island	S	Kopecky	1	186247
Northwest Oil & Gas	Caddo Pine Island	S	Posey-Dowty	1	184566

Felix J. Bourdreaux
Commissioner

0203#089

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 16 claims in the amount of \$41,846.65 were received for payment during the period January 1, 2002 - February 28, 2002. There were 16 claims paid and 0 claims denied.

Loran Coordinates of reported underwater obstructions are:

26666	46978	Cameron
26839	46968	Cameron
28319	46829	Lafourche
28527	46855	Plaquemines
29041	47045	St Tammany

Latitude/Longitude Coordinates of reported underwater obstructions are:

2914.055	8923.505	Plaquemines
2915.003	9042.131	Terrebonne
2921.050	8946.070	Plaquemines
2923.067	9039.925	Terrebonne
2926.200	9033.900	Terrebonne
2930.575	9006.742	Jefferson
2930.664	9007.476	Jefferson
2940.010	9254.020	Cameron
2942.864	9304.435	Cameron
2945.751	9309.300	Cameron

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Jack C. Caldwell
Secretary

0203#085

POTPOURRI

Board of River Port Pilot Commissioners and Examiners Calcasieu River Waterway

Hearing Notice

Pursuant to the provisions of the Administrative Procedure Act, R.S. 49:953.A.(2)(a), notice is hereby given that the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, will conduct a public hearing, as requested by a significant number of interested persons, at 10:00 a.m., Wednesday, March 27, 2002, at the Board Room of the Lake Charles Harbor and Terminal District, 150 Marine Street, Lake Charles, Louisiana, 70601 with respect to the Board's Notice of Intent published in the February 20, 2002 Louisiana Register.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing.

James L. Robinson
Captain, USCG (Ret.)
Board Designee

0203#092

POTPOURRI

**Department of Social Services
Office of Community Services**

Opportunities for Public Review of Intended
Uses of Social Services Block Grant (SSBG)
Funds for the 2002-2003 FY

The Department of Social Services (DSS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the State Fiscal Year (SFY) beginning July 1, 2002, and ending June 30, 2003. The proposed FY 2002-2003 SSBG Intended Use Report has been developed in compliance with the requirements of Section 2004 of the Social Security Act, as amended, and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state allocation of SSBG funds. Section 2004 of the Social Security Act further requires that the SSBG pre-expenditure report shall be "made public within the State in such manner as to facilitate comment by any person." The Department of Social Services (DSS) as the designated State Services Agency will continue to administer programs funded under the Social Services Block Grant in accordance with applicable statutory requirements and federal regulations. The DSS/Office of Community Services (OCS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of federal SSBG funds. Estimated SSBG expenditures for SFY 2002-2003 total \$43,721,839.

Louisiana through the DSS Office of Community Services will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the Intended Use Report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for State Fiscal Year 2002-2003 are:

A. Adoption (pre-placement to termination of parental rights)

B. Child Protection (investigation of child abuse/neglect reports, assessment, evaluation, social work intervention, shelter care, counseling, referrals, and follow-up)

C. Day Care for Children (direct care for portion of the 24-hour day)

D. Family Services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups)

E. Foster Care/Residential Habilitation Services (foster, residential care, and treatment on a 24-hour basis)

Definitions for the proposed services are set forth in the Intended Use Report.

Persons eligible for SSBG funded services include:

A. Persons without regard to income, who are in need of Adoption Services, Child Protection, Family Services, and Foster Care/Residential Habilitation services.

B. Individuals without regard to income who are recipients of Title IV-E Adoption Assistance.

C. Recipients of Supplemental Security Income (SSI) and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients.

D. Low-income persons (income eligibles) whose gross monthly income is not more than 125% of the poverty level. A family of four with gross monthly income of not more than \$1885 would qualify as income eligible for services.

E. Persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as group eligibles.

The proposed SSBG intended Use Report for SFY 2002-2003 will be available for public review at OCS parish and regional offices Monday through Friday from 8:30 a.m. to 4 p.m. Copies are available without charge by telephone request to (225) 342-1553 or by writing the Assistant Secretary, Office of Community Services, Box 3318, Baton Rouge, LA 70821. Inquiries and comments on the proposed plan may be submitted until Friday, May 17, 2002, to the Assistant Secretary, OCS, at the above address.

A public hearing on the proposed SSBG Intended Use Report for State Fiscal Year 2002-2003 is scheduled for 10 a.m. on Thursday, April 11, 2002, at the Office of Community Services, Training Room 652, Commerce Building, 333 Laurel Street, Baton Rouge.

At the public hearing all interested persons will have the opportunity to provide recommendations on the proposed SSBG plan, orally or in writing. Written comments will be accepted through Friday, May 17, 2002.

Post expenditure reports for the SSBG program for State Fiscal Years 1999-2000 and 2000-2001 are included in the SSBG Intended Use Report for SFY 2002-2003 and are available for public review at the Office of Community Services, 333 Laurel Street, Room 646, Baton Rouge.

Gwendolyn P. Hamilton
Secretary

0203#086

POTPOURRI
Department of Social Services
Office of the Secretary
Bureau of Licensing

Meeting Schedule

The Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies will meet on the third Wednesday of each month beginning at 10:30 a.m. These meetings are open to the public and are held at the office of the Department of Social Services, Bureau of Licensing,

located at 2751 Wooddale Blvd, Suite 330, Baton Rouge LA 70806.

Gwendolyn Hamilton
Secretary

0203#087

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PPMCPolicy and Procedure Memoranda		
ERCEmergency Rule		
RCRule		
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