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Executive Orders

EXECUTIVE ORDER MJF 98-38

State Employee Drug Testing

WHEREAS, the Office of the Governor and the state of Louisiana have a long-standing commitment to working toward a drug-free Louisiana;

WHEREAS, the employees of the state of Louisiana are among the state's most valuable resources, and the physical and mental well-being of these employees is necessary for them to properly carry out their responsibilities;

WHEREAS, substance abuse causes serious adverse consequences to users, impacting on their productivity, health and safety, dependents, and co-workers, as well as the general public;

WHEREAS, to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees;

WHEREAS, Executive Order Number MJF 97-33, signed on August 29, 1997, created the Drug Testing Task Force for the purpose of recommending procedures for the implementation of four drug testing programs authorized, mandated and/or regulated by R.S. 49:1015, as amended by Act Number 1194 of the 1997 Regular Session of the Legislature, and by Act Nos. 1303 and 1459 of the 1997 Regular Session of the Legislature which direct state agencies to develop and implement drug testing programs for public employees, elected officials, beneficiaries of certain public assistance programs, and certain persons who receive anything of economic value from the state; and

WHEREAS, the report of the Drug Testing Task Force, issued on November 3, 1997, included the recommendation to consider whether to implement drug testing programs for state employees which test:

1. all prospective employees;
2. employees following an accident, when reasonable suspicion of the employee's drug involvement exists; and
3. employees, randomly, when those employees are in safety-sensitive or security-sensitive positions.

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

SECTION 1:

A. The fifteen (15) executive departments and all other agencies, boards, commissions, and entities of state government in the executive branch over which the governor has appointing authority or, as chief executive officer of the state, has general executive authority, which are not authorized by the Louisiana Constitution of 1974, as amended, or legislative act to manage and supervise their own system, (hereafter "executive agency") shall promulgate a written policy which mandates drug testing of employees, appointees, prospective employees, and prospective appointees, pursuant

to R.S. 49:1001, et seq., as set forth in this Order.

B. All executive departments which operate under the authority of another statewide elected official or which are authorized by the Louisiana Constitution of 1974, as amended, or legislative act to manage and supervise its own system, (hereafter "executive agency") are requested to promulgate a written policy which mandates drug testing of employees, appointees, prospective employees, and prospective appointees pursuant to R.S. 49:1001, et seq., as set forth in this Order.

SECTION 2:

A. The appointing authority of each executive agency shall duly promulgate a written policy in compliance with R.S. 49:1001, et seq., which *at a minimum* mandates drug testing of an employee or appointee (hereafter "employee") or a prospective employee or prospective appointee (hereafter "prospective employee") as follows:

1. When individualized, reasonable suspicion exists of an employee's drug use;
2. Following an accident that occurs during the course and scope of an employee's employment that:
 - a) involves circumstances leading to a reasonable suspicion of the employee's drug use,
 - b) results in a fatality, or
 - c) results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5);
3. Randomly, as a part of a monitoring program established by the executive agency to assure compliance with terms of a rehabilitation agreement;
4. Prior to hiring or appointing a prospective employee;
5. Prior to promoting an employee to a safety-sensitive or security-sensitive position or to a higher safety-sensitive or security-sensitive position; and
6. Randomly, for all employees in safety-sensitive or security-sensitive positions.

B. The appointing authority of each executive agency shall determine which positions within their agency, if any, are "safety-sensitive or security-sensitive positions," by considering statutory law, jurisprudence, the practices of the executive agency, and the following *non-exclusive list of examples* of safety-sensitive and/or security-sensitive positions:

1. Positions with duties that may require or authorize the safety inspection of a structure;
2. Positions with duties that may require or authorize access to a prison or an incarcerated individual;
3. Positions with duties that may require or authorize carrying a firearm;
4. Positions with duties that may allow access to controlled substances (drugs);
5. Positions with duties that may require or authorize inspecting, handling, or transporting hazardous waste as

defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5);

6. Positions with duties that may require or authorize any responsibility over power plant equipment;

7. Positions with duties that may require instructing or supervising any person to operate or maintain, or that may require or authorize operating or maintaining, any heavy equipment or machinery; and

8. Positions with duties that may require or authorize the operation or maintenance of a public vehicle, or the supervision of such an employee.

C. Prior to the appointing authority of an executive agency promulgating its drug testing policy regarding safety-sensitive and/or security-sensitive positions, the appointing authority shall consult with the Louisiana Department of Justice.

SECTION 3:

A. No drug testing of an employee or a prospective employee shall occur in the absence of a duly promulgated written policy which is in full compliance with the provisions of R.S. 49:1001, et seq.

B. Any employee drug testing program in existence on the effective date of this Order shall not be supplanted by the provisions of this Order, but shall be supplemented, where approximate, in accordance with the provisions of this Order and R.S. 49:1001, et seq.

SECTION 4: All information, interviews, reports, statements, memoranda, and/or test results received by the executive agency through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

SECTION 5:

A. Pursuant to R.S. 49:1011, an executive agency may, but is not required to, afford an employee whose drug test result is certified positive by the medical review officer, the opportunity to undergo rehabilitation without termination of employment.

B. Pursuant to R.S. 49:1008, if a prospective employee tests positive for the presence of drugs in the initial drug screening, the positive drug test result shall be the cause of the prospective employee's elimination from consideration for employment or appointment.

SECTION 6: Each executive agency shall procure employee drug testing services through the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws.

SECTION 7: Each executive agency shall submit to the Office of the Governor, through the Commissioner of Administration, a report on its written policy and drug testing programs, describing the progress of its programs, the number of employees affected by the programs, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the programs, by November 1, 1998. Each executive agency shall annually update its report by November 1.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed (or requested pursuant to subsection 1B) to cooperate with the implementation of the provisions in this Order.

SECTION 9: 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 the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of August, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9809#002

EXECUTIVE ORDER MJF 98-39

Flags at Half-Staff

WHEREAS, twin terrorist bombings occurred on Friday morning, August 7, 1998, against the United States embassies located in Nairobi, Kenya, and Dar es Salaam, Tanzania;

WHEREAS, as a result of the explosions, at least two hundred ten (210) people died and approximately five thousand (5,000) people were injured;

WHEREAS, among the lives lost were twelve (12) Americans, including two (2) Baton Rouge natives, Louise Martin-Klaucke and Michelle Deney O'Connor, the Counsel General at the United States Embassy in Kenya, Julian Bartley, and the Counsel General's son, Jay Bartley;

WHEREAS, the citizens of the state of Louisiana are deeply distressed that so many Americans, Kenyans, and Tanzanians are enduring pain, suffering, and loss due to these heinous acts of terrorism against the United States;

WHEREAS, the citizens of the state of Louisiana mourn their lost family, friends, and fellow Americans who served and represented our country abroad; and

WHEREAS, the citizens of the state of Louisiana wish to show their respect for the Americans, Kenyans, and Tanzanians who were killed, injured, or lost loved ones as a result of the embassy bombings;

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

SECTION 1: As an expression of respect for the citizens of Louisiana, America, Kenya and Tanzania who were killed, injured, or lost loved ones as a result of the terrorist bombings that occurred on Friday morning, August 7, 1998, at the United States embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, effective immediately, the flags of the United States and the state of Louisiana shall be flown at half-staff over the State Capitol and all public building and institutions of the

state of Louisiana, until sunset on Sunday, August 16, 1998.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 11th day of August, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9809#003

EXECUTIVE ORDER MJF 98-40

Bond Allocation—Industrial Development Board
of the Parish of Iberia, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter the Act) and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, 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 1998 (hereafter the 1998 Ceiling);
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the Parish of Iberia, Inc. has requested an allocation from the 1998 Ceiling to be used in connection with financing the acquisition, construction and equipping of a particle board plant located at 2617 North Side Road, New Iberia, parish of Iberia, for Acadia Board Company, Ltd. (the "Project"), 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 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 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$8,880,000	Industrial Development Board of the Parish of Iberia, Inc.	Acadia Board Company, Ltd.

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's 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, provided that such bonds are delivered to the initial purchasers thereof on or before November 24, 1998.

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 the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 26th day of August, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9809#006

EXECUTIVE ORDER MJF 98-41

Bond Allocation—Parish of Jefferson
Home Mortgage Authority

WHEREAS, Executive Order Number MJF 98-24, issued on May 26, 1998, granted a private activity bond allocation from the 1998 private activity bond volume limit to the Parish of Jefferson Home Mortgage Authority for a bond issue in accordance with the requirements of Executive Order Number MJF 96-25; and

WHEREAS, it is necessary to amend Executive Order Number MJF 98-24 in order to extend the time period in which the bond issue may be delivered to initial purchasers;

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: Section 3 of Executive Order Number MJF 98-24 is hereby modified to provide as follows:

The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before October 1, 1998.

SECTION 2: All other sections of Executive Order Number MJF 98-24 shall remain in full force and effect, and are not affected by the provisions of this Order.

SECTION 3: The provisions of this Order are effective upon signature.

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 26th day of August, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9809#007

EXECUTIVE ORDER MJF 98-42

Office of the Louisiana Oil Spill Coordinator

WHEREAS, The Oil Spill Prevention and Response Act (hereafter "the act"), set forth in R.S. 30:2451, et seq., was enacted by Act Number 7 of the 1991 First Extraordinary Session of the Legislature to support and complement the Oil Pollution Act of 1990 (P.L. 101-380) and other federal laws, and to assist the Louisiana Legislature in fulfilling its duty to protect, conserve, and replenish the natural resources of this state in accordance with the mandates of Article IX, Section 1 of the Louisiana Constitution of 1974, as amended;

WHEREAS, the act contains the Louisiana Legislature's findings that the state of Louisiana is subject to greater exposure to a major oil spill disaster than any other state as a result of factors such as "the large volumes of stored oil, numerous production platforms and miles of pipelines, large numbers of inland barges, and heavy tanker traffic, including the Louisiana Offshore Oil Port which receives fifteen percent of the oil imported into the United States[,] . . . coupled with the limited adequate highway access to the coast and remote inland areas for rapid transport of oil spill equipment and few areas suitable for staging facilities . . .";

WHEREAS, for the purpose of developing and coordinating the state of Louisiana's statewide oil spill prevention and response plan, the act created within the office of the governor the office of the Louisiana oil spill coordinator and provided for the office to be administered by a coordinator appointed by the governor; and

WHEREAS, to streamline the operations of the executive department and to better facilitate the office of the Louisiana oil spill coordinator's efforts to fulfill its statutory duties, the

best interests of the citizens of the state of Louisiana would be served by increasing the amount of coordination of operations between the office of the Louisiana oil spill coordinator and those of the Department of Natural Resources which maintains the office of conservation, the office of coastal restoration and management, the office of mineral resources, and the Oilfield Site Restoration Commission;

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

SECTION 1: The office of the Louisiana oil spill coordinator (hereafter "Office") shall be housed in the Department of Natural Resources (hereafter "Department") and the coordination of the activities and operations of the Office with those of the Department shall be supervised by the secretary of the Department of Natural Resources (hereafter "Secretary").

SECTION 2: With the exception of the coordinator and deputy coordinator, the appointing authority of all employees of the Office shall be the Secretary.

SECTION 3:

A. The contracts that the coordinator may enter pursuant to the provisions of R.S. 30:2455, *et seq.*, shall be entered by the state of Louisiana through the Office and the Department with the approval and under the co-signature of the Secretary.

B. The Secretary, on behalf of the Department, shall accept and assume primary responsibility for all contracts the coordinator may have previously entered pursuant to the provisions of R.S. 30:2455, *et seq.*

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the implementation of the provisions of this Order.

SECTION 5: 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 the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of September, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9809#030

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Structural Pest Control Commission

Restrictions on Application of Certain Pesticides (LAC 7:XXV.141)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 3:3203(A), the Commissioner of Agriculture and Forestry is amending the following rules and regulations for the implementation of regulations governing the requirements of pest control operators making pre-treatment applications.

The amendment of these regulations is necessary in order that the Department may immediately replace regulations that were inadvertently left out of the *Louisiana Register* during a previous amendment to the regulations.

The Department of Agriculture and Forestry deems the continuation of these rules and regulations necessary to insure the safety of individuals that might come in contact with termiticides if an operator left a pre-treatment of a slab prior to completion of the job. It is necessary to provide the requirement that pest control operators must call certain information into the Department's closest District office prior to making a pre-treatment of a slab application. Without the notice and posting requirements there will be an imminent peril to the health, safety and welfare of individuals who would otherwise inadvertently come into contact with the termiticide.

These rules and regulations become effective upon the Commissioner's signature, and shall remain in effect 120 days or until these rules are adopted through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§141. Minimum Specifications for Termite Control

Work

A. - D.3.c. ...

E. Pre-treatment of Slabs

1. Treat as required by label and labeling.
2. Within 12 months after initial treatment of the outside of the foundation, the perimeter wall will be trenched and treated as required by label and labeling. The licensee shall report the completion of the application to the outside of the foundation, to the Louisiana Department of Agriculture and Forestry on the Termite Perimeter application form. Rodding will be acceptable where trenching may damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

3. If, during the treatment of any area which will be beneath a slab foundation, the operator must leave the site for

any reason prior to the completion of the application as specified in E.1 above, the operator must prominently display a poster, to be furnished by the Louisiana Department of Agriculture and Forestry, which states that the treatment of the area under the slab is not complete.

4. All pre-treatment of slabs must be called in to the nearest Department of Agriculture and Forestry District Office during normal working hours prior to application of termiticides. The information provided will include an address, directions, and time of application of termiticides to the property. The phone call must be called to the District office a minimum of one hour of the time that the property is to be treated. All pest control operators must keep a log of all pre-treatment.

F. - J.8.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 24:

Bob Odom
Commissioner

9809#005

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving) Program—Higher Education Expenses (LAC 28:VI.309)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to revise the Student Tuition and Revenue Trust (START Saving) [R.S. 17:3091 et seq.] program rules.

The emergency rules are necessary because the significant cost of room and board and the requirement that those costs be "billed by the institution" places a significant disadvantage on those beneficiaries who live at home or off campus and is more restrictive than required by the Internal Revenue Code (IRC) §529. Failure to revise the START program rules in this way would have an adverse impact on the financial welfare of the affected students and on the financial condition of their families by denying the students the level of flexibility permitted by IRC §529 in their use of START program funds. The authority has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective August 22, 1998, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

Chapter 3. Education Savings Account

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

* * *

E. Expenditure of Principal and Earnings

1. The balance of principal and earned interest in an education savings account may be expended as authorized by the beneficiary to pay his qualified higher education expenses.

* * *

F. Payments to Eligible Educational Institutions

* * *

4. Upon receipt of funds from an education savings account, the educational institution shall first apply funds against those qualified higher education expenses billed by the institution and then disburse any remaining balance of funds to the beneficiary for qualified higher education expenses not billed by the institution.

5. If a beneficiary withdraws from the educational institution or if there is otherwise a change in the beneficiary's student status which results in a refund of qualified higher education expenses which have been previously paid to the educational institution from an education savings account, then, subject to the laws governing the priority of refunds of federal and state aid, that portion of the qualified higher education expenses paid with funds from an education savings account shall be refunded by the educational institution directly to the LATTA for credit to the account of the beneficiary.

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 23:716 (June, 1997), amended LR 24:1272 (July, 1998), LR 24:

Jack L. Guinn
Executive Director

9809#001

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees Group
Benefits Program**

Plan Document—Impotency Drugs

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees

hereby invokes the Emergency Rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This rule shall become effective on September 29, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

The Board finds that it is necessary to amend the Plan Document to limit benefits for drugs prescribed for treatment of impotency. Failure to adopt this amendment on an emergency basis will result in a financial impact which will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section VIII, of the Plan Document by adding thereto a new subsection, designated as subsection PP, to read as follows:

VIII. Exceptions And Exclusions For All Medical Benefits
No benefits are provided under this contract for:

* * *

PP. Drugs prescribed for Treatment of impotence, except when prescribed for males over the age of thirty, in a quantity not greater than five (5) per month, and provided that no benefits are payable for Yohimbine oral tablets, Papaverine and Phentolamine self-injectables, or any other drugs prescribed or dispensed for Treatment of impotence unless such Treatment is indicated in the approval of the drug by the Food and Drug Administration;

* * *

Jack W. Walker, Ph.D.
Chief Executive Officer

9809#056

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees Group
Benefits Program**

Special Enrollment—Retirees

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the Emergency Rule provisions of La R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

The Board finds that it is necessary to amend the Plan Document to provide for special enrollment of retirees under certain circumstances in compliance with the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191), the rules and regulations promulgated pursuant thereto, and La. R.S. 22:250.1, et seq., in order to avoid sanctions or penalties.

Accordingly the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars.

Amendment Number 1

Amend Article 1, Section II, Subsection B, Paragraph 2, to read as follows:

2. Effective Date of Coverage. Retiree coverage will be effective on the first of the month following the date of retirement, provided the Employee and employer have agreed to make and are making the required contributions. *Retirees Shall Not Be Eligible for Coverage as Overdue Applicants.*

Amendment Number 2

Amend Article 1, Section II, Subsection E, to read as follows:

E. Special Enrollments

In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the regulations promulgated pursuant thereto, and La. R.S. 22:250.1, et seq., certain eligible persons for whom the option to enroll for coverage was previously declined, and who would otherwise be considered overdue applicants, may enroll under the following circumstances, terms, and conditions for special enrollments.

1. Loss of Other Coverage. Special enrollment will be permitted for employees or dependents for whom the option to enroll for coverage was previously declined because such employees or dependents had other coverage which has terminated due to:

a. loss of eligibility through separation, divorce, termination of employment, reduction in hours, or death of the plan participant; or

b. cessation of employer contributions for the other coverage, unless such employer contributions were ceased for cause or for failure of the individual participant; or

c. the employee or dependent having had COBRA continuation coverage under another plan, and the COBRA continuation coverage has been exhausted, as provided in HIPAA.

2. After Acquired Dependents. Special enrollment will be permitted for employees or dependents for whom the option to enroll for coverage was previously declined when the employee acquires a new dependent by marriage, birth, adoption, or placement for adoption.

3. Special enrollment application must be made within 30 days of the termination date of the prior coverage or the date the new dependent is acquired. Persons eligible for special enrollment for whom application is made more than 30 days after eligibility will be considered overdue applicants, subject to the provisions of Article 1, Section II, Subsection D above.

4. The effective date of coverage shall be:

a. for loss of other coverage or marriage, the first of the month following the date of the receipt by the State Employees Group Benefits Program of all required forms for enrollment;

b. for birth of a dependent, the date of birth;

c. for adoption, the date of adoption or placement for adoption;

5. The Program will require that all special enrollment applicants complete a Statement of Physical Condition form

and sign an acknowledgment of pre-existing condition form.

6. Medical expenses incurred during the first 12 months that coverage for the special enrollee is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the 6-month period immediately prior to the enrollment date. The provisions of this paragraph do not apply to pregnancy.

7. If the special enrollee was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the Program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 63 days of the date of coverage under the Program.

8. *Retirees Shall Not Be Eligible for Special Enrollment*, except under the following conditions:

a. retirement began on or after July 1, 1997;

b. the retiree can document that creditable coverage was in force at the time of the election not to participate or continue participation in the Program;

c. the retiree can demonstrate that creditable coverage was maintained continuously from the time of the election until the time of requesting special enrollment;

d. the retiree has exhausted all COBRA and/or other continuation rights and has made a formal request to enroll within thirty (30) days of the loss of other coverage; and

e. the retiree has lost eligibility to maintain other coverage through no fault of his/her own and has no other creditable coverage in effect.

These amendments shall become effective on September 1, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

Jack W. Walker, Ph.D.
Chief Executive Officer

9809#031

DECLARATION OF EMERGENCY

**Office of the Governor
Office of Elderly Affairs**

State Plan on Aging (LAC 4:VII.1317)

The Office of the Governor, Office of Elderly Affairs (GOEA) does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to adopt the rule set forth below, effective August 17, 1998. This emergency rule is necessary as Tensas Council on Aging voluntarily relinquishes its Area Agency on Aging designation.

This emergency rule is to designate Tensas parish as a Planning and Service Area (PSA) and to designate North Delta Regional Planning and Development District, Inc. as the Area Agency on Aging for Tensas PSA. This rule will ensure the elderly citizens of Tensas parish are provided with uninterrupted services, the absence of which could imperil their health and well being. This emergency rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

**Title 4
ADMINISTRATION
Part VII. Governor's Office**

Chapter 13. State Plan on Aging

§1317. Area Agencies on Aging

Area Agency on Aging	Planning and Service Area (Parishes Served)
Allen COA	Allen
Beauregard COA	Beauregard
Bienville COA	Bienville
Bossier COA	Bossier
Caddo COA	Caddo
CAJUN Area Agency on Aging (AAA)	Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion
Caldwell COA	Caldwell
Cameron COA	Cameron
Capital Area Agency on Aging (AAA)	Ascension, Assumption, East Feliciana, Iberville, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge, West Feliciana
CENLA Area Agency on Aging (AAA)	Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Winn
Claiborne COA	Claiborne
DeSoto COA	DeSoto
East Baton Rouge COA	East Baton Rouge
Jefferson COA	Jefferson
Jefferson Davis COA	Jefferson Davis
Governor's Office of Elderly Affairs	Calcasieu
Lafourche COA	Lafourche
Lincoln COA	Lincoln
Livingston COA	Livingston
Madison COA	Madison
Morehouse COA	Morehouse
Natchitoches COA	Natchitoches
North Delta Area Agency on Aging (AAA)	East Carroll, Franklin, Jackson, Richland, Tensas, Union

New Orleans COA	Orleans
Ouachita COA	Ouachita
Plaquemines COA	Plaquemines
Red River COA	Red River
Sabine COA	Sabine
St. Bernard COA	St. Bernard
St. Charles COA	St. Charles
St. James Area Agency on Aging (AAA)	St. James
St. John COA	St. John the Baptist
St. Tammany COA	St. Tammany
Terrebonne COA	Terrebonne
Vernon COA	Vernon
Webster COA	Webster
West Carroll COA	West Carroll

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated LR 23:1146 (September 1997), amended LR 19:1317 (June 1998), amended LR 24:

Paul F. "Pete" Arceneaux, Jr.
Executive Director

9809#004

DECLARATION OF EMERGENCY

**Department of Natural Resources
Office of Conservation**

Pollution Control (LAC 43:XIX.129)

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) and (2), and 954(B)(2), as amended, the following emergency rule and reasons therefor are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally, by establishing a revised procedure for testing of Exploration and Production (E&P) waste prior to shipment to and acceptance by a commercial facility in the state of Louisiana and verification testing after receipt of such E&P waste at a commercial facility.

Need and Purpose

Certain oil and gas Exploration and Production waste (E&P waste) is exempt from the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). This exemption is based on findings from a 1987-1988

Environmental Protection Agency (EPA) study and other studies that determined this type of waste does not pose a significant health or environmental threat when properly managed. The EPA, in its regulatory determination, found that these wastes are adequately regulated under existing federal and state programs.

Existing Louisiana state regulations governing the operations of commercial E&P waste disposal facilities (Statewide Order No. 29-B) require only very limited testing of the waste received for treatment and disposal at each commercial facility. Such limited testing finds its basis in the above-mentioned national exemption for E&P waste recognized by the EPA. However, public concern warranted the Commissioner of Conservation to issue an Emergency Rule effective May 1, 1998 (May 1, 1998 Emergency Rule), the purpose of which was to gather technical data regarding the chemical and physical makeup of E&P waste disposed of at commercial E&P waste disposal facilities within the State of Louisiana. The May 1, 1998 Emergency Rule had an effective term of 120 days.

The May 1, 1998 Emergency Rule required comprehensive analytical testing of E&P waste at the site of generation together with verification testing at the commercial E&P waste disposal facility. During the 120 day term of the May 1, 1998 Emergency Rule, over 1,200 E&P waste testing batches were analyzed, with the analytical results being filed with the Office of Conservation.

However, technical experts under contract with the Office of Conservation have determined, among other reasons, that although most waste types are expected to yield sufficient data within the initial 120-day period to draw inferences as to average concentrations and statistical distribution of concentrations in these wastes, additional data will strengthen the validity of the inferred distributions. Therefore, the general provisions of the May 1, 1998 Emergency Rule will be continued for an additional period of approximately 30 days, as further outlined herein.

Statewide Order No. 29-B Emergency Rule herein enacted will provide requirements for continued E&P waste characterization and verification testing. After implementation of this Emergency Rule, Conservation will initiate rulemaking to promulgate new permanent regulations which will recognize and encourage new and innovative ways to manage E&P waste. Best management practices will be the measure of acceptability for both existing and emerging technologies. Analytical data generated during the effective term of the May 1, 1998 Emergency Rule, and the Emergency Rule enacted herein, along with best management practices, will be used to determine the limits for waste constituents received at commercial E&P waste disposal facilities.

Synopsis

1. Exploration and production waste will be tested for characterization.

As a key provision of the emergency rule, a waste profile must continue to be developed for each specific testing batch of E&P waste proposed for storage, treatment or disposal at a commercial facility in the state. Based on the results of the 1997 Office of Conservation sampling and testing program, as

well as staff expertise, four (4) different groups of analytical procedures were established, and incorporated into the May 1, 1998 Emergency Rule. Depending on the chemical complexity of a specific testing batch, applicable testing procedures will continue to be required by this Emergency Rule to establish the waste profile for each testing batch.

In order to not unnecessarily delay drilling operations utilizing closed mud systems with limited on-site storage systems, or in emergency situations, provisions have been made to allow documentation of testing procedures to be submitted to the receiving commercial facility within 30 days after setting of the surface casing. Such provision is reasonable because only native water base drilling muds are commonly used at the startup of drilling operations and prior to setting of surface casing. Additionally, alternate sampling and testing protocols consistent with emergency rule standards may be authorized by the Office of Conservation upon written request. For example, the taking of waste characterization samples at a commercial facility may be proposed as an alternative to taking such samples at the site of generation.

Produced water, produced formation fresh water and other E&P waste fluids are exempt from certain provisions of the testing requirements provided they are:

- 1) transported in enclosed tank trucks, barges, or other enclosed containers;
- 2) stored in enclosed tanks at a commercial facility; and
- 3) disposed by deepwell injection.

Such provision is reasonable because, provided the above conditions are met, exposure to the public and to the environment would be minimal.

2. Exploration and production waste will be transported with identification.

The rule primarily requires that each E&P waste shipping unit transported from the site of generation to a commercial facility will be accompanied by a copy of the waste profile (Form UIC-35) and an Oilfield Waste Shipping Control Ticket (UIC-28, Manifest) and presented to the facility operator before offloading. Timely filings of required laboratory reports will be made to the Office of Conservation.

3. Each load of E&P waste will be tested at a commercial facility.

Before offloading at a commercial E&P waste disposal facility and in order to verify that the waste qualifies for the E&P category, each E&P waste shipping unit shall be sampled for required parameters. Additionally, the presence and concentration of BTEX (benzene, toluene, ethyl benzene and xylene) compounds and hydrogen sulfide must be determined. Appropriate records of tests shall be kept at each commercial facility for review by the Office of Conservation.

Reasons

Recognizing the potential advantages of the ongoing testing program for the characterization of Exploration and Production (E&P) waste that is fully protective of public health and the environment, and recognizing the potential advantages of continuation of the testing program that adequately characterizes such waste as to its potentially toxic constituents, it has been determined that failure to continue such procedures in the form of an administrative rule may

lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that adequate testing continues to be performed before E&P waste is treated or otherwise disposed of in a commercial facility. The emergency rule set forth hereinafter is now adopted by the Office of Conservation.

Effective Date and Duration

1. The effective date for this Emergency Rule shall be August 29, 1998.

2. The emergency Rule herein adopted as a part thereof, shall remain effective through September 30, 1998.

Signed at Baton Rouge, Louisiana, this 24th day of August, 1998.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§129. Pollution Control

A. - B. ...

1. Definitions

* * *

Container—a pit, storage tank, process vessel, truck, barge or other receptacle used to store or transport E&P waste.

* * *

Drilling Waste—water base mud, oil-base mud or other drilling fluids and cuttings generated during the drilling of wells. These wastes are a subset of E&P waste.

* * *

Exploration and Production (E&P) Waste—as defined in §129.M.1.

* * *

NOW—Exploration and Production (E&P) waste.

* * *

Shipping Unit—an individual shipment of a portion or the entirety of an identified E&P waste testing batch to a commercial facility.

* * *

Testing Batch—an accumulation of an E&P waste type generated in association with exploration and production operations, or a mixture of such waste types, which is initially collected or temporarily retained at the site of generation in a container, quantified as follows.

i. Except for drilling waste, a testing batch is defined as E&P waste that is ready to be shipped offsite to a commercial facility. After the testing batch has been established and a sample has been taken, no additional waste may be added to the container(s) until all of its contents have been shipped to a commercial facility. If additional waste is added to the container(s) before all of its contents have been shipped, this shall constitute a new testing batch. Multiple containers may be used to store or ship a single testing batch from a single generation source (e.g., pit, tank, etc.) to a commercial facility.

ii. In the case of drilling waste, each type of mud system (water base, oil-base or other) together with cuttings and fluids associated with such system, shall constitute a separate testing batch. During drilling operations at a depth below the surface casing, the drilling waste generated for each mud system shall be sampled as a separate testing batch. Shipments of a portion of a drilling waste testing batch will not constitute formation of a separate testing batch.

iii. For production tank sludge and other process vessel waste, the container (tank, vessel, etc.) need not be taken out of service during sampling and analysis of the testing batch.

* * *

2. General Requirements

a. - m.iii. ...

n. Exploration and Production Waste Characterization Procedures

i. All E&P waste generated within or without the state of Louisiana including offshore Louisiana (both state and federal waters) and proposed to be transported to a commercial facility in the state of Louisiana must be sampled and analyzed in accordance with EPA protocols or Office of Conservation's approved procedures. For procedures B, C and D, E&P waste shall be tested by a laboratory not owned or operated by the generator of the waste.

ii. The following procedures are to be utilized as applicable (see table in §129.B.2.n.iii) to characterize each E&P testing batch:

Procedure A: color
specific gravity
turbidity - clear, cloudy, or muddy
viscosity - low, medium or high

Procedure B: oil and grease (percent by weight)
reactive sulfide (ppm)

Procedure C: Toxicity Characteristic Leaching Procedure (TCLP) for the following volatile organics:
Benzene
Ethyl benzene
Toluene
Xylene

Procedure D: Toxicity Characteristic Leaching Procedure (TCLP) for the following metals:
Arsenic
Barium
Cadmium
Chromium
Lead
Mercury
Selenium
Silver

iii. The following table indicates which testing procedures in §129.B.2.n.ii above are to be utilized to characterize E&P waste:

Waste Type/Description	Required Testing Procedures*
01 - Salt Water (produced brine or produced water)	A, B, C, and D
02 - Oil-base mud / cuttings	A, B, C and D
03 - Water base mud / cuttings	A, B and C
04 - Workover / completion fluids	A, B and C
05 - Production pit sludge	A, B, C and D
06 - Production tank sludge	A, B, C and D
07 - Produced sand / solids	A, B, C and D
08 - Produced formation fresh water	A, B, C and D
09 - Rainwater - ring levees/pits	A and B
10 - Washout water	A and B
11 - Washout pit water	A, B and C
12 - Gas plant processing waste	A, B, C and D
13 - BSandW waste from approved commercial salvage oil operators	A, B, C and D
14 - Pipeline test water and pipeline pig water	A, B, C and D
15 - E&P waste generated by permitted commercial facilities	A, B, C and D
16 - Crude oil spill clean-up waste	A, B and C
99 - Other approved E&P waste	A, B, C and D

* See testing exemptions for E&P wastes as provided in §129.B.2.n.v, vi, vii, viii and ix below.

iv. If a testing batch is composed of more than one type of E&P waste, the testing procedures applicable to all types of waste in the testing batch shall be utilized to characterize the waste.

v. An E&P waste testing batch containing no more than five barrels total volume is exempt from the testing requirements of §129.B.2.n.ii, Procedures B, C and D.

vi. Drilling fluids and cuttings generated during the drilling of surface casing hole are exempt from the testing requirements of §129.B.2.n.ii, Procedures A, B, C and D.

vii. Wash water and solids (E&P waste type 10) generated at a commercial facility by the cleaning of a container holding a residual amount (of no more than one barrel) of E&P waste is exempt from the testing requirements of §129.B.2.n.ii, Procedures A, B, C and D.

viii. E&P waste stored and transported in a barge from a transfer station to a commercial treatment facility is exempt from the testing requirements of §129.B.2.n.ii, Procedures A, B, C and D.

ix. Produced water, produced formation fresh water, and other E&P waste fluids are exempt from the testing requirements of §129.B.2.n.ii, Procedures A, B, C and D under the following conditions:

- (a). if transported by the generator or transporter in enclosed tank trucks, barges, or other enclosed containers; and
- (b). if stored in an enclosed container at a commercial facility; and
- (c). if disposed by deep well injection.

x. Except for the provisions of §129.B.2.n.v, vi, vii, viii and ix, E&P waste generated out-of-state, except offshore Louisiana (both state and federal waters), and transported to a Louisiana commercial facility for storage, treatment or disposal must be tested for the parameters required in Procedures A, B, C, and D above.

xi. Testing batch samples shall be taken at the site of generation, tested, and the testing results reported in the following manner.

(a). Upon identifying a testing batch, the E&P waste generator shall send a sample to the testing laboratory and initiate an E&P Waste Profile (Form UIC-35). For each new testing batch the generator must complete the top portion of the form (general information), indicate the waste type/description, and sign the form in the appropriate location.

(b). The generator shall perform test Procedure A for each testing batch and the results reported in the appropriate location on Form UIC-35.

(c). Data Submission

(i). Test Procedures B, C, and D shall be performed on each testing batch sample by the testing laboratory and a laboratory report provided to the generator and to the commercial facility operator within 30 days of the date of the first shipment of each testing batch. Upon receipt of the laboratory test data, the commercial facility shall enter such data on Form UIC-35.

(ii). The generator, commercial facility operator, or testing laboratory shall electronically submit the laboratory data for required E&P waste analyses to the Office of Conservation within 30 days of the first shipment of each testing batch. Such report shall be submitted to the Office of Conservation in ASCII comma delimited format either by electronic mail (E-mail via Internet) or on 3½-inch floppy disk. Generators of E&P waste must contact the Office of Conservation, Injection and Mining Division, if, for some reason, such electronic reporting cannot be made.

(d). The original completed or partially completed Form UIC-35 must accompany the first E&P waste shipping unit transported to a commercial facility and must be presented to the facility operator with the Exploration and Production (Oilfield) Waste Shipping Control Ticket (Form UIC-28) before offloading. Form UIC-35 does not need to accompany subsequent waste shipping units for the same testing batch.

xii. The generator or commercial facility operator shall identify each E&P waste testing batch and each E&P waste shipping unit as follows.

(a). Each testing batch shall be separately identified by using the manifest number (Manifest Number) of the first shipping unit transported to a commercial facility. This testing batch number shall be placed on the E&P Waste Profile in the appropriate location.

(b). The testing batch number shall also be placed on the Exploration and Production (Oilfield) Waste Shipping Control Ticket (Form UIC-28) in the top left corner (under the form number) on the manifest for each shipping unit.

(c). Each E&P waste shipping unit (of each testing batch) shall be identified on the Exploration and Production (Oilfield) Waste Shipping Control Ticket (Form UIC-28) in

the top left corner under the testing batch number by a sequential numbering system (e.g., 1, 2, 3, etc.). When the last E&P waste shipping unit of a specific testing batch is sent to the commercial facility, the word END shall be placed next to the load number (e.g., 5 END).

xiii. Alternate sampling and testing protocols consistent with the above standards may be authorized by the Office of Conservation upon written request by an operator or commercial facility. Written authorization must be received prior to initiating alternate sampling and testing protocols.

3. - 6.d.iii. ...

iv. For reactive sulfides, samples shall be analyzed according to SW 846, Chapter 7, Section 7.3.4 or latest revision by EPA.

v. TCLP samples shall be analyzed according to EPA document *Test Methods for Evaluating Solid Waste, S.W. 846*, Third Edition, Revised 12/96 or latest revision by EPA.

(a). For TCLP metals, samples are to be extracted according to SW 846 Method 1311, then digested according to SW 846 series 3000 or latest revision by EPA.

(b). Upon completion of the extraction and digestion phases, metals are to be analyzed according to SW 846 methodology series 6000 and/or 7000 or latest revision by EPA.

(c). TCLP organics identified in Procedure C are to be extracted according to SW 846 Method 1311 or latest revision by EPA. Analytes are to be analyzed according to SW 846 Method 8260 or latest revision by EPA.

vi. Except as herein provided otherwise, sampling and testing procedures should comply with Office of Conservation manual *Laboratory Procedures for Analysis of Nonhazardous Oilfield Waste* (latest revision).

6.e. - 9.c ...

C. - L ...

M. Off-Site Storage, Treatment and/or Disposal of E&P Waste Generated from Drilling and Production of Oil and Gas Wells

1. Definitions

* * *

Commercial Facility—a legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of exploration and production waste for a fee or other consideration, and shall include the term "transfer station."

* * *

Exploration and Production (E&P) Waste—drilling fluids, produced water, and other waste associated with the exploration, development, or production of crude oil or natural gas and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations and the Louisiana Solid Waste Regulations. Such wastes include, but are not limited to, the following:

i. salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations;

ii. oil-base drilling mud and cuttings;

iii. water base drilling mud and cuttings;

iv. drilling, workover and completion fluids;

v. production pit sludges;

vi. production storage tank sludges;

vii. produced oily sands and solids;

viii. produced formation fresh water;

ix. rainwater from ring levees and pits at production and drilling facilities;

x. washout water generated from the cleaning of containers that transport E&P waste and are not contaminated by hazardous waste or material;

xi. washout pit water and solids from oilfield related carriers that are not permitted to haul hazardous waste or material;

xii. natural gas plant processing (E&P) waste which is or may be commingled with produced formation water;

xiii. waste from approved salvage oil operators who only receive oil (BS and W) from oil and gas leases;

xiv. pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pig water, i.e., waste fluids generated from the cleaning of a pipeline;

xv. wastes from permitted commercial facilities;

xvi. crude oil spill clean-up waste;

xvii. salvageable crude oil;

xviii. other approved E&P waste.

* * *

Shipping Unit—as defined in §129.B.1.

Testing Batch—as defined in §129.B.1.

* * *

2. Offsite Storage, Treatment, and/or Disposal of Nonhazardous Oilfield Waste at Commercial Facilities (Note: Onsite disposal requirements are listed in §129.B).

a. - e.ii.(d). ...

3. - 5.i ...

ii. Verification Testing Requirements

(a). Before offloading E&P waste at a commercial facility, each E&P waste shipping unit shall be sampled and analyzed by commercial facility personnel for the following:

(i). Procedure A in §129.B.2.n.ii above; and

(ii). pH, electrical conductivity (EC—mmhos/cm) and chloride (Cl) content; and

(iii). the presence and concentration of BTEX (benzene, toluene, ethyl benzene, and xylene) compounds using an organic vapor monitor or other procedures sufficient to identify and quantify BTEX; and

(iv). the presence and concentration of hydrogen sulfide (H₂S) using a portable gas monitor.

(b). The commercial facility operator shall enter the pH, electrical conductivity, chloride (Cl) content, BTEX and hydrogen sulfide measurements on the manifest (Form UIC-28) which accompanies each waste shipping unit.

(c). When the commercial facility operator receives an E&P Waste Profile (Form UIC-35) from the generator, he shall enter the results of test Procedure A (first shipping unit values for each testing batch) in the appropriate location.

(d). When the last shipping unit for an E&P waste testing batch has been received, the commercial facility

operator shall enter the maximum BTEX and hydrogen sulfide measurements (for all shipping units in the testing batch) on the E&P Waste Profile (Form UIC-35).

(e). The commercial facility operator shall submit each completed Form UIC-35 to the Office of Conservation within seven days of receipt of the last waste shipping unit of each testing batch. The Conservation copy of the manifest for each shipping unit that compose a complete testing batch must be attached to the Form UIC-35.

(f). Produced water, produced formation fresh water, and other E&P waste fluids are exempt from verification testing Procedure A, the organic vapor monitor measurement, and the H₂S measurement in §129.M.5.ii.(a) if the conditions of §129.B.2.n.ix are met.

(g). Records of these tests shall be kept on file at each commercial facility for a period of three years and be available for review by the Commissioner or his designated representative.

5.iii - S.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30.4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), promulgated by the Department of Natural Resources, Office of Conservation, LR 6:307 (July 1980), amended LR 8:79 (February 1982), LR 9:337 (May 1983), LR 10:210 (March 1984), LR 12:26 (January 1986), LR 16:855 (October 1990), LR 17:382 (April 1991), LR 24:

Summary

The emergency rule herein above adopted evidences the finding of the Commissioner of Conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety and welfare, and that there is not time to provide adequate notice to interested parties. However, the Commissioner of Conservation notes again that a copy of the permanent Amendment to Statewide Order Number 29-B will be developed in the near future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

The Commissioner of Conservation concludes that the above emergency rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above emergency rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above emergency rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this emergency rule.

Within five days from date hereof, notice of the adoption of this emergency rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this emergency rule with reasons therefor to all such parties. This emergency rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the governor of the state of Louisiana, the attorney general of the state of Louisiana, the speaker of the House of Representatives, the president of the Senate and the Office of

the State Register of the adoption of this emergency rule and reasons for adoption.

Philip N. Asprodites
Commissioner

9809#008

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Gaming Control Board

Land-Based Casino

(LAC 42:III.104, LAC 42:IX.2105, 2701, 2703, 2707, 2723, 2901-2917, 2921, 3301-3309, and 3319)

The Gaming Control Board hereby amends LAC 42:III.104, LAC 42:IX.2105, 2701, 2703, 2707, 2723, 2901, 2903, 2905, 2907, 2909, 2911, 2913, 2915, 2917, 2921, 3301, 3303, 3305, 3307, 3309 and 3319 as follows, in accordance with La. R.S. 27:15, 24 and La. R.S. 49:953.

In accordance with the provisions of La. R.S. 49:953(B), the Louisiana Gaming Control Board has determined that it is necessary to adopt emergency rule changes relative to delegation of authority to the Chairman, LAC 42:III.104 and deleting the term *Casino Operator Affiliate* as it appears in the administrative rules originally adopted by the Louisiana Economic Development and Gaming Corporation, LAC 42:IX.2101 et seq.

Adoption of these rule changes on an emergency basis is necessary to ensure that the rule changes are in effect at the time of the anticipated closing/effective date of the Plan of Reorganization of Harrah's Jazz Company currently targeted at the same time as the conclusion of the suitability process anticipated to be mid-October, 1998. Emergency adoption will prevent imminent peril to the public health, safety and welfare by: ensuring that the unsecured creditors of Harrah's Jazz Company are paid as expeditiously as possible, thereby preventing any harm to Louisiana businesses that further delay can cause; ensuring that the Louisiana Gaming Control Board and ultimately the State of Louisiana begins to receive \$273,000 a day as expeditiously as possible; ensuring that approximately 1,000 construction jobs and thousands of direct and indirect permanent jobs are created as expeditiously as possible, providing numerous benefits to the State and relieving State assistance programs for the unemployed; ensuring that the Louisiana tourism and convention markets can compete as soon as possible with the ever increasing competition from Mississippi; and ensuring that the fundamental public policy goals established in the Louisiana Economic Development and Gaming Corporation Act are accomplished, including enhancing general economic development and stimulating the overall economy of the New Orleans area.

The failure to adopt these rule changes on an emergency basis will delay and otherwise impair accomplishment of all of these important objectives threatening the welfare of the State, the City of New Orleans and the numerous constituencies involved in the bankruptcy proceedings.

LAC 42:III.104 is being amended to allow the Board to authorize the execution of the Casino Operating Contract and that, once authorized by resolution, the Chairman or his designated representative may execute the Contract.

This amendment is necessary to authorize the Chairman or his designee to execute the agreement and to facilitate an orderly closing of the complex bankruptcy case involving numerous parties, documents and geographic locations.

The land-based casino regulations are also being amended to remove references to the term *Casino Operator Affiliate* which was specifically designed and adopted to deal with the former three tier non-public ownership structure of the Casino Operator as a partnership. The term was intended to ensure that the partners could not transfer their non-public ownership interests in the Casino Operator without Board approval and that any transferee of the partnership interests obtained any required suitability findings.

The amendment is essential to deal with the new two-tier public ownership structure of the Casino Operator as it will allow the common stock of the Operator to trade freely on the public markets without each holder of the stock obtaining approval before buying or selling the stock. Without the amendment, the bankruptcy case cannot close as the public company structure with shares being traded on the public markets is fundamental to the Plan of Reorganization before the Bankruptcy Court.

The amendment does not restrict the power of the Board under LAC 42:IX.2701 to require a finding of suitability for any person, regardless of their holdings in the public holding company, that controls or influences the affairs of the Casino Operator or that raises an integrity or other issue necessitating a finding of suitability under the Louisiana Gaming Control Law issue.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 1. General Provisions

* * *

§104. Delegation to Chairman

A. - 2. ...

3. enter into the casino operating contract on behalf of the Louisiana Gaming Control Board, provided however that the casino operating contract shall be executed on behalf of the Louisiana Gaming Control Board by the chairman or a designated representative when the casino operating contract is approved by the Louisiana Gaming Control Board and the chairman or a designated representative is specifically ordered by board resolution to execute the casino operating contract on behalf of the Louisiana Gaming Control Board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Gaming Control Board, LR 22:1140 (November 1996), amended LR 24:

Part IX. Land Based Casino

Chapter 21. General Provisions

* * *

§2105. Definitions, Words and Terms; Captions; Gender References

* * *

Approvals—those actions of the Casino Operator, Casino Manager, licensees or other persons found suitable, or transactions directly or indirectly involving such persons, which require Approval by the Corporation through the President or the Board, but which do not in themselves constitute licensing or a Finding of Suitability of any person involved, but the licensing or Finding of Suitability of the persons involved may, unless the Casino Act, these Regulations or the Corporation dictate otherwise, constitute Approval by the Corporation of the transaction in question.

Background Investigation—all efforts, whether prior to or subsequent to the filing of an application, designed to discover information about an applicant, Casino Operator, Casino Manager, licensee, registrant or other person found suitable and includes without time limitation, any additional or deferred efforts to fully develop the understanding of information which was provided or should have been provided or obtained during the application process. Examples of background investigation include, but are not limited to measures taken in connection with exploring information on applicants; procedures undertaken with respect to investigatory hearings, except for matters specifically disclosed in any hearing open to the public and orders, responses, and other documents relating thereto.

* * *

Casino Operator Affiliate—Repealed

Finder's Fees—any compensation in money in excess of the sum of \$10,000, or real or personal property with a real value in excess of the sum of \$10,000 which is paid or transferred to any person in consideration for the arranging or negotiation of an extension of credit to the Casino Operator, or an applicant for licensing, registration, Approval or Finding of Suitability if the proceeds of such extension of credit is intended to be used for any of the following purposes: the acquisition of an interest in the Official Gaming Establishment or Casino Operator; to finance the gaming operations of the Casino Operator. The term shall not include compensation to the person who extends the credit; normal and customary payments to employees of the person to whom the credit is extended if the arranging or negotiation of credit is part of their normal duties; normal and customary payments for bona fide professional services rendered by lawyers, accountants, engineers and appraisers, underwriters discounts paid to a member of the National Association of Securities Dealers, Inc.; fees paid to banking institutions in connection with procuring credit.

Finding of Suitability—any action required or allowed by the President, Board, Casino Act or these Regulations that require certain persons, directly or indirectly involved with the Casino Operator, Casino Manager, licensees or registrants to be found suitable to hold a gaming license so long as such involvement continues. A finding of suitability relates only to the specified involvement for which it is made. If the nature of the involvement changes from that which the applicant is found suitable, he may be required to submit himself to a determination by the Corporation of his suitability in the new capacity.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

Chapter 27. Required Licensing

Subpart A. Suitability of Casino Operator

§2701. Suitability of Casino Operator

A. The following persons shall demonstrate their suitability and qualification to the Board by clear and convincing evidence (as those terms are defined in the Casino Act and LAC 42:IX.2329 and 2331):

1. a Casino Operator;
2. all other persons, who either alone or in combination with others, have the ability to significantly and directly affect or influence the affairs of a Casino Operator or a Casino Managers;
3. a person with respect to whom a finding of suitability is necessary in order to insure that the policies of the Casino Act and the integrity of gaming operations are protected; and
4. any other person that the Board in its discretion, directs to demonstrate its suitability and qualifications.

B. For the purpose of §2701 any persons holding, owning or Controlling a direct or beneficial interest (this shall include any rights created in any counter-letter, option, convertible security or similar instrument) in the following persons shall be presumed to have the ability to significantly and directly influence or affect affairs of a Casino Operator or Casino Manager unless the presumption is rebutted by clear and convincing evidence:

1. any persons holding, owning or controlling a 5 percent or more equity interest or outstanding voting securities (including holdings in trust and whether as settlor, trustee or beneficiary) in a non-publicly traded Intermediary or Holding Company of the Casino Operator or the Casino Manager; and
2. any persons holding, owning or controlling a 10 percent or more equity interest or outstanding voting securities or rights in a publicly traded or any publicly traded Intermediary or Holding Company of a Casino Operator or a Casino Manager.

C. Notwithstanding the terms of §2701.B, the following persons shall not be automatically deemed to have the ability to significantly and directly influence the affairs of the persons or entities identified above requiring a Finding of Suitability:

1. a holder or owner of a Security or other interest that is convertible or exercisable into an equity or ownership interest in a publicly traded Public Traded Intermediary or Holding Company thereof prior to the time that the Security or other interest is converted or exercised. A holder or owner of a convertible interest shall seek the approval of the Corporation before exercising the conversion rights unless, after conversion such person will hold, own or control less than 10 percent of the total outstanding equity or ownership interests in the Intermediary or Holding Company thereof;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2703. Safe Harbor

A. If at any time the Corporation finds that a holder of a debt or equity interest in the Casino Operator or any of their respective Affiliates, that is required to be and remain suitable has failed to demonstrate suitability, the Corporation may, consistent with the Casino Act and the casino operating contract, take any action that the Corporation deems necessary to protect the public interest. Provided however if, a holder of a debt or equity interest in the Casino Operator or any of their respective Affiliates associated with the Casino Operator or Affiliates has failed to demonstrate suitability, the Corporation shall take no action to declare the Casino Operator or Affiliates, as the case may be, not Suitable based upon such finding, if the affected Casino Operator, or Affiliates takes immediate good-faith action (including the prosecution of all legal remedies) and complies with any order of the action (including the prosecution of all legal remedies) and complies with any order of the Corporation to cause such person failing to demonstrate suitability to dispose of such person's interest in the affected Casino Operator or Affiliates, and that pending such disposition such affected Casino Operator or Affiliates, from the date of notice from the Corporation of a finding of failure to demonstrate suitability, ensures that the person failing to demonstrate suitability:

1. does not receive dividends or interest on the securities of the Casino Operator or Affiliates;
2. does not exercise, directly or indirectly, including through a trustee or nominee, any rights conferred by the securities of the Casino Operator or Affiliates;
3. does not receive any remuneration from the Casino Operator or Affiliates;
4. does not receive any economic benefit from Casino Operator or Affiliates;
5. subject to the disposition requirements of §2703, does not continue in an ownership or economic interest in the Casino Operator or Affiliates or remain as a manager, officer, director, partner, employee, consultant or agent of the Casino Operator or Affiliates.

B. Nothing contained in §2703 shall prevent the Corporation from taking any action against the Casino Operator if the Casino Manager fails to be or remain suitable. Moreover, nothing contained in §2703 shall prevent the Corporation from taking regulatory action against the Casino Manager, Casino Operator or Affiliates as the case may be, if the Casino Operator, Casino Manager or Affiliates as the case may be:

1. had actual or constructive knowledge of the facts that are the basis of the Corporation regulatory action, and failed to take appropriate action; or
2. is so tainted by such person failing to demonstrate suitability so as to affect the suitability of the Casino Operator, the Casino Manager or Affiliates under the standards of the Casino Act or these Regulations; or
3. cannot meet the suitability standards contained in the Casino Act and these Regulations.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2707. Loan Transactions

A. All loan transactions in excess of \$10,000,000 (ten-million dollars) in which the Casino Operator is a party, shall require the prior Approval of the Corporation, except those transactions permitted by Section 13.6 of the casino operating contract, provided the source of any funds is a suitable lender.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

Subpart D. Licensing of Vendors and Other Service or Property Providers

§2723. Required Licensure

A. The following shall, prior to conducting any business with the Casino Operator or Casino Manager, apply for and receive an appropriate license by demonstrating his suitability and qualifications in accordance with LAC 42:IX. 2329 and 2331:

1. all manufacturers, distributors and other providers or suppliers of Gaming Devices or Gaming Supplies;
2. all casino security services and repairers, and limousine services.

B. Any person who furnishes services or property to the Casino Operator or Casino Manager under any arrangement pursuant to which the person receives payments based on earnings, profits or receipts from gaming operations, shall apply for and receive a license, by demonstrating his suitability and qualifications, in accordance with LAC 42:IX.2329 and 2331, prior to engaging in any such transaction or activity. The Casino Manager shall be deemed to have complied with §2723 if it has the requisite Approvals pursuant to Section 8.1 of the casino operating contract and otherwise complies with these Regulations.

C. Any person who is entitled to receive Finders Fees.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

Chapter 29. Transfers of Interest, Public Offerings and Other Financial Transactions Requiring Corporation Approval

§2901. Transfer of Interest, General

No person shall sell, assign, lease, grant, hypothecate, transfer, convey, purchase or acquire any interest of any sort whatsoever, or foreclose on a security interest in the Casino Operator or Casino Manager, or any portion thereof, or enter into or create a voting trust agreement or any agreement of any sort in connection with any licensed gaming operation or

any portion thereof, except in accordance with the Casino Act and these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2903. Disclosure of Representative Capacity

No person shall transfer, assign, pledge, or otherwise dispose of, or convey in any manner whatsoever, any ownership interest in the Casino Operator or Casino Manager to any person acting as an agent, trustee or in any other representative capacity for or on behalf of another person without having first fully disclosed all facts pertaining to such transfer and representation to the Corporation. No person acting in such representative capacity shall hold or acquire any such interest or so invest or participate without having first fully disclosed all facts pertaining to such representation to the Corporation and having obtained written permission from the President.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2905. Transfer of Interest Prior to Approval

The sale, assignment, transfer, pledge, alienation, disposition, public offering, acquisition or other transfer of any ownership interest of the Casino Operator, Casino Manager must receive prior Approval from the Corporation. Any sale, assignment, transfer, pledge, alienation, disposition, public offering, acquisition or other transfer of interest of the Casino Operator or Casino Manager that occurs without the prior Approval of the Corporation shall be void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2907. Transfer of Interest, Application

A. Unless otherwise provided in LAC 42:IX. 2909, any person or entity filing an application for transfer of any ownership interest in the Casino Operator or Casino Manager shall complete an application on a form prescribed by the Corporation which shall form the basis for the Corporation's investigation to determine the suitability of the transferee. All costs associated with the Corporation's investigation of the application for a transfer of interest shall be born by the individual or entity seeking the ownership interest. An application fee of \$300.00 shall be paid at the time of filing the application.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2909. Transfer Among Licensees

If a person who is the owner of any interest of the Casino Operator or Casino Manager proposes to transfer ownership of said interest to another person who is also an owner of the Casino Operator or Casino Manager, the following shall apply:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2911. Transfer of Interest to Non-Licensee

A. No person who owns any direct ownership interest in the Casino Operator or Casino Manager shall in any manner whatsoever, transfer any part of the interest therein to any person, who is not then a licensee or otherwise has been found suitable by interest therein to any person, who is not then a licensee or otherwise has been found suitable by the Corporation. No such transfer shall be effectuated for any purpose until the proposed transferee has made application for and has obtained all licenses, or Findings of Suitability required by the Casino Act and these Regulations and until the transfer and application has been Approved by the Corporation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2913. Stock Restrictions

Unless otherwise Approved by the Corporation in advance, all ownership securities issued by the Casino Operator or Casino Manager shall bear on both sides of the certificate a statement of the restrictions containing the following inscription:

"The purported sale, assignment, transfer, pledge or other disposition of this security must receive the prior Approval of the Louisiana Economic Development and Gaming Corporation. The purported sale, assignment, transfer, pledge or other disposition, of any security or shares issued by the entity issuing this security is void unless Approved in advance by the Louisiana Economic Development and Gaming Corporation. If at any time an individual owner of any such security is determined to be disqualified under the Casino Act to continue as a licensee or suitable person, the issuing entity shall ensure that such person or persons may not receive any dividend or interest upon any such security, exercise, directly or indirectly through any trustee or nominee any voting right conferred by such security receive remuneration in any form from the Casino Operator or Casino Manager for services rendered or otherwise, receive any economic benefit from the Casino Operator or Casino Manager or function as a manager, officer, director, or partner thereof."

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2915. Escrow Required

A. No money or other thing of value constituting any part of the consideration for the transfer of interest or acquisition of interest in the Casino Operator or Casino Manager shall be paid over, received or used until complete compliance has been had with all prerequisites set forth in the Casino Act and these Regulations for the consummation of the transaction.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2917. Public Offerings

The Casino Operator or Casino Manager and any non-publicly traded Holding Company shall apply for prior Approval of any proposed public offering of any ownership interest therein, and shall comply with all conditions imposed by the Corporation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§2921. Enforcement of a Security Interest

* * *

B. Notwithstanding any other provision of these Regulations, Approval is not required to enforce a security interest in a security issued by a Casino Operator, Casino Manager or Intermediary or Holding company thereof, if the gaming operation has ceased and the casino operating contract has been surrendered to the Board prior to the enforcement of such security interest.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

Chapter 33. Disciplinary Action

§3301. Violation of Law or Regulations

A. Violation of any provisions of the Casino Act or of these Regulations by a Casino Operator, Casino Manager, licensee, registrant, person found suitable or any agent or employee of such person shall be deemed contrary to the public health, safety, morals, good order and general welfare of the inhabitants of the State of Louisiana and grounds for suspension or revocation of a license or Finding of Suitability or imposition of a civil penalty in accordance with LAC 42:IX. 3319 of these Regulations. Acceptance of a license, registration, Approval or Finding of Suitability or renewal thereof by the person constitutes an agreement on the part of the person to be bound by all of these Regulations of the Corporation as the same are, or may hereafter be amended.

B. It is the responsibility of the person to keep himself informed of the content of all such Regulations and ignorance thereof will not excuse violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§3303. Investigations and Hearings

The corporation shall investigate alleged violations of the Casino Act and these Regulations by any Casino Operator, Casino Manager, licensee, registrant, person found suitable, or member of the public. The President shall conduct hearings in accordance with LAC 42:IX.2501 et seq. to determine whether there has been a violation of any provisions of the Casino Act or these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§3305. Methods of Operation

A. It is the policy of the Corporation to require that the Official Gaming Establishment be operated in a manner suitable to protect the public health, safety, morals, good order and general welfare of the inhabitants of the State of Louisiana.

B. Responsibility for the employment and maintenance of suitable methods of operation rests with the Casino Operator and Casino Manager and willful or persistent use of or toleration of methods of operation deemed unsuitable will constitute grounds for disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§3307. Grounds for Disciplinary Action Against the Casino Operator or Casino Manager

The Corporation deemed any activity on the part of the Casino Operator, Casino Manager and their agents or employees, what is inimicable to the public health, safety, morals, good order and general welfare of the people of the State of Louisiana, or that would reflect or tend to reflect discredit upon the State of Louisiana or the gaming industry, to be an unsuitable method of operation and shall constitute grounds for disciplinary action by the Corporation in accordance with the Casino Act and these Regulations. Without limiting the generality of the foregoing, the following acts or omissions may be determined to be unsuitable methods of operations:

* * *

19. except transfers of interest made pursuant to LAC:IX.2901 et seq., the sale or assignment of any gaming credit instrument by a Casino Operator, Casino Manager, licensee or person found suitable unless the sale is to a publicly traded or

other bonafide financial institution pursuant to a written contract, and the transaction and the terms of the transaction, including, but not limited to, the discount rate, are reported to the Corporation;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§3309. Disciplinary Action Against Employees and Agents

The Corporation may take disciplinary action against any employee or agent of the Casino Operator or Casino Manager if the employee or agent has:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

§3319. President's Issuance of Orders

* * *

B. The President may require, prior to any disciplinary proceedings, that a corporate licensee, Casino Operator or Casino Manager place its securities in escrow under specified terms and conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 24:

Hillary J. Crain
Chairman

9809#009

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of the State Fire Marshal

Amusement Ride Safety
(LAC 55:V.Chapter 25)

In accordance with the provisions of R.S. 49:953.B of the Administrative Procedure Act and R.S. 40:1484.3, relative to the authority of the State Fire Marshal to promulgate and enforce rules, relative to the regulation of Amusement Attractions and Rides, the State Fire Marshal hereby finds that an imminent peril to public safety may exist in that LAC 40:VII.Chapter 6 was amended by Act 130 in the Extraordinary Session of the Louisiana Legislature, 1998, taking effect on June 17, 1998. These amendments to the law require the immediate adoption of the following emergency rule.

**Title 55
PUBLIC SAFETY**

Part V. Fire Protection

Chapter 25. Amusement Attractions and Rides

§2501. Definition of Terms

Amusement Inspection—the official inspection by the Mechanical Safety Manager, or his designee, of a ride or device.

A.N.S.I.—the American National Standards Institute.

Approved—acceptable to the assistant secretary. Any product certified or classified, or labeled, or listed by a nationally recognized testing agency may be deemed to be acceptable, unless specifically banned by order of the assistant secretary.

A.S.T.M.—the American Society of Testing Materials.

Barrier—a physical obstruction designed and constructed to safely bring a kart to a full stop or guide the kart safely back on the track.

Child—a person 12 years of age and under.

Cone—a tapered cylinder used for marking the apex of the curves.

Containing Device—a strap, belt, bar, gate or other safety device designed to prevent accidental or inadvertent dislodgement of a passenger from a ride which does not actually provide physical support.

Course/Route/Defined Area—the designed path the kart will follow.

Existing Kart Tracks Kart—tracks in business prior to January 1, 1997.

Governor—a speed limiting device.

Guardian—a person 18 years of age and over.

Guardian Restriction—a condition placed on an amusement ride or attraction where a passenger must be accompanied on the ride by a guardian.

Guards—a device to protect the public from coming in contact with any rotating chains, belts, hot engines or muffler parts.

Helmet—a covering approved by the Department of Transportation (D.O.T.) to protect the head from impact and injury.

Kart—any mechanically powered vehicle, other than those regulated by the Consumer Products Safety Commission.

Kart Ride—shall include but not be limited to karts, kart track, refueling areas, spectator areas and other areas used in any manner of the kart operation.

MPH—the number of miles the kart may travel in one (1) hour.

New Construction—any new kart tracks which are constructed after January 1, 1997.

Pinching Hazard—any configuration of components that would pinch or entrap the fingers or toes of a child or adult.

Pit Area—the designated area where patrons are loaded and unloaded from karts.

Primary Structural Members—any part of the flume or pool structure that carries or retains any static loads or stress caused by water pressure or structure weight.

Puncture Hazard—any surface or protrusion that would puncture a child's or an adult's skin under casual contact.

Refueling Area—a location remote from any area accessible to the public where the karts are refueled.

Restraining Device—a safety belt, harness, or other device which offers actual physical support, or restraint to the patrons of a kart.

Ride Action—a term which shall be used to describe the movements and/or motions of an amusement ride or attraction which are generated for amusement purposes; and/or the bodily actions or reactions experienced by the passengers which are a result of the movement or motions. Bodily actions or reactions which are a result of the commission of an act or acts of malicious negligence and/or horseplay shall not be construed as resulting from the ride action.

Ride Operator—any person or persons actually engaged in or directly controlling an amusement ride or attraction.

Rope, Wire Rope and Cable—are interchangeable, but not interchangeable with the terms for fiber rope and manila rope.

Roll Bar—a metal frame designed to extend above the patron's head, support the weight of the kart and patron, and protect the patron should the kart overturn.

Safety Retainer—a secondary safety wire, rope, bar attachment or other device designed to prevent parts of an amusement ride or amusement attraction from becoming disengaged from the mechanism or from tipping or tilting in a manner to cause hazard to persons riding on, or in the vicinity of, an amusement ride or amusement attraction.

Safety Walls—that part of the water flume designed to keep a slider within the geometric confines of the flume.

Serious Injury—death or injury to a member of the public which requires immediate in-patient overnight hospitalization incurred during the operation of any amusement ride.

Splash Pool—a landing pool at the end of the flume from which bathers exit to the deck.

Splash Pool Decks—those areas surrounding a pool or flume which are specifically constructed or installed for use by sliders.

Stress—force per unit of area.

Track—the physical surface on which the kart operates.

Tread Contact Surface—foot contact surfaces of ladder, step, stair, or ramp.

Water Amusement Ride—an amusement ride or attraction which utilizes water as the primary entertainment medium, and moreover, the customer is either fully or partially immersed in water.

Water Flume—a sloped trough-like or tubular structure of varying slope and direction usually made of fiberglass or coated concrete which utilizes water as a lubricant and/or the method of regulating rider speed.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2503. Administration

A. The Office of the State Fire Marshal which administers the provisions of R.S. 40:1484.1 et seq. relating to the Amusement Ride Safety Law, is located at 5150 Florida Blvd., Baton Rouge, LA 70806.

B. The following Nationally recognized standards are adopted and used in the formulation and enforcing of these rules and regulations; should there arise a conflict between these standards and R.S. 40:1484.1 et seq. or the rules and regulations, the provisions of R.S. 40:1484.1 et seq. and/or the rules shall apply:

1. ASTM F698-94 Standard Specification for Physical Information to be Provided for Amusement Rides and Devices (approved July 15, 1994; published Sept. 1994);

2. ASTM F747-95 Standard Terminology Relating to Amusement Rides and Devices (approved April 15, 1995; published June 1995);

3. ASTM F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (approved December 15, 1993; published February 1994);

4. ASTM F846-92 Standard Guide for Testing Performance of Amusement Rides and Devices (approved May 15, 1992; published July 1992);

5. ASTM F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (approved January 15, 1993; published March 1993);

6. ASTM F893-87 Standard Guide for Inspection of Amusement Rides and Devices (approved May 29, 1987, reapproved 1995; published July 1987);

7. ASTM F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (approved April 15, 1994; published June 1994);

8. ASTM F1193-95 Standard Practice for An Amusement Ride and Device Manufacturer Quality Assurance Program (approved January 15, 1995; published March 1995);

9. ASTM F1305-94 Standard Guide for the Classification of Amusement Ride and Device Related Injuries and Illnesses (approved April 15, 1994; published June 1994);

10. NFPA 101, Edition 1997, Life Safety Code; and

11. NFPA 70, Edition 1996, National Electrical Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2505. Inspections

A. Where only individual units of a ride, such as cars, seats, or other carriers are defective and not in compliance with R.S. 40:1484.1 et seq. and/or these rules, such units shall be taken out of service and clearly marked with a red tag reading *Out of Service*; provided, however, such defects do not jeopardize the safety of the entire ride.

B. The assistant secretary or his designee, upon presenting credentials to the ride owner/operator, is authorized without prior notice to inspect and investigate at reasonable times, and within reasonable limits and manner, any area where amusement rides or amusement attractions are assembled or are in use.

1. Inspections shall include, but are not limited to, a review of necessary documents, observation of and/or examination of the ride assembly or set up.

2. Inspection of the ride shall include, as a minimum, foundation, blocking, fuel containers, mechanical and electrical condition and safe operation of the ride.

3. Amusement rides/attractions shall be operated in accordance with the manufacturer recommended restrictions and limitations, such as, but not limited to height, weight, age or passenger placement. In the event the manufacturer has not provided such recommended restrictions, such restrictions and limitations must be established by the operator and shall be submitted to the assistant secretary for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2507. Prohibited Use

A. The assistant secretary shall order in writing, a cessation of operation of an amusement ride or attraction, if it has been determined after inspection to be hazardous or unsafe. Operation shall not be resumed until such conditions are corrected to the satisfaction of the assistant secretary.

B. No person shall use or permit to be used, an amusement ride or attraction which is not properly assembled or which is defective or unsafe in any of its parts, components, controls, or safety equipment.

C. During a lightning storm, a period of tornado alert or warning, or fire, or when violence, riot, or other civil disturbance occurs or threatens an amusement ride or attraction, or in an area adjacent thereto, passengers shall be unloaded or evacuated from the ride and the ride shall be shut down and secured immediately. Operation shall not resume until the situation has returned to a normal, safe operating condition.

D. An amusement ride or attraction which is exposed to wind or storm with lightning or wind gust above that recommended by the manufacturer, shall not be operated except to release or discharge occupants.

E. If the inspector finds that an amusement ride or attraction presents an imminent danger, to life, injury, mechanical/electrical failure, he will attach to such ride a Cessation Order tag and the amusement ride or attraction shall not be used until the ride is made safe to the satisfaction of the assistant secretary and the tag has been removed by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2509. Medical and First Aid

A. The operator shall ensure the availability of medical aid. In the absence of an infirmary, clinic, or hospital used for the treatment of an injured person, within a ten mile radius of the amusement rides and attractions, the operator shall ensure that a person or persons shall be trained to render first aid. First aid supplies recommended by the American Red Cross' *Anatomy of a First Aid Kit* obtainable from the Office of the State Fire Marshal or the local Red Cross office, shall be readily available.

1. The operator shall have conspicuously posted at the park, carnival, fair or festival office, the telephone numbers and locations for physician, hospital, ambulance service and local fire department to be called in the event of an emergency.

2. The operator shall within twenty four (24) hours of knowledge of the event, report to the assistant secretary any amusement ride or attraction incident which results in serious injury.

3. This report shall describe the nature of the incident, name and address of the affected individual, and a description of the injury, as well as the name and location of the facility where the individual was treated.

4. An incident associated with an amusement ride or attraction which immediately result in a fatal injury shall be reported to the assistant secretary in person or by phone within twelve (12) hours.

5. After determination and consultation with the operator, the assistant secretary may require the scene of such incident to be secured and not disturbed to any greater extent than necessary for the removal of the deceased or injured person or persons. If the ride is removed from service by the assistant secretary an immediate investigation shall be completed and the ride shall not be released for repair and operation until after a complete investigation has been made by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2511. Inspection Fee and Permit

A. A copy of the Certificate of Inspection issued by the assistant secretary shall be continuously displayed on the ride when the ride is in use. The permit shall be encased in such a manner as to be protected from weather conditions. Duplicates of such permits shall be issued by the assistant secretary for a fee of \$7.50 per each permit.

B. The operator of an amusement ride or attraction shall notify the assistant secretary when ownership is transferred to another. In such case, the new operator shall obtain a new permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2512. Operation of Amusement Rides or Attractions

A. The ride operator shall be at least 16 years of age.

B. The operator of an amusement ride or attractions, exclusive of water amusement rides and karts, shall operate the amusement ride or attraction in compliance with the standards adopted in Section 2503.B of these rules, or the equivalence thereof as submitted to and approved by the assistant secretary.

C. The operator shall refuse a passenger seeking admission to an amusement ride or attraction if the passenger cannot meet a guardian or height restriction if the ride is subject to such a restriction. Legible signs to this effect shall be posted in full view of the public seeking admission to rides.

D. The operator of an amusement ride or attraction shall deny entry to any person, if in the opinion of the operator the entry may cause above normal exposure to risk of discomfort or injury to the person who desires to enter, or if in the opinion of the operator the entry may jeopardize the safety of other patrons or employees.

E. A suitable number of non-combustible trash collection containers shall be provided in and around amusement rides. Excessive accumulations of trash or refuse shall be promptly removed.

F. All parts of amusement ride and temporary structures used by passengers or customers shall be maintained in a clean condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2513. Maintenance and Inspection Records

A. The operator shall retain, for a period of twelve (12) calendar months, maintenance and inspection records for each amusement ride in accordance with the following ASTM Standards listed in Section 2503.B, F770-93, F853-93, F893-87.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2515. Rebuilt and Modified Amusement Rides/Attractions

A. If an amusement ride is materially rebuilt or modified, the operator shall notify the assistant secretary and submit for approval documentation equivalent to that required in ASTM Standard F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (approved April 15, 1994; published June 1994) on work that was done.

B. The ride shall be reidentified, by the operator, by a different name or identification number or both.

C. The ride shall be subject to all other provisions of all applicable rules, regulations and statutes as if it were a new ride not previously used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2517. Assembly and Disassembly

The operator of an amusement ride shall comply with the construction manual, or the equivalency thereof as determined by the assistant secretary, for the assembly and disassembly of the ride. The construction manual, the construction manual, or the equivalency thereof as determined by the assistant secretary, shall be kept with the amusement ride attraction and shall be available for use by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2519. Brakes and Stops

A. On an amusement ride or amusement attraction where coasting renders the operation dangerous, either during the period while the ride or attraction is being loaded or unloaded or in the case of power failure or other unforeseeable situation a method of braking shall be provided.

B. If cars or other components of an amusement ride or amusement attraction may collide in such a way as to cause injuries upon failure of normal controls, emergency brakes sufficient to prevent these collisions shall be provided in

accordance with the manufacturer's design, or the equivalency thereof as determined by the assistant secretary.

C. On amusement rides or amusement attractions which make use of inclined tracks, automatic anti-rollback devices shall be installed to prevent backward movement of the passenger carrying units in case of failure of the propelling mechanism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2521. Internal Combustion Engines

A. Internal combustion engines for amusement rides or attractions shall be capable of handling the assigned load.

B. Where fuel tanks of internal combustion engines for amusement rides are not of adequate capacity to permit uninterrupted operation during normal operating hours, the amusement ride shall be closed down and unloaded or evacuated during the refueling procedure. The fuel supply shall not be replenished while the engine is running.

C. Where an internal combustion engine for an amusement ride or attraction is operated in an enclosed area, the exhaust fumes shall be discharged to outside the enclosed area, as required by NFPA 70, National Electrical Code, 1996 Edition.

D. Internal combustion engines for amusement rides or attraction shall be located to permit proper maintenance and shall be protected by guards, fencing or enclosure in accordance with NFPA 70, National Electrical Code, 1996 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2523. Wire Rope

A. Wire rope on amusement rides or attractions shall be thoroughly examined weekly. Wire rope found to be damaged shall be replaced with new rope of proper design and capacity as per the manufacturer's data tag or as approved by the assistant secretary. Any of the following conditions shall be cause for rope replacement:

1. in running ropes, six randomly distributed broken wires in one rope lay or three broken wires in one strand of one rope lay;

2. in pendants or standing ropes, evidence of more than one broken wire in one rope lay;

3. abrasion, scrubbing or peening causing loss of more than 1/3 of the original diameter of the outside diameter of the outside individual wires;

4. corrosion;

5. kinking, crushing, birdcaging, or other damage resulting in distortion of the rope structure;

6. heat damage;

7. reduction from normal diameter of more than 3/64 inch for diameters up to and including 3/4 inch, 1/16 inch for diameters 7/8 inch to 1 1/8 inches, 3/32 inch for diameters 1-1/4 inch to 1 1/2 inches;

8. birdcaging or other distortion resulting in some members of the rope structure carrying more load than others;

or

9. noticeable rusting or development of broken wires in the vicinity of attachments. When this condition is localized in an operational rope, it may be eliminated by making a new attachment.

B. Wire ropes used to support, suspend, bear or control forces and weights involved in the movement and utilization of tubs, cars, chairs, seats, gondolas, other carriers, the sweeps, or other supporting members of an amusement ride or attraction shall not be lengthened or repaired by splicing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2525. Hydraulic Systems

A. Hydraulic systems and other related equipment used in connection with amusement rides or attractions shall be free of leaks and maintained to ensure safe operation at all times.

B. An amusement ride or attraction which depends upon hydraulic pressure to maintain safe operation shall be provided with a positive means of preventing loss in hydraulic pressure that could result in injury to passengers.

C. Hydraulic lines shall be guarded so that sudden leaks or breakage will not endanger the passengers or the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2527. Pressure Vessels, i.e., Vacuum Tanks

A. Air compressor tanks, storage tanks and appurtenances used in connection with amusement ride or attractions shall be designed and constructed in accordance with Section VIII of the ASME Code Edition and Addendum mandatory at time of construction; and shall also be equipped and maintained to ensure safe operation.

B. Air compressor tanks and other receivers used in connection with air compressors shall comply with the Rules of the National Board Inspection Code, 1995 Edition, 1996 Addendum, and the 1997 Addendum.

C. Air compressor tanks and other air receivers used in connection with air compressors shall be inspected operationally at least once a year and internally when considered necessary by a National Board Commissioned inspector, registered with the State of Louisiana to conduct these inspections and a record of each inspection shall be kept.

D. Air compressor tanks and other air receivers used in connection with air compressors shall have the maximum allowable working pressure conspicuously marked thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2529. Protection Against Moving Parts

A. The interior and exterior parts of all amusement rides or attractions with which a passenger may come in contact shall be smooth and rounded, free from sharp, rough or splintered edges and corners, with no protruding studs, bolts, screws, or other projections which might cause injury.

B. Interior parts of passenger carrying apparatus upon which a passenger may be forcibly thrown by the action of the ride or attraction shall be adequately padded.

C. Amusement rides or attractions which are self-powered and which are operated by a passenger shall have the driving mechanism guarded and the guard secured in place as to prevent passengers from gaining access to the driving mechanism.

D. Handholds, bars, footrest and other equipment as may be necessary for safe entrance and exit to and from amusement rides or attractions shall be provided and maintained in a safe condition. Such equipment shall be of sufficient strength to support the passengers.

E. Restraining, containing or cushioning devices or a combination of these shall comply with this subsection and be provided and used on all amusement rides where:

1. centrifugal and other forces mechanical malfunction could unseat or dislodge a passenger; or
2. inadvertent movement of a passenger could cause injury to the passenger or any other passenger; or
3. the speed of the ride presents a hazard to a passenger.

F. Restraining, containing or cushioning devices shall be designed, constructed, installed and maintained so as to provide safe support for passengers.

G. Anchorage for the restraining, containing or cushioning devices shall have a strength at least equal to the strength of such devices.

H. All passengers restraints, cushioning or containing devices shall be provided and maintained in accordance with the manufacturers designs and recommendations and shall not be modified without the approval of the manufacturer and the assistant secretary.

I. All exposed mechanical parts shall have guards installed to prevent possible personal contact while in operation. Any safeguarding means shall not be used that would cause injury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2531. Electrical Equipment

A. The National Electrical Code, NFPA Number 70, 1996, is hereby adopted as the standard for application in the enforcement of the provisions of R.S. 40:1484.1, et seq. This document may be purchased from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

B. All electrical wiring and equipment used for amusement rides or attractions or for lighting shall be installed and maintained in accordance with the National Electrical Code, NFPA Number 70, 1996.

1. The outlets of electrical power lines carrying more than 120 volts shall be clearly marked to show their voltage.

2. All electrical transformer substations shall be properly enclosed and proper warning signs shall be posted.

3. Electrical wiring and equipment located outdoors shall be of such quality and construction or protection that exposure to weather will not interfere with its normal operation.

4. Elevated power lines crossing access or other roads within the proximity of an amusement ride or attraction shall be so suspended as to provide a vertical clearance of at least fifteen feet from the road surface or three feet above any vehicle used within the grounds of a carnival or amusement

park, whichever is greater. A horizontal clearance of at least three feet shall be provided on each side of the normal passage space of vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2533. Temporary Wiring

A. If temporary wiring is used it shall be in compliance with the applicable section of the National Electrical Code, NFPA Number 70, 1996.

B. Temporary electrical power and lighting installations shall be permitted during the period of construction and remodeling of buildings, structures, equipment or similar activities.

C. Temporary electrical power and lighting installations shall be permitted for a period not to exceed 90 days.

D. All lamps for general illumination shall be protected from accidental contact or breakage. Protection shall be provided by elevation of at least 7 feet from normal working surface or by a suitable fixture or lampholder with a guard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2535. Grounding

All grounding shall comply with Article 525 of the National Electrical Code, NFPA Number 70, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2537. Construction

A. All amusement rides or attractions shall meet the requirements of the ASTM Standard for the Design and Manufacture of Amusement Rides (F1159-94) and the NFPA Life Safety Code 101, 1997 Edition.

B. Water ride data plates shall contain a location number of the ride or flume and the maximum dispatch time interval.

C. The ride operator shall maintain all of the information as required by the following ASTM Standards; F698-94 Standard Specification for Physical Information to be Provided for Amusement Rides and Devices (July 1994), F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January 1993) and make it available to the assistant secretary, upon request. If this information is not available it shall be developed by the owner/operator and submitted to the assistant secretary for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2539. Means of Access and Egress

A. Safe and adequate means of access and egress from amusement rides or attractions shall be provided as required by NFPA Life Safety Code 101, 1997 Edition and the ASTM Standard F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (April 1994).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2541. Walkways and Ramps

A. Walkways and ramps shall be erected with a slope not greater than one in ten except that when nonslip surfaces are provided, the grade may be increased to a maximum of one in eight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2543. Fire Prevention

A. All buildings over one story in height shall be constructed or protected in accordance with NFPA 101-Chapter 8, 1997 Edition.

B. All buildings located within 20 feet of lot lines or within 20 feet of other buildings on the same lot, shall be of protected noncombustible or protected masonry enclosed construction or better.

C. Fabrics constituting part of an amusement ride or attraction shall be flame resistant to meet the provisions of NFPA 101, Chapter 8, 1997 Edition.

E. Approved fire extinguishers in accordance with NFPA 10, 1994 Edition shall be provided at the following locations to secure reasonable and adequate protection from fire hazards:

1. at or near all operating gasoline or diesel engines;
2. at or near all amusement ride or attraction stands, excluding water flumes; and
3. at each food handling booth where cooking is done.

F. Flammable waste such as oily rags and other flammable materials shall be placed in covered metal containers which shall be kept in easily accessible locations. Such containers shall not be kept at or near exits.

G. Gasoline and other flammable liquids and flammable gases when stored shall be kept in reasonably cool and ventilated places. Such liquids shall be in containers as prescribed by NFPA 30, 1996, Chapter 4. Smoking and the carrying of lighted cigars, cigarettes, or pipes is prohibited within 50 feet of any area where such liquids or gases are stored, or are transferred from one container to another. Signage shall be posted stating *No Smoking*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2545. Water Flumes, Structural Design

A. Structural Design. The flumes' structural design and materials shall be in accordance with ASTM Standard F1159-94 Practice for the Design and Manufacture of Amusement Rides and Devices (April, 1994). The flumes and pools shall be watertight and their surfaces shall be smooth and easy to clean.

B. All stairways used as part of a slide shall be constructed to meet the requirements of NFPA 101, 1997 Edition.

E. Visitor and Spectator Areas: The space used by visitors and spectators shall be distinctly and absolutely separated from those spaces used by sliders. Visitors and spectators in street

clothes may be allowed within the perimeter enclosure if they are confined to an area separated from the space the sliders use.

F. Typical Posted User Safety Warnings for Slide Operational Use:

1. no running, standing, kneeling, rotating, tumbling, or stopping in flumes or tunnels;
2. no diving from flume at any time;
3. never use this slide when under the influence of alcohol or drugs;
4. only one person at a time. Obey instructions of top pool supervisor and lifeguard at all times;
5. never form chains unless authorized by slide manager or by posted instructions;
6. keep hands inside the flume;
7. leave the landing pool promptly after exiting from slide; and
8. keep all glasses, bottles and food away from pools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2547. Pumps

A. Pumps and motors shall be provided to circulate the water in the splash pool and slide.

B. Pump units shall be accessible for inspection and service in accordance with NFPA 70, 1996 Edition.

C. All motors shall have thermal overload protection in accordance with NFPA 70, 1996 Edition..

D. The motor frame shall be properly grounded, in accordance with the NFPA 70, 1996 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2549. Water Quality

A. Water quality shall be maintained to meet the requirements of the Louisiana Department of Health and Hospitals and the requirements of ASTM Standard F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2551. Electrical Safety and Lighting

A. The National Electrical Code, 1996 Edition, as published by the National Fire Protection Association, shall be used for the wiring and grounding of all electrical equipment associated with a flume and for the grounding of all metallic appurtenances.

B. Whenever flumes are operated after dark, artificial lighting shall be provided in upper and lower pool and deck areas, walkways, stairways, and flumes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2553. Operation, Water Flumes

A. The manufacturer or the general contractor of the flume shall provide the operator with a detailed written operational

manual, or guide, for all phases of operations and normal maintenance of each component of the system as per ASTM Standards F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December, 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993)

B. The guide shall be kept in a secure area and made available to each employee or inspector as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2555. Responsibility of Flume Operators

A. Flume operators shall meet the requirements of ASTM Standard F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December, 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2557. Emergency Procedures

A. A written plan for emergencies shall be carefully devised and kept up-to-date. All employees shall be trained and drilled periodically in the execution of the plan.

B. The emergency plan shall encompass crowd control and safe evacuation, drownings, electrical shock, heat prostration, fractures, poisonings, cuts and burns, neck and back or spinal injuries and exposure to chlorine gas. Each of these situations is addressed in the latest American National Red Cross handbook on first aid, a copy of which shall be on hand at the same location as the emergency plan, the first-aid kit, and the emergency telephone numbers.

C. Each Water Flume location shall have available the following first-aid supplies:

1. first-aid kit, a standard 24-unit kit stocked and readily accessible for use;
2. a stretcher and blankets;
3. a standard plywood backboard or other acceptable splint, made to the specification of the American National Red Cross, for persons with back and neck injuries; and
4. an area or room shall be set aside for the emergency care of casualties.

D. All water flume locations shall have posted by the phones a list of current emergency numbers, to include the nearest available ambulance service, hospital, rescue squad, police assistant secretaries, and fire department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

§2559. Go-Kart Rules and Regulations

A. Kart Design

1. The speed of each kart shall be limited or governed to not exceed the following: The maximum adult track speed shall not exceed 25 mph and kiddie track speed shall not exceed 10 mph. Speeds other than defined will require approval from the assistant secretary.

2. Whenever the design of a kart enables the readjustment of the governor speed, the means of adjustment shall not be accessible to the patron of the kart.

3. The seat, backrest, seat belts, and leg area of every kart shall be designed to retain the patron inside the kart in the event of a collision or overturn.

4. Karts shall be fitted with a shoulder harness and/or belt restraint system as required by the kart manufacturer and acceptable to the assistant secretary.

5. Karts shall be provided with sufficient guards to prevent anyone from coming in contact with the drive chains, belts, hot mufflers, engines or rotating parts.

6. Karts shall have bumpers, wheels and body parts that are comparable to that installed by the original manufacturer.

7. Kart wheels shall be enclosed, guarded or operated so the wheels of a kart cannot interlock with or ride over the wheels of another kart.

8. The kart steering wheel, hub and all exposed components shall be padded or helmets and face shields worn to minimize the risk of injury to any patron in the event of a collision or overturn.

9. The kart fuel tank shall be designed and mounted to prevent it from damage or leaking in the event of a collision or overturn.

10. Headrests or roll bars on a kart shall extend above the patron's head and be capable of supporting the weight of the kart and patron as required by the manufacturer. In the event the manufacturer fails to recommend or address this area the karts shall be equipped with roll bars acceptable to the assistant secretary.

11. Karts shall be provided with impact absorbing bumpers, or energy absorption body parts.

12. Karts shall have sufficient muffler systems installed to prevent any noise levels which will interfere with the track operations, adjacent businesses, residential areas or damage the hearing of employees or patrons.

13. The brake and throttle controls on a kart shall be clearly identified. The brake and throttle controls shall be foot operated and return automatically to a non-operational position when released.

14. Karts shall be individually identified either by numbers, alpha characters or other markings acceptable to the assistant secretary.

B. Track Design

1. The design of the kart track shall be consistent with the kart manufacturers' recommendations. In the absence of any manufacturers' recommendations, the track design shall comply with the current industry standards acceptable to the assistant secretary.

2. Cones may be used on tracks as a warning device and to notify the patron of upcoming changes in the track conditions and are used for the following specific reasons:

- a. to notify drivers of impending course changes;
- b. to outline the track and mark key points such as the apex of the turns; and
- c. as a warning device to notify the drivers of the severity of upcoming turns by the location and number of cones prior to the turn;

- d. cone placement:
 - i. on the inside corners; one (1) cone to alert the driver and locate the apex;
 - ii. on the outside corner; two (2) cones to identify minor course changes;
 - iii. three (3) cones to identify course changes which requires a slower speed to safely negotiate the turn; and
 - iv. four (4) and five (5) cones to identify areas where both slower speed and applied braking will be necessary to safely complete the course.
- e. once the proper cone locations have been located for the track, these locations shall be marked with high visibility paint under the proper location of the cone. This will alert racing attendants to the correct location of the cones when they are displaced.
- 3. The track shall have a hard smooth surface.
- 4. The track shall provide road grip sufficient to enable the kart to be driven safely at maximum speed and shall be free of ruts, holes, bumps, water, oil, dirt, or other debris.
- 5. Track surface and design not covered by manufacturers' recommendations or in the absence of such recommendations must be approved by the assistant secretary.
- 6. The width of the track must be a minimum of sixteen (16) feet and maximum of twenty-five (25) feet. The turns on an oval track must be a minimum of five (5) feet wider than the straight away. The minimum radius of the turns is fifteen (15) feet.
- 7. The track shall have signs that indicate one direction of travel and no U-turns permitted. These signs shall be posted at various locations around the track perimeter. Signs, signal lights and other safety equipment shall be maintained in operational condition at all times when open to the public.
- 8. The track shall have no intersecting course configurations. Pit entrances and exits are allowed.
- 9. The shoulder shall be level with the track and marked with cones. White or yellow lines at least four inches in width shall be used to mark all inside and outside edges of the kart track except where barriers are provided along the inside and outside edges of the kart track.
- 10. Barriers shall be designed to prevent a kart from overturning or running over or under the barrier and designed to bring a kart safely to a full stop or guide the kart safely back onto the track.
 - a. Barriers shall be placed:
 - i. between tracks or sections of tracks within thirty (30) feet of each other and constructed of materials that will not readily ignite;
 - ii. between the track and obstructions or hazards located with thirty (30) feet from the track;
 - iii. along all non-access and non-egress edges of the pit area; and
 - iv. between the track and any area accessible to spectators.
- 11. Fencing shall be at least forty-eight (48) inches in height. The fence and gates shall be designed so a four (4) inch sphere cannot pass through any opening. Fencing shall be located around every kart track.
- 12. Pit area for loading and unloading must be separated from the track by a fence or barrier. The pit area must be the

same surface as the track and have separate entrance and exit lanes.

13. Electrical installations must comply with the National Electrical Code (NFPA-70, 1997 Edition) and include lighting for night operation, if operations are conducted after dark.

14. Proposals for construction of new kart tracks in the State of Louisiana shall be submitted to the Office of the State Fire Marshal, Mechanical Safety Section and other appropriate agencies before beginning construction. The following information shall accompany any application or proposal and shall include but not be limited to:

- a. One (1) copy of site plans and all accompanying documentation.

- b. A copy of all required local, parish or state permits such as but not limited to business license, electrical, building, or plumbing permits. When all inspections are completed by local, parish or state agencies one (1) copy of the completed inspection report shall be sent to the Louisiana State Fire Marshals Office, Mechanical Safety Section for enclosure in the facility's permanent file. Any alterations or modifications shall be approved prior to beginning work as required for new construction.

15. Fire Protection

- a. Kart tracks shall be equipped with ABC dry chemical fire extinguishers with a minimum of five (5) pounds capacity as provided for in National Fire Protection Association-10. Standard for Portable Fire Extinguishers, 1997 Edition Chapter 1.

- b. A fire extinguisher shall be readily accessible from all areas of the track and one fire extinguisher shall be kept in the pit and refueling area. The fire extinguisher location shall be prominently marked, easily accessible and approximately thirty-six (36) inches above the ground.

16. Refueling Area

- a. Karts shall be refueled in a designated location remote from any area accessible to the public. Fuel storage and transfer cans must meet the requirements of NFPA 30, 1997 Edition. Any fuel spillage must be promptly cleaned and prevented from running onto the track or any area accessible to the public. Warning signs must be prominently displayed stating that smoking is prohibited in the refueling area.

- b. All kart motors shall be turned off during refueling.

17. Track Operation

- a. Karts may only be operated by patrons within height limits set by the manufacturer. If no height limit is set by the manufacturer, patrons shall be at least fifty-two (52) inches tall and have a leg length that can reach the brake and throttle controls from the patron's seat in order to drive an adult kart.

- b. Only patrons less than fifty-two (52) inches in height with a leg length sufficient to reach the brake and throttle controls from the patron's seat shall be permitted to operate a kiddie kart.

- c. Adult karts and kiddie karts shall not be operated on the same track at the same time.

- d. No kart shall be operated during a lightning storm, a period of tornado warning, fire, riot or other civil disturbance in the area of the track or in an adjacent area. If any of these events occur while the track is in operation, patrons shall be

unloaded and evacuated from the ride and the ride shut down until normal, safe operational conditions are established.

e. Kart tracks shall be monitored during operation either directly by attendants, or indirectly by electronic visual and audio means acceptable to the assistant secretary.

f. A kart losing oil or fuel shall immediately be removed from the kart track. All karts must be stopped immediately and the track cleaned prior to restarting.

g. When the kart manufacturer recommends, or they are deemed necessary by the assistant secretary, the use of helmets must be provided for all patrons to use. Helmets, if used, must fit the patron's head correctly. All helmets must be cleaned with disinfectant twice daily.

h. Karts designed for single or multiple riders shall use a shoulder harness and/or belt restraint system as required by the kart manufacturer. When deemed necessary for additional protection of kart patrons the assistant secretary may require the addition and use of a shoulder harness or belt restraint system on all karts.

i. Patron's loose clothing and hair longer than shoulder length must be secured prior to operating any kart. Fully enclosed shoes must be worn by kart patrons at all times during operation of a kart.

j. Patrons are prohibited from smoking during kart operation.

k. Track attendants shall not allow patrons to leave their karts either in the pit or on the track unless assisted by track or pit attendants.

l. The kart track operator shall post a conspicuous warning sign at the entrance to the kart track. The sign shall be at least two (2) feet by two (2) feet in sharply contrasting colors and shall contain the following warning:

Persons with the Following Conditions Are Prohibited from this Ride:

1. heart conditions;
2. back or neck ailments; or
3. pregnancy.

n. The kart track operator must have a sign posted at the ticket window or track entrance and in the pit area that conveys, at a minimum, the following rules and regulations.

i. The patron height limit specified by the manufacturer, or no less than fifty-two (52) inches for adult karts and no more than fifty-two (52) inches for kiddie karts.

ii. Keep both hands on the wheel and both feet in the kart at all times. Do not get out of the kart unless track attendant is present.

iii. All loose clothing and hair longer than shoulder length must be secured. Fully enclosed shoes must be worn by kart patrons at all times during operation of kart.

iv. No smoking in kart or pit area.

v. Persons under the influence of intoxicants will not be allowed to operate karts.

vi. The use of private karts or vehicles will be prohibited on kart track when they are open to the public.

C. Record Retention and Inspection

1. Daily inspections must be made on all karts prior to operation. Inspections shall include but not be limited to: tires, padding, steering wheel, frame welds, spindles, axles, seat or

shoulder belts, roll bars, gasoline tank condition, brake and gas pedal operation, and other parts as recommended by the kart manufacturer or the assistant secretary.

2. Weekly, monthly and annual inspections shall be performed as recommended by the kart manufacturer or the assistant secretary.

3. A track operation manual shall be written in the English language and available for review by the assistant secretary.

4. The kart track shall have and demonstrate an emergency plan for evacuation of patrons and employees in the event of an emergency. This shall include but not be limited to: fires, kart collisions, dangerous weather, obstructions on the track, handling intoxicated patrons and emergency first aid.

5. The kart track shall maintain records of all required inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:

Lieutenant Colonel Ronald B. Jones
Acting Undersecretary

9809#037

DECLARATION OF EMERGENCY

Department of Transportation and Development Highways/Engineering

Wireless Telecommunications Permit
(LAC 70:III.Chapter 23)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 48:381.2, the secretary of the Department of Transportation and Development declares that an emergency action is necessary in order to implement the provisions of the following rule entitled "DOTD Wireless Telecommunications Permit". The immediate implementation of the rule will enable communications providers to utilize highway rights-of-way in order to erect wireless facilities as soon as possible.

This emergency rule is effective upon publication and shall remain in effect for a maximum of 120 days. A Notice of Intent is being published simultaneously with this rule.

Title 70

TRANSPORTATION

Part III. Highways/Engineering

Chapter 23. DOTD Wireless Telecommunications Permit

§2301. Purpose

In accordance with the provisions R.S. 48:381.2, the Chief Engineer of the Department of Transportation and Development, or his designee, may issue nonexclusive permits, on a competitively neutral and nondiscriminatory basis for use of public rights-of-way to utility operators for the purpose of installation of wireless telecommunications equipment and facilities within highway rights-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of

§2303. General Conditions and Standards

A. Any facilities placed within the highway right-of-way shall be placed in accordance with existing Federal, State, or local laws and the standards of the Department. Environmental clearances may also be necessary and are the responsibility of the permit applicant.

B. All facilities, after having been erected, shall at all times be subject to inspection and the Department may require such changes, additions, repairs, relocations and removal as may at anytime be considered necessary to permit the relocation, reconstruction, widening and maintaining of the highway and to provide proper and safe protection to life and property on or adjacent to the highway, or in the interest of safety to traffic on the highway. The cost of making such changes, additions, repairs and relocations shall be borne by the permit applicant, and all cost of the work to be accomplished under this permit shall be borne by the permit applicant.

C. The proposed facilities, their operation or maintenance shall not unreasonably interfere with the facilities or the operation or maintenance of the facilities of other persons, firms or corporations previously issued permits for use and occupancy of the highway right-of-way, and the proposed facilities shall not be dangerous to persons or property using or occupying the highway or using facilities constructed under previously granted permits of use and occupancy.

D. It is the duty of the applicant to determine the existence and location of all facilities within the highway right-of-way by reviewing Departmental records for previous permits in the applicable area.

E. Installations within the highway right-of-way shall be in accordance with applicable provisions contained in the following: AASHTO Guide for Accommodating Utilities within Highway Right of Way, Code of Federal Regulations 23 (CFR 23), National Electrical Safety Code C2, 1996 Federal Telecommunications Act. Those facilities not included in the above mentioned documents shall be in accordance with accepted practice. Where standards of the Department exceed those of the above cited codes, the standards of the Department shall apply. The Department reserves the right to modify its policies as may be required if conditions warrant.

F. Data relative to the proposed location, relocation and design of fixtures or appurtenances as may be required by the Department shall be furnished to the Department by the applicant free of cost. The permit applicant shall make any and all changes or additions necessary to make the proposed facilities satisfactory to the Department.

G. Cutting and trimming of trees, shrubs, etc., shall be in accordance with the Department's EDSM IV.2.1.6 and Vegetation Manual, as revised.

H. The applicant agrees to defend, indemnify, and hold harmless the Department and its duly appointed agents and employees from and against any and all claims, suits, liabilities, losses, damages, costs or expenses, including attorneys' fees sustained by reason of the exercise of their permit, whether or not the same may have been caused by the negligence of the Department, its agents or employees,

provided, however, that the provisions of this last clause (whether or not the same may have been caused by the negligence of the Department, its agents or employees) shall not apply to any personal injury or property damage caused by the sole negligence of the Department, its agents or employees, unless such sole negligence shall consist or shall have consisted entirely and only of negligence in the granting of a permit.

I. The permit applicant agrees to provide proof of liability insurance sufficient to indemnify the Department from claims resulting from accidents associated with the use of the applicable permit. The applicant and its insurer shall notify the Department in writing at least thirty (30) days prior to cancellation of the insurance or prior to any other changes affecting the insurance coverage.

J. The applicant is the owner of the facility for which a permit is requested and is responsible for maintenance of the facility. Any permit granted by the Department is granted only insofar as the Department possesses the power and right to grant the same.

K. Any permit granted by the Department is subject to revocation at any time.

L. Signing for warning and protection of traffic in instances where workmen, equipment or materials are in close proximity to the roadway surfacing, shall be in accordance with requirements contained in the Department's Manual on Uniform Traffic Control Devices. No vehicles, equipment and/or materials shall operate from, or be parked, stored or stock-piled on any highway, median, or in an area extending from the outer edge of the shoulder of the highway on one side to the outer edge of the shoulder of the highway on the opposite side.

M. All provisions and standards contained herein relative to the installation of utilities shall apply to future operation, service and maintenance of utilities.

N. Drainage in highway side and cross ditches must be maintained at all times. The entire highway right-of-way affected by work under a permit must be restored to its preexisting condition, and shall be approved by the Department's Right-of-Way Permits Engineer.

O. Any non-metallic or non-conductive underground facility must be installed with a non-corrosive metallic wire or tape placed directly over and on the center of the facility for its entire length within highway right-of-way. Wire or tape must be connected to all facilities.

P. Prior to performing any excavations, the applicant is required to call Louisiana One-Call. If installing any underground facilities, such as cable or conduits, the applicant must be a member of Louisiana One-Call.

Q. A copy of the permit applicant's FCC license and registration number shall be submitted with the permit application. For towers in excess of 200 feet in height, a copy of FAA approval shall also be submitted to DOTD. All registration numbers shall be posted on the tower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2305. Specific Standards for Installation and Operation of Wireless Telecommunication Tower Facilities

A. All materials and workmanship shall conform to the requirements of the applicable industry codes and to Department specifications.

B. All safety precautions for the protection of the traveling public shall be observed. Delays to traffic will be minimized to the maximum extent possible during construction of wireless telecommunication facilities. Acceptable delays will be determined and approved by the DOTD Permit Engineer. Thereafter, no traffic delays are permissible. These precautions shall be in force and effect not only during the construction phase of the installation, but shall also be in force and effect at all times that maintenance is required. (See Manual on Uniform Traffic Control Devices-MUTCD.)

C. There shall be no unsupported, aerial installation of horizontal or longitudinal overhead power lines, wireless transmission lines, or other overhead wire lines, except within the confines of the wireless operator's facility as described herein.

1. Coaxial transmission lines, tower light power cables, and other wires or cables necessary for the proper and safe operation of the telecommunication facility required to crossover from the operator's equipment pad, shelter, or other means of communications equipment housing, to the vertical tower structure, shall be supported along their entire horizontal length by a structural cable trough and shall not exceed twenty-five (25) feet in length.

2. Electrical utility lines, wireline telephone lines, and other utility services transmitted via wireline shall be installed underground in accordance with the National Electrical Code, and the department's specifications.

3. It is the responsibility of the wireless facility operator to negotiate with owners of preexisting utilities in order to have the preexisting lines relocated to accommodate these new installations.

4. Joint use agreements and existing permits and servitudes will be taken into consideration in determining areas for installations.

D. All excavations within the limits of the right-of-way shall be backfilled and tamped in six inch layers to the density of the adjacent undisturbed soil. Where sod is removed or destroyed, it shall be replaced within one week. Where existing soil material is, at the discretion of the Department, unsuitable for backfill, select material shall be furnished in lieu thereof, and the existing material shall be disposed of by approved methods.

E. Where total clearing and grubbing is required by the telecommunication facility operator, the operator is authorized to retain all cleared timber and shall be responsible for removing all cleared timber from the right-of-way. The operator must follow-up with submittal of a landscape plan which may include an erosion control seeding plan approved by DOTD.

F. Installations through drainage structures are strictly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2307. Preferred Areas of Installation of Wireless Communications Tower Facilities in Order of Preference

- A. Rest areas and stationary weigh stations.
- B. Power poles and light standards.
- C. On longitudinal elevated structures.
- D. Co-located on DOTD-owned communications tower facilities.

E. Inside interchange loops and adjacent on/off ramps.
AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2309. Fees

A. The following fees shall apply to wireless telecommunications installations placed within State highway rights-of-way.

Type of Tower	High Demand	Medium Demand	Low Demand
Self-Supporting Tower/Antenna	Fee-\$30,000	Fee-\$15,000	Fee-\$10,000
Monopole/Antenna	Fee-\$21,000	Fee-\$12,500	Fee-\$7,500
Small Attachments to Existing Utility/Light Poles	Fee-\$6,000	Fee-\$5,000	Fee-\$4,000
Attachment on DOTD Tower	Fee-\$50,000	Fee-\$30,000	Fee-\$15,000
Video Cameras	Supply feed to DOTD	Supply feed to DOTD	Supply feed to DOTD

B. The Department of Transportation and Development, Office of Utility Permits shall have on hand during business hours maps which specify the sections of the state which are designated as "High Demand", "Medium Demand", and "Low Demand".

C. All permit fees must be paid to the Department by check or money order. The Department will not accept cash.

D. All permits will be in force and effect for a period of one year, but may be renewed for the same fee each year for a maximum of 10 years.

E. The Department may waive fees in exchange for shared resources.

F. The Department may waive fees for its agents, i.e. those permit applicants who erect facilities, attachments or cameras on behalf of the Department in order to conduct Departmental work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2311. Types of Towers Permitted

A. In rest areas, weigh stations, maintenance units, and other large tracts of property:

1. 350 ft. (maximum) self supporting lattice type towers;
 2. 195 ft. (maximum) monopole tower;
 3. lighted monopole tower replacement of light standard;
 4. existing communication tower.
- B. Other acceptable areas:
1. 195 ft. (maximum) monopole tower;
 2. lighted monopole tower replacement of light standard;
 3. elevated structure;
 4. 350 ft. (maximum) self supporting lattice type towers;
 5. existing communication tower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2313. Co-Location

A. DOTD communications equipment shall be allowed to co-locate on wireless facility towers, at no cost to DOTD, provided that the tower's structural capacity is adequate to safely support such additional use; the existing space on the tower is at the height DOTD desires; and no technical factors exist which would prohibit such a co-location.

B. Wireless facility operators, in certain instances, may be permitted to strengthen DOTD-owned towers, at the sole cost of the wireless facility operator, to provide additional structural capacity to other users. Ownership of the new tower and responsibility for maintaining the tower shall be negotiated prior to issuance of the permit, and shall be stated on the front of the permit. Applicant shall submit a structural analysis with the permit application.

C. Each wireless facility operator which co-locates on existing wireless telecommunication facilities operating within DOTD rights-of-way shall be subject to the same conditions and requirements which apply to the owner of the tower. The co-locator shall meet all Departmental standards and policies and shall access the facility only after receiving prior written permission from the Department.

D. When co-locating on an existing wireless telecommunication facility, each installation must be permitted separately by the co-locating facility owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2315. Attachments to Existing Bridge Structures

A. No authorized attachment to an existing structure shall cause technical interference with any equipment on the facility.

B. Plans will be submitted to the Bridge Design Engineer and the Structures and Facilities Maintenance Engineer for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2317. Access Requirements

A. Repairs under the roadway will not be allowed if such repairs necessitate open cutting the highway. If a problem occurs with a line crossing, the applicant must install a new crossing. The applicant must bear 100 percent of the cost.

B. Prior to the start of construction of wireless telecommunication facilities, the District Permit Office shall be contacted and notified of the required construction time to complete the wireless facility. The Permit Engineer may provide the operator with a specific authorized duration for access to the construction site.

C. Facilities requiring less than 6 accesses per year.

1. Access to the telecommunication facilities located adjacent to controlled access highways shall be first from the land side, second from the interchange (longitudinally) and third from the highway (to be approved in each instance). This shall not apply to those facilities with pre-existing access, such as rest areas, weigh stations or District Offices.

D. The applicant shall contact the DOTD District Permit Office and obtain approval for each time that the facility must be accessed, including routine maintenance and meter reading, as well as any other access. For non-emergency accesses, the applicant shall give at least 2 days notice, and no more than 10 days notice. The applicant shall give as much notice as possible for emergency access; and shall inform the DOTD District Permit Office after the fact when it is not possible to give advanced notice.

E. Facilities requiring 6 or more accesses per year.

1. Access to the facility shall meet all standard driveway requirements. Access to facilities located adjacent to controlled access highways shall be from the land side. This shall not apply to those facilities with pre-existing access, such as rest areas, weigh stations or District Offices.

2. The applicant shall contact the DOTD District Permit Office and obtain approval for any change in the structure or configuration of the facility. Approval from DOTD is not required for routine maintenance or minor changes to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

§2319. Security Requirements

A. Fences, parking, and other security measures may be permitted in accordance with other DOTD standards.

B. Traffic barriers and/or crash mitigation structures shall be installed as deemed necessary by the Permit Engineer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

Frank M. Denton
Secretary

9809#052

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Duck, Coot, and Goose Seasons—1998-99

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

The hunting seasons for Ducks, Coots and Geese during the 1998-99 hunting season shall be as follows:

DUCKS AND COOTS

West Zone: November 7—November 29
December 12—January 17

East Zone: November 14—December 6
December 12—January 17

Catahoula Lake Zone: November 14—December 6
December 12—January 17

Youth Waterfowl Day—December 5 in West Zone
January 23 in East Zone

Daily Bag Limits—The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 1 black duck, 2 wood ducks, 1 pintail, 1 canvasback, and 2 redheads. Daily bag limit on coots is 15.

Mergansers—The daily bag limit for mergansers is 5, only 1 of which may be a hooded merganser. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit—The possession limit on ducks, coots and mergansers is twice the daily bag limit.

GEESE: LIGHT GEESE (SNOW AND BLUE)

STATEWIDE SEASON: November 7—February 21

Daily bag limit (snow and blue) 20

Possession limit (snow and blue) none

WHITE-FRONTED (SPECKLE BELLIES)

November 7—November 29
December 12—January 27

Daily bag limit (speckle bellies) 2

Possession limit (speckle bellies) 4

During the Canada Goose Season (January 19—January 27), the daily bag limit for Canada and white-fronted geese is 2, of which not more than 1 can be a Canada goose. Possession limit is twice the daily bag limit.

CANADA GEESE: CLOSED IN THE AREA DESCRIBED BELOW

January 19—January 27

During the Canada Goose Season (January 19—January 27) the daily bag limit for Canada and white-fronted geese is 2, of which not more than 1 can be a Canada goose. Possession limit is twice the daily bag limit.

The Canada Goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows:

Beginning at the Texas State Line, proceeding east along Highway 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Highway 82, then south along LA Highway 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas State Line, then north to the point of beginning at LA Highway 82. Open waters of Lake Mermentau and the Mermentau River from the Highway 14 bridge southward will also be closed to Canada Goose hunting.

A special permit shall be required to participate in the Canada Goose Season. A permit is required of everyone, regardless of age, and a non-refundable \$5 administrative fee will be charged. This permit may be obtained from any District Office.

Return of harvest information requested on permit is mandatory. Failure to submit this information to the Department by February 15, 1999 will result in the hunter not being allowed to participate in the Canada Goose Season the following year.

Shooting Hours: one-half hour before sunrise to sunset.

The Department will also have a lottery duck hunt on the South Farm Complex of the Sherburne WMA. Details of the lottery will be available from any regional office. In addition to the lottery hunt, no hunting will be allowed on this portion of the WMA from November 1, 1998 through January 24, 1999 except for the youth waterfowl hunt. Additionally, access to the South Farm will be limited during this period. This action is necessary because access to this property was acquired by the U.S. Army Corps of Engineers after final ratification of the 1998-99 Resident Hunting Pamphlet. Lottery hunts and restricting access will provide the Department the ability to manage hunters and minimize disturbance of wintering waterfowl. This provides both optimum habitat conditions for migratory birds and appropriate levels of public use during the waterfowl hunting season.

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

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 1998 and extend through sunset on March 20, 1999.

Thomas M. Gattle, Jr.
Chairman

9809#029

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Fur Harvest Season—1998-99

In accordance with the provisions of R.S. 56:259(A) which authorizes the Wildlife and Fisheries Commission to set the open season for the taking of nongame quadrupeds and allows the Commission to extend, curtail or prohibit trapping in any area of the state each year, and in accordance with emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency provisions to set seasons, the Wildlife and Fisheries Commission does hereby set the 1998-99 fur harvest season, statewide from November 20, 1998 through March 20, 1999. The Wildlife and Fisheries Commission does hereby also authorize the Secretary of the Department of Wildlife and Fisheries to extend or shorten the adopted season.

Thomas M. Gattle, Jr.
Chairman

9809#028

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

King Mackerel Commercial Closure

The king mackerel fishery in the Gulf of Mexico is cooperatively managed by the Wildlife and Fisheries Commission, the Department of Wildlife and Fisheries (LDWF), and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore. Rules were recently established by NMFS to close the commercial harvest seasons for king mackerel in the EEZ off of Louisiana, and NMFS and the Gulf Council requested that consistent regulations be established in Louisiana waters. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby sets the following seasons for commercial harvest of king mackerel in Louisiana state waters:

The season for the commercial fishery for king mackerel in Louisiana state waters will close at 12:01 a.m., September 7, 1998; the season shall remain closed until 12:01 a.m. on July 1, 1999.

The Commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to open an additional commercial king mackerel season in Louisiana state waters if he is informed by the Regional Director of the National Marine Fisheries Service (NMFS) that the season dates for the commercial harvest of king mackerel in the federal waters of the western Gulf of Mexico as set out herein have been modified, and that the Regional Director of NMFS requests that the season be modified in Louisiana state waters and to close such season when he is informed that the commercial king mackerel quota for the western Gulf of Mexico has been filled, or is projected to be filled.

Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with any closure, no person shall commercially harvest, transport, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel. Effective with the closure, no person shall possess king mackerel in excess of a daily bag limit, provided however, that fish in excess of the daily bag limit which were legally taken prior to the closure may be purchased, possessed, transported, and sold by a licensed wholesale/retail dealer if appropriate records in accordance with R.S. 56:306.4 are properly maintained, and those other than wholesale/retail dealers may purchase such fish in excess of the daily bag limit from wholesale/retail dealers for their own use or for sale by a restaurant as prepared fish.

Thomas M. Gattle, Jr.
Chairman

9809#024

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational Red Snapper Closure

The red snapper fishery in the Gulf of Mexico is cooperatively managed by the Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore. Rules were recently established by NMFS to close recreational harvest season in the EEZ off of Louisiana effective 12:01 a.m., September 30, 1998 through December 31, 1998 by reducing the bag limit to zero, and NMFS requested that consistent regulations be established in Louisiana waters. NMFS typically requests consistent

regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana waters for the 1998 recreational red snapper season, it is necessary that emergency rules be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish season, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby closes the recreational harvest of red snapper in Louisiana state waters for the 1998 season as follows:

The season for the recreational fishery for red snapper in Louisiana state waters will close at 12:01 a.m., September 30, 1998 and remain closed through December 31, 1998 by reducing the bag limit to zero for that time period.

Thomas M. Gattle, Jr.
Chairman

9809#027

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shark Permit

The Wildlife and Fisheries Commission does hereby exercise the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to its authority under R.S. 56:6(10), 56:326(E)(2), 56:326.1 and 56:326.3 adopts the rule set forth below. This emergency rule is necessary to expedite the enforceability and effectiveness of Federal regulations on the commercial fishery for sharks in Federal waters off of Louisiana. Practices reported to presently occur in this fishery are contrary to sound conservation of the species, and to proper utilization of the fishery resource. Rules for Louisiana State waters are being promulgated through the Administrative Procedure Act. Some aspects of present practices require more expeditious action than is available through this procedure. Commercial license renewals are distributed beginning in November, and thus action prior to that time provides for more expeditious service by the Department to those people who require renewal of shark permits. High volume commercial trips, exceeding federally allowed limits, are presently occurring. Placing compatible trip limits in state waters will allow more effective enforcement of existing Federal limits. The practice of "finning", as described in this rule, has become more prevalent in some parts of the fishery, resulting in less utilization of the potential resource, and a loss of valuable scientific information on the species that are harvested in the fishery. It is therefore in the best interest of the state, and

appropriate that these regulations be enacted expeditiously, thereby requiring emergency action.

This emergency rule shall be effective at 12:01 a.m., September 14, 1998 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Sharks and Sawfishes Daily Take and Possession Limit, Quotas and Special Permit Requirements

A. Permits

1. In addition to all other licenses and permits required by law, a valid original "Shark Permit" shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging, or bartering sharks to Louisiana Wholesale/Retail dealers; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for or possessing shark. Each "Shark Permit" holder shall on or before the tenth of each month submit an information return to the Department on forms provided or approved for this purpose, including the number and weight of each species of shark taken commercially from Louisiana waters during each trip of the preceding month, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

2. All persons who do not possess a "Shark Permit" issued by the Department of Wildlife and Fisheries, and, if applicable, a Federal Shark Permit issued by the National Marine Fisheries Service, are limited to a possession limit. All persons who do not possess a Louisiana "Shark Permit" and, if applicable, a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, shall be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal bycatch allowances for menhaden fishing as provided for in R.S. 56:324.

3. Legally licensed Louisiana Wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a "Shark Permit" in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.4 and 56:306.5.

B. Trip and Possession Limits

1. A possession limit consists of two Atlantic sharpnose sharks and two sharks of any other species unless a valid original Louisiana "Shark Permit", and, if applicable, a federal shark permit, issued in the name of the commercial fisherman is in possession.

2. A person that has been issued or possesses a federal shark permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, Large Coastal Species in excess of 4,000 pounds per vessel, dressed weight.

3. Persons possessing a Louisiana "Shark Permit" shall not possess on any trip, or land from any trip, or sell, Large Coastal Species in excess of 4,000 pounds per vessel, dressed weight.

4. Large Coastal Species of sharks are composed of: Great Hammerhead, Scalloped Hammerhead, Smooth Hammerhead, Nurse shark, Bignose shark, Blacktip shark, Bull shark, Caribbean reef shark, Dusky shark, Galapagos shark, Lemon shark, Narrowtooth shark, Night shark, Sandbar shark, Silky shark, Spinner shark, Tiger shark.

C. Fins

1. The practice of "finning", that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited in Louisiana waters.

2. Shark fins that are possessed aboard or offloaded from a fishing vessel must not exceed 5 percent of the weight of the shark carcasses. All fins must be weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing and such weights of the fins landed must be recorded on dealer records in compliance with R.S. 56:306.5. Fins from shark harvested by a vessel that are disproportionate to the weight of the carcasses landed shall not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

3. Shark fins may not be possessed aboard a fishing vessel after the vessel's first point of landing.

Thomas M. Gattle, Jr.
Chairman

9809#26

DECLARATION OF EMERGENCY

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

Supplemented Hunting Preserves

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of Louisiana Constitution, Article IX, Section 7, R.S. 36:601 et seq., R.S. 56:115, R.S. 56:171 et seq. and R.S. 56:651 et seq., the Wildlife and Fisheries Commission adopts the following Emergency Rule.

This Declaration of Emergency is necessary to implement portions of the written stipulations entered into on August 10, 1998, in the matter entitled *Jenkins et al. v. Odom et al.*, Number 449244, 19th Judicial District Court, and further to provide for regulation of hunting of white-tailed deer and exotics on Supplemented Hunting Preserves. This Declaration of Emergency will govern the regulation of hunting on Supplemented Hunting Preserves until the ratification of permanent rules.

Supplemented Hunting Preserves: Hunting Seasons and Deer Management Assistance Program Participation

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. Hunting Seasons

1. White-Tailed Deer: All hunting seasons for farm-raised white-tailed deer are still hunt only.

a. Archery: October 1, 1998-January 31, 1999, either-sex.

b. Modern Firearms: November 1-December 6, 1998; December 21-23, 1998; and December 26, 1998-January 31, 1999.

c. Either-sex deer may be taken November 1-3, December 21-23, and December 26-30, otherwise, all modern firearm dates are bucks only. (Either-sex deer may also be taken in accordance with provisions of the Deer Management Assistance Program).

d. Muzzleloader: December 7-December 20, 1998, either-sex.

2. Exotics: year round.

C. Methods of Take

1. White-Tailed Deer: same as outside.

2. 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

1. White-Tailed Deer: same as outside.

2. Exotics: one-half hour before sunrise to one-half hour after sunset.

E. Bag Limit

1. Farm-Raised White-Tailed Deer: same as outside.

2. Exotics: no limit.

F. Hunting Licenses

1. White-Tailed Deer: same as outside.

2. 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.

H. Deer Management Assistance Program. Supplemented Hunting Preserves containing at least 300 acres will be eligible to participate in the Deer Management Assistance Program for the 1998-99 hunting season.

I. Additional Restrictions. Except as otherwise specified herein, all of the provisions of Title 56 of the Louisiana

Revised Statutes and the LWFC rules pertaining to the hunting and possession of white-tailed deer shall apply to white-tailed deer and exotics located on Supplemented Hunting Preserves.

J. Effective Date. This Declaration of Emergency shall become effective on October 31, 1998, and supplant any prior Declaration of Emergency pertaining to hunting of farm-raised deer and exotics.

Thomas M. Gattle, Jr.
Chairman

9809#023

Rules

RULE

Department of Agriculture and Forestry Office of the Commissioner

Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer
(LAC 7:XXI.1501-1523)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Agriculture and Forestry, Office of the Commissioner adopts the permanent regulations regulating Alternative Livestock—Imported Exotic Deer and Imported Antelope, Elk and Farm Raised White-Tailed Deer. These rules comply with and are enabled by R.S. 3:3101 et seq.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 15. Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk and Farm-Raised White-Tailed Deer

§1501. Statement of Authority and Purpose

The commissioner of Agriculture and Forestry heads and directs the Department of Agriculture and Forestry and exercises all functions of the state relating to the promotion, protection and advancement of agriculture and forestry. The commissioner is authorized by law and does hereby adopt these rules and regulations for the purposes of promoting, protecting and advancing agriculture and to implement the laws adopted by the legislature, including those in Part I of Chapter 19-A of Title 3 of the Revised Statutes, giving the commissioner the specific power to regulate farm-raised exotic animals, including imported exotic deer and imported exotic antelope, elk and farm-raised white-tailed deer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1671 (September 1998).

§1503. Definitions

For purposes of these rules and regulations the following words and phrases shall have the meaning given herein.

Alternative Livestock—any imported exotic deer and imported exotic antelope, elk and farm-raised white-tailed deer.

Canned Hunt—harvesting farm-raised alternative livestock in a manner that is similar to but substantially inconsistent with those methods and techniques generally employed in the sport known as hunting and where those inconsistencies result in the taking of the farm raised alternative livestock being a certainty.

Commercial Purpose—the keeping, breeding, raising, containing, harvesting, killing, slaughtering, buying, selling,

trading, or transferring ownership of alternative livestock, any alternative livestock carcass or part thereof, with the intent to receive money, goods, services, livestock or any other type of compensation in connection therewith.

Commissioner—the Commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Elk—any animal of the species and genus *cervus canadensis*.

Farm—any area of land or water, regardless of size, used to breed, raise or keep farm-raised alternative livestock for a commercial purpose, including but not limited to breeding farms or propagating preserves. This definition does not include areas of land or water which are part of a zoo, game park or wildlife exhibit where the primary purpose is the exhibition of alternative livestock or other animals.

Farm-Raised—any alternative livestock born, raised, or kept within a closed circumscribed fenced area for a commercial purpose. This definition does not include alternative livestock which are part of a zoo, game park or wildlife exhibit where the primary purpose is the exhibition of the alternative livestock or other animals.

Farm-Raised White-Tailed Deer—any animal of species and genus *odocoileus virginianus* which is bred, born, raised and/or kept within a closed circumscribed fenced area for the purpose of buying, selling, or trading in commerce. Farm raised white-tailed deer does not include any white-tailed deer which is part of any zoo, game park, or wildlife exhibit where the primary purpose of the same is the exhibition of white-tailed deer and/or other animals.

Harvesting—the attempt or act of shooting, wounding or killing farm-raised alternative livestock within the enclosure system of a farm in a manner consistent with those techniques commonly referred to as hunting in Title 56 of the Louisiana Revised Statutes.

Imported Exotic Antelope—any animal of the family *Bovidae* which are not indigenous to North America, except animals of the tribes *Bovine* (cattle) and *Caprine* (sheep and goats).

Imported Exotic Deer—any animal of the family *Cervidae* which are not indigenous to North America, including but not limited to Red Deer, Seika Deer and Fallow Deer.

LDWF—the Louisiana Department of Wildlife and Fisheries.

Person—any individual, corporation, partnership or other legal entity.

Quarantine—the requirement, resulting from an order of the department or the State Veterinarian's Office, to secure and physically isolate an animal or animals in a specified confined area to prevent the spread of contagious disease.

White-Tailed Deer—any animal of the species and genus *odociolus virginianus*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1671 (September 1998).

§1505. Issuance of Farm-Raising License; Renewals

A. Any person who keeps, breeds, raises, contains, harvests, kills, slaughters, buys, sells, trades, or transfers ownership of any type of farm-raised alternative livestock for commercial purposes shall obtain a farm-raising license, from the department prior to engaging in such activity.

B. The department shall not issue any farm-raising license until the application for the farm-raising license and the information requested, including the required plan for the operation of the farm, is approved by the department and the proposed farm passes the department's and LDWF's inspection.

C. Any changes in any information submitted in the original application, occurring during or after the application process, shall be submitted in writing to the department. The department and LDWF must approve, in writing, any change or modification, which shall be in writing, in the written farm operation plan submitted with the original application before such change or modification, may go into effect.

D. A farm-raising license shall be valid for the period beginning with the date of issuance and ending the following June 30 or from July 1 of the year of renewal through the following June 30.

E. A farm-raising license may be renewed each year by the department. A licensee shall submit a written request for renewal, the renewal fee, any proposed modification, which shall be in writing, of the written farm operation plan previously submitted to and approved by the department and any proof requested by the department of compliance by the licensee with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine. If either the written request for renewal or the renewal fee is received by the department after July 31, the farm-raising license shall be deemed expired, *ipso facto*, retroactive to June 30.

F. In the event that the department determines that a farm does not meet the requirements of or was not complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine the farm-raising license may not be renewed by the department.

G. The licensee may contest the department's decision not to renew a farm-raising license by filing a written request for an adjudicatory hearing with the department within 15 days from receipt of the notice of nonrenewal. Such a hearing is to be held in accordance with the provisions of the Administrative Procedure Act. Any such hearing shall be held within 30 days of the request, unless continued for good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1672 (September 1998).

§1507. Fees

A. Farm-Raising License Fees

1. The fee for a new farm-raising license shall be \$50.
2. The farm-raising license renewal fee shall be \$50.
3. The department shall waive the farm-raising license fee for any person who obtains a farm-raising license from this department, and who holds a valid game breeders license issued by LDWF for the possession of any alternative livestock at the time these rules and regulations become effective, and who submits a written application within the calendar year that these rules and regulations become effective.

4. The waiver granted in §1507.A.3 applies only to a new farm-raising license and shall not apply to any renewal of a farm-raising license issued by the department under these rules and regulations.

B. Harvesting Permit Fee

1. Each individual intending to harvest or kill any farm-raised alternative livestock at any farm licensed by the department shall obtain a harvesting permit from the department or LDWF, before harvesting or killing any farm-raised alternative livestock, except as provided by §1507.B.3.

2. The fee due to the department for each harvesting permit shall be \$50 which fee shall be collected by the department or ministerially collected for the department by LDWF. Upon collection by LDWF, LDWF shall promptly remit the fee to the department retaining one-half for administrative costs.

3. No licensee or those persons employed by or assisting such licensee harvesting farm-raised alternative livestock to be taken directly to a state or federally approved slaughter facility or capturing farm-raised alternative livestock to be sold or traded for breeding or stocking purposes shall be required to obtain a harvesting permit or pay a fee.

C. Farm-Raised Alternative Livestock Tag Fee

1. Each farm-raised alternative livestock harvested or killed shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of kill and the tag shall remain with the carcass at all times, except as provided in §1507.C.3.

2. The farm-raised alternative livestock tag shall be provided by the department at a cost of \$5 per tag.

3. No farm-raised tag shall be required for farm-raised alternative livestock which are to be taken directly to a state or federally approved slaughter facility or which are sold or traded alive for breeding or stocking purposes.

4. No harvesting shall occur and no harvesting permit shall be issued if the area of the relevant farm within the enclosure system is less than 300 acres or more 2,500 acres in size unless good cause is shown by the applicant to the commissioner why the issuance of a harvesting permit for an enclosure of a different size is not inconsistent with the intent of Part I of Chapter 19-A of Title 3 of the Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1672 (September 1998).

§1509. Farm-Raising Licensing Requirements

A. Written Application. Each applicant for a farm-raising license shall submit a completed written application on a form supplied by the department. In addition to any other information that may be requested by the department the applicant shall provide the following information:

1. name, physical address, mailing address and telephone number of the applicant and whether the applicant will own or lease the land. If the land is leased then a copy of the lease shall be provided to the department;

2. the name under which the business will operate, the physical address, mailing address and telephone number of the business, if different than the information provided in §1509.A.1;

3. the business structure, (sole proprietorship, partnership, corporation, limited liability company, joint venture, or otherwise);

4. the name of the person or persons in charge, position, (e.g., owner, manager, etc.), residence address and phone number;

5. the physical location and size of the farm;

6. a topographical map of the farm if 50 acres or more;

7. the species of alternative livestock to be farm-raised;

8. the approximate number of animals to be farm-raised;

9. the complete plan for the operation of the farm including:

a. an enclosure system, including fencing the farm, indicating the location, size, nature and extent of the fencing material and of any right of way related to the farm property;

b. systematic inspection of the enclosure system, including the fence, maintenance, repair and replacement of the fence, keeping the fence and any clearance along either side of the fence clear and verification to the department of compliance with this provision;

c. the capture of any farm-raised alternative livestock that may escape from or wild white-tailed deer that may enter the farm through a breach or opening in the enclosure system or fence;

d. removal of white-tailed deer from the farm prior to completion of the enclosure of the farm;

e. controlling farm-raised alternative livestock population;

f. identification by means of an electronic implant of all white-tail deer born, bought, sold, traded or which otherwise become farm-raised white-tailed deer, which shall include the systematic capture of farm-raised white-tailed deer for implantation purposes;

g. the removal and disposal of all alternative livestock in the event that the farm ceases operation for any reason or upon revocation or nonrenewal of the farm-raising license, including a provision for written notice to the department prior to cessation of farming operation;

h. the type of farming operation records that will be kept;

10. a statement that the applicant shall abide by the

requirements of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

11. a certified statement that all representations contained in the application, the farm operation plan and attachments are true and correct.

B. Farm Inspection. An applicant shall have the proposed farm physically inspected and approved by the department and LDWF before a farm-raising license may be issued by the department. To obtain department approval a proposed farm shall:

1. be located in a rural area of the state;

2. be securely enclosed by an enclosure system, including fencing, that meets the following specifications:

a. a minimum height, above the relevant ground, of eight feet;

b. enclose an area of not less than 300 acres nor more than 2,500 acres to be eligible for harvesting as provided by §1507.B of these rules and regulations. Applicants seeking eligibility to harvest on farms with enclosures of less than 300 acres or more than 2,500 acres must demonstrate good cause why an enclosure of a different size is not inconsistent with the intent of Part I of Chapter 19-A of Title 3 of the Revised Statutes;

c. a minimum gauge wire of 12½;

d. fencing material of chain link, woven wire, solid panel or welded panel or, if made with any other material, approved in writing by the department, however, welded wire fences shall not be used unless it was approved by LDWF and installed prior to April 22, 1997, but, such welded wire fences, when replaced or partially replaced, shall be replaced by fencing required by these rules and regulations;

3. have drainage sufficient to leave a majority of the farm free from extended periods of standing water;

4. have adequate space and if the total enclosed area of the farm is less than 50 acres, allow at least 5,000 square feet for the first elk or farm-raised white-tailed deer placed on the farm and at least 2,500 square feet for each subsequent elk or farm-raised white-tailed deer;

5. have no condition which may cause noncompliance with or substantial difficulty in complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

6. not be subject to an objection for good cause related to wildlife made in writing to the department by LDWF, which written objection shall follow within 10 working days of a physical inspection of the proposed farm made concurrently and jointly by the department and LDWF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1673 (September 1998).

§1511. Grounds for Refusal to Issue or Renew a Farm-Raising License

The commissioner may refuse to issue or renew a farm-raising license for any of the following circumstances:

1. the applicant cannot demonstrate to the satisfaction of

the commissioner a competency to operate an alternative livestock farm;

2. the applicant has failed to provide all of the information required in or with the farm-raising license or renewal application, or has provided false information to the department;

3. the applicant has previously refused to permit the department to inspect the farm or to inspect farm records or the applicant has otherwise failed to comply with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

4. the department does not approve the farm operation plan;

5. the proposed farm does not pass the department's or LDWF's inspection;

6. the applicant has previously been found in violation of either Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department or any quarantine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1673 (September 1998).

§1513. Obligations of the Farm-Raising Licensee

A. Identification of Farm-Raised Alternative Livestock

1. All farm-raised white-tailed deer shall be identified by means of an electronic implant implanted as follows:

a. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

b. all farm-raised white-tailed deer being brought into Louisiana shall have the electronic implant implanted before entering this state and prior to being released on the farm;

c. farm-raised white-tailed deer born in this state shall have an electronic implant implanted the first time the farm-raised white-tailed deer is captured alive and before the farm-raised white-tailed deer leaves the farm;

d. all white-tailed deer shall be electronically implanted at the base of the left ear immediately upon harvest whether or not such deer have already been implanted previously. This requirement for electronic implantation is in addition to any and all other requirements for electronic implantation contained in these regulations. This electronic implantation shall remain with the carcass at all times;

e. each electronic implant code shall be listed on the farm-raised white-tailed deer's health certificate and on the bill of sale or certificate of transfer.

2. All farm-raised alternative livestock other than farm-raised white-tailed deer shall be permanently and individually identified as follows:

a. by means of an electronic implant or by a permanent ear tattoo and ear tag;

b. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

c. prior to entering the state, alternative livestock, other than farm-raised white-tailed deer, shall be identified as required herein;

d. alternative livestock born in this state, other than farm-raised white-tailed deer, shall be identified as required herein, the first time any such animal is captured alive and before any such animal leaves the farm;

e. the identification number or electronic implant code, and the location thereof, shall be listed on the health certificate and the bill of sale or certificate of transfer.

3. Farm-raised alternative livestock, other than farm-raised white-tailed deer, that will be transported directly to a state or federally approved slaughter facility are exempt from this identification requirement.

4. Farm-raised alternative livestock placed on a farm prior to the effective date of these regulations, other than farm-raised white-tailed deer, are not required to be identified by a permanent ear tattoo and ear tag or electronic implant unless removed alive from the farm.

B. Record Keeping

1. Each licensee shall maintain records, for not less than 36 months, of all sales, deaths, kills, trades, purchases, or transfers of any farm-raised alternative livestock. The records shall include:

a. total number of farm-raised alternative livestock, carcasses, or parts thereof, killed, sold, traded, purchased or transported;

b. name and address of the person to whom each farm-raised alternative livestock, or any carcass, or parts thereof, was sold, traded, delivered, presented or transported;

c. the electronic implant code or identification number of the farm-raised alternative livestock;

d. copies of any health certificates issued;

e. accurate records showing all inspections, maintenance, repairs and replacement to the enclosure system, including the fence and such records shall include the dates and times of each, names of the persons performing services, the location of any breaches of the enclosure system, including the fence and nature and location of any repairs or replacements made to the fence;

f. records customarily kept in the normal course of conducting business and those records required by these rules and regulations.

2. Sellers, traders or transferors of farm-raised alternative livestock, any carcass, or any part thereof, shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of the farm-raised status.

3. The furnishing of any false information shall be a violation of these rules and regulations.

C. Enclosure System and Fence Inspection and Maintenance

1. Any licensee shall conduct or shall have conducted a visual ground inspection of the enclosure system, including the fence, along the entire perimeter of the fenced area of the farm not less than weekly. An inspection shall be conducted immediately after any major storm or occurrence of any other force of nature that would cause a reasonable person to be

concerned about the integrity of the enclosure system, including the fence.

2. Any licensee shall maintain the enclosure system, including the fence in good repair at all times. Good repair means that farm-raised alternative livestock are not able to leave and wild white-tailed deer are not able to enter through the enclosure system, including the fence, or otherwise.

3. Any licensee who discovers a breach or opening in the enclosure system or fence that would allow farm-raised alternative livestock to leave from or wild white-tailed deer to enter into the enclosed area shall notify, orally and in writing, the department and LDWF of the breach or opening and the department shall notify LDWF within 12 hours.

4. In the event of such a breach or opening the licensee shall immediately close the breach or opening and make all reasonable efforts to determine if farm-raised alternative livestock left from or wild white-tailed deer entered into the area enclosed by the fence.

D. Other Obligations of the Farm Licensee

1. A licensee shall remove white-tailed deer from the farm prior to completion of the fencing and enclosure system of the farm. Removal of the white-tailed deer shall be accomplished to the satisfaction of the department and LDWF pursuant to these regulations.

2. A licensee shall control the population of farm-raised alternative livestock on the farm.

3. A licensee shall make all efforts that a reasonable licensee would make to capture any farm-raised alternative livestock that escapes from the fenced area of the farm and to remove wild white-tailed deer that enters the fenced area of the farm.

4. A licensee shall, in writing, notify the department, at least 10 days prior to placing any alternative livestock on the farm if such alternative livestock was not listed on the original application or on any modification previously approved, in writing, by the department. The department shall promptly notify LDWF following receipt of licensee's notice.

5. A licensee upon cessation of operations, or upon revocation or nonrenewal of the farm-raising license shall remove and dispose of all farm-raised alternative livestock on the farm in accordance with the farm operation plan submitted to and approved by the department or in accordance with specific written instructions issued by the department in the event that circumstances warrant removal and disposal of the farm-raised alternative livestock to be made in a manner different from the farm operation plan.

6. A licensee shall be responsible for ensuring that any individual who harvests or kills any farm-raised alternative livestock on the licensee's farm does so in accordance with these rules and regulations.

7. A licensee shall harvest or kill farm-raised alternative livestock in accordance with these rules and regulations.

8. A licensee shall provide that all farm-raised alternative livestock have the necessary health certificates and that the farm-raised alternative livestock meet all applicable health requirements.

9. A licensee shall allow authorized representatives of the department and authorized representatives of LDWF to

inspect the farm at any time and all books and records at any reasonable time.

10. A licensee shall comply with all provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1674 (September 1998).

§1515. Health Certificates and Health Requirements

A. Prior to entering Louisiana, all alternative livestock, except those being transported directly to a state or federally approved slaughter facility, shall:

1. meet the general health requirements promulgated in LAC 7:XXI.107;

2. have an entry permit number issued by the State Veterinarian's Office no more than 15 days before entry into Louisiana which entry number shall be included on the certificate of veterinary inspection;

3. have written proof of a negative test for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* as and when published by the United States Department of Agriculture, Animal and Plant Health Inspection Service. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* are published, all alternative livestock six months of age and older entering Louisiana, except those being transported directly to a state or federally approved slaughter facility, shall be tested negative for brucellosis within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the alternative livestock originate from a herd which has been officially declared a certified brucellosis free herd by the state of origin;

4. have written proof of a negative test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules* as published by the United States Department of Agriculture, Animal and Plant Health Inspection Service;

5. prior to any person importing any alternative livestock into Louisiana, LDWF shall be provided by the department a copy of the entry permits or other applicable documents which describe the alternative livestock by species, sex, age and place of origin.

B. Any alternative livestock which has been exposed to brucellosis or tuberculosis shall be quarantined and tested for the diseases to which it has been exposed within 60 days of the date of the quarantine. The quarantine shall remain in effect until removed, in writing, by the State Veterinary Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998).

§1517. Harvesting or Killing of Farm-Raised Alternative Livestock

A. Farm-raised white-tailed deer shall be harvested by killing only from one-half hour before sunrise to one-half hour

after sunset during the period of October 1 through January 31 of the following year, as established by the Louisiana Wildlife and Fisheries Commission. Licensees may also harvest at will at any other time from one-half hour before sunrise to one-half hour after sunset upon 48 hours notice to and written approval of the department. Upon receipt of any such notice the department shall, no later than 24 hours before the harvest, notify LDWF.

B. Except for farm-raised white-tailed deer, farm-raised alternative livestock may be harvested or killed at any time from one-half hour before sunrise to one-half hour after sunset unless the commissioner provides otherwise in accordance with the provisions of §1517.C.

C. The commissioner and Louisiana Wildlife and Fisheries Commission may establish, by written order, other dates and conditions for the harvesting or killing of farm-raised alternative livestock as the commissioner deems necessary to carry out the purposes of Part I of Chapter 19-A of Title 3 of the Revised Statutes. Such orders shall be issued by the commissioner in January of each year or as soon thereafter as is practical and published in the January issue of the *Louisiana Register* or in the first available issue after any such order is issued.

D. Prior to harvesting or killing farm-raised alternative livestock, any person, except as provided by §1507.B.3 of these regulations, shall first apply for and obtain a harvesting permit to do so from the department or LDWF by submitting an application on a form supplied by the department.

1. Any harvesting permit issued by the department or LDWF shall be valid only for the time periods stated on the face of the permit.

2. The department may issue or LDWF may ministerially issue a harvesting permit upon written application by any individual or by any farm licensee making application on behalf of the individual and upon receipt of the harvesting permit fee.

3. The applicant shall not be subject to any existing court or administrative order denying the applicants right to harvest.

E. Except as provided by §1507.C.3 of these regulations, any farm-raised alternative livestock harvested or killed, shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of the kill and the tag shall remain with the carcass at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998).

§1519. Prohibitions

A. No farm-raised alternative livestock shall be released into the wild without express written permission from both the department and LDWF.

B. Farm-raised white-tailed deer meat or farm-raised white-tailed deer parts of any kind shall not be bought, sold, traded, or moved in commerce in any way.

C. Farm-raised alternative livestock sold for slaughter, except farm-raised white-tailed deer, the sale of which is

prohibited, shall be handled in accordance with state and federal meat inspection laws and regulations.

D. It is a violation of these regulations to sell, purchase, trade, transport, or otherwise transfer any farm-raised alternative livestock for any purpose other than immediate slaughter at a state or federally approved slaughter facility if such farm-raised alternative livestock originates from a herd which is under quarantine for brucellosis or tuberculosis.

E. Canned hunts of farm-raised alternative livestock are prohibited.

F. Failure to comply with any provision of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine is prohibited and each act or omission or each day of a continuing violation shall constitute a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998).

§1521. Enforcement

A. The department's and LDWF's authorized representatives may, at any time, enter and inspect all farms on which farm-raised alternative livestock are located for the purposes of issuing, renewing or reviewing farm-raising licenses and to insure compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

B. Authorized representatives of the department and LDWF may inspect, during any reasonable hours, any records regarding or relating to any farm-raised alternative livestock.

C. Farm-raised alternative livestock which escapes from the enclosure system of the farm, if not captured by a licensee within 96 hours of the escape, may be captured by authorized representatives of the department or by any law enforcement agency by whatever means deemed necessary by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998).

§1523. Penalties

A. The commissioner may suspend or revoke the farm-raising license of any licensee and the harvesting permit issued to any person found guilty of violating Part I of Chapter 19-A of Title 3 of the Revised Statutes, those portions of Title 56 of the Revised Statutes related to wildlife, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

B. The commissioner may, in addition to suspending or revoking any farm-raising license or harvesting permit, impose upon any person charged with violating any provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department

and any quarantine, a fine for up to \$100 per violation for each violation such person is found guilty.

C. These civil penalties may be assessed only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

D. Any person or licensee subject to an order or decision made pursuant to these regulations may request and receive an adjudicatory hearing before the department to be held in accordance with the Administrative Procedure Act by making written application for same to the department within 15 days of issuance of such order or decision.

E. The commissioner may seek a restraining order, injunctive relief or other relief in a proper court of law to restrain violations of or to compel compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department or any quarantine or to enforce any order or ruling made by him in an adjudicatory proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998).

Bob Odom
Commissioner

9809#044

RULE

Department of Agriculture and Forestry Office of the Commissioner

Brucellosis Vaccination (LAC 7:XXI.101, 305, 307, 309, and 311)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner amends regulations governing livestock auction market requirements. These rules comply with and are enabled by R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 1. General Provisions

§101. Definitions

* * *

Brucellosis Test Eligible—all cattle which are one year of age and older except:

1. steers;
2. spayed heifers;
3. dairy cattle that are official brucellosis calthood vaccinates less than 20 months of age which are not parturient or preparturient (springers);
4. beef cattle that are official brucellosis calthood vaccinates less than 24 months of age which are not parturient or preparturient (springers).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:230 (March 1985), amended LR 12:289 (May 1980), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:498 (August 1986), LR 14:129 (April 1988), LR 15:812 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:949 (August 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998).

Chapter 3. Cattle

§305. Brucellosis Vaccination and Fee

A. - C. ...

D. All heifer calves between 4 and 12 months of age not vaccinated for brucellosis which are sold through an approved livestock auction market and are to remain in Louisiana more than 360 days must be vaccinated with USDA approved brucellosis vaccine prior to being shipped from said approved livestock auction market. There shall be a fee to be paid by the buyer of \$2 for each heifer calf required to be vaccinated for brucellosis, which fee shall be known as the brucellosis vaccination fee. The brucellosis vaccination fee shall be collected on the date of the sale from the buyer by the approved livestock auction market and forwarded to the Louisiana Department of Agriculture and Forestry no later than the tenth day of the month following the month in which the fee was collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:75 (February 1989), amended LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998).

§307. Livestock Auction Market Requirements

A. - A.1.a. ...

b.i. All cattle that are offered for sale through Louisiana livestock auction markets, which are brucellosis test eligible, must be identified by an official back tag; those animals two years of age or older, shall have this official back tag placed immediately behind the shoulder of the animal. The market shall furnish the Livestock Sanitary Board's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official back tag numbers applied to the consignor's livestock. The check-in slip shall be made available to the Livestock Sanitary Board's official representative, before the animals can be tested for brucellosis.

ii. It shall be a violation of this regulation for anyone to consign livestock to a Louisiana livestock auction market and give a name and address that are not the name and address of the owner consigning the livestock to the auction market.

c.i. - iv. ...

d. All heifer calves, between 4 and 12 months of age not vaccinated for brucellosis, which are to remain in Louisiana more than 30 days must be vaccinated with USDA approved Brucellosis vaccine prior to being shipped from an

approved livestock auction market. The responsibility for the brucellosis vaccination of those heifer calves sold through a Louisiana livestock auction market and remaining in Louisiana more than 30 days after the sale shall be placed upon the buyer and the livestock auction market through which said heifer calves are sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

d.i. - g.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), amended LR 12:501 (August 1986), LR 12:598 (September 1986), LR 13:556 (October 1987), LR 14:220 (April 1988), LR 14:695 (October 1988), LR 15:813 (October 1989), LR 17:30 (January 1991), LR 18:837 (August 1992), LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998).

§309. Governing the Sale of Cattle in Louisiana by Livestock Dealers

All cattle which are sold or offered for sale by livestock dealers must meet the general requirements of §115 and the following specific requirements:

A. - 2.b.ii. ...

3.a. All heifer calves between 4 and 12 months of age must be vaccinated with USDA approved Brucellosis vaccine prior to being sold if they are to remain in Louisiana more than 30 days. The responsibility for the brucellosis calfhood vaccination of those heifer calves sold by a livestock dealer and remaining in Louisiana more than 30 days after the sale shall be placed upon the buyer and the livestock dealer through which said calves are sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

A.3.b. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), LR 11:651 (June 1985), amended LR 12:502 (August 1986), LR 13:558 (October 1987), LR 14:221 (April 1988), LR 17:31 (January 1991), LR 18:838 (August 1992), LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998).

§311. Governing the Sale of Purchases, within Louisiana, of all Livestock not Governed by Other Regulations (Brucellosis Requirements)

A. ...

1. Heifer calves 4 to 12 months of age, which are to remain in Louisiana more than 30 days after being sold must be vaccinated with USDA approved brucellosis vaccine prior to being sold.

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:238 (March 1985), LR

11:615 (June 1985), amended 12:502 (August 1986), LR 13:559 (October 1987), LR 17:31 (January 1991), LR 18:837 (August 1992), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998).

Bob Odom
Commissioner

9809#046

RULE

Department of Agriculture and Forestry Office of the Commissioner

Forestry Productivity Program
(LAC 7:XXXIX.Chapter 13)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner adopts regulations governing the Louisiana Forestry Productivity Program, enacted by Act 1377 of 1997. These rules comply with and are enabled by R.S. 3:3101 et seq.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 13. Forestry Productivity Program

§1301. Authority

The Commissioner of Agriculture and Forestry adopts the following regulations under the authority of R.S. 3:4413 for the purpose of implementing the provisions of R.S. 3:4410-4416, the Louisiana Forestry Productivity Program, enacted by Act 1377 of 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998).

§1303. Definitions

The terms defined in this Section have the meanings given to them herein, for purposes of these regulations, except where the context expressly indicates otherwise.

Approved Forestry Practice—a forestry practice approved by the Department, for which the landowner is authorized to receive reimbursement under the cooperative agreement.

Commissioner—commissioner of the Louisiana Department of Agriculture and Forestry.

Cooperative Agreement—the written and signed contract including all other documents made a part of the agreement or incorporated by reference between the Department and a landowner, together with any written and signed amendments or addendums to the original cooperative agreement, establishing the terms of the agreement between the Department and the landowner under the Louisiana Forestry Productivity Program.

Department—the Louisiana Department of Agriculture and Forestry, Office of Forestry.

Forestry Practice—any procedure or method used in the establishment and management of timber species.

Fund—the Forestry Productivity Fund established at R.S. 3:4411.B.

Landowner—any individual, corporation, partnership, association, trust, joint venture, other legal entity or combination thereof who owns five contiguous acres or more of land located in Louisiana. For purposes of these regulations a joint ownership of property is considered to be one landowner separate and apart from the individuals or entities who own the property jointly.

Program—the Forestry Productivity Program authorized by R.S. 3:4410-4416.

State—collectively, the State of Louisiana, the Department of Agriculture and Forestry, the State Forestry Commission and the Commissioner of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998).

§1305. Application and Fee

A. Any landowner desiring to apply for participation in this program must first submit an application to the Department on a form supplied by the Department.

B. Each landowner submitting an application must also submit a \$25 nonrefundable application fee at the time the landowner's application is initially submitted to the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998).

§1307. Extent of State Participation

A. Financial assistance by the state to any one landowner participating in this program shall be limited to a total value of ten thousand dollars during a fiscal year.

B. The state's participation under any cooperative agreement shall be limited to either or both of the following types of assistance:

1. a direct grant, for the purpose of assisting the landowner in implementing an approved forestry practice authorized by a cooperative agreement through the use of the landowner's resources or through the landowner's contacts with private firms; or

2. utilization of the state's personnel, equipment, or materials to implement an approved forestry practice authorized by a cooperative agreement, if private sector services are unavailable.

C. A direct grant shall not exceed 50 percent of the cost of implementing the cooperative agreement or the maximum cost share rates established by these regulations, whichever is less. In the event that state personnel, equipment or materials are utilized to implement an approved forestry practice the landowner shall be invoiced by the Department for the cost of implementing the forestry practice. The landowner shall promptly pay such invoice and may subsequently submit the paid invoice for reimbursement under this program and these rules and regulations.

D. The maximum cost share rates are established as

follows:

MAXIMUM COST-SHARE RATES—50 percent of the cost not to exceed the following rates.		
FPP1	ARTIFICIAL REGENERATION COMPONENT	
Code	(Tree Planting)	Maximum C/S Rate
01	Pine (loblolly or slash, planting and seedling cost)	\$40/acre
02	Hardwood (planting and seedling cost)	\$70/acre
03	Labor Only (pine or hardwood)	\$23/acre
04	Longleaf Pine (planting and seedling cost)	\$65/acre
Direct Seeding		
05	Pine (seed and labor cost)	\$12/acre
06	Hardwood (seed and labor cost)	\$28/acre
Site Preparation		
11	Light (discing, mowing, or sub-soiling)	\$10/acre
12	Burn Only (cut-over areas or agricultural lands)	\$8/acre
13	Chemical and Burn (aerial, ground, or injection)	\$60/acre
14	Mechanical and Burn	\$60/acre
15	Post-site Preparation (aerial, ground, or injection)	\$45/acre
FPP2	SITE PREPARATION FOR NATURAL REGENERATION	
21	Burning Only	\$8/acre
22	Chemical or Mechanical	\$45/acre
23	Chemical and Burning	\$60/acre
FPP3	CONTROL OF COMPETING VEGETATION	
31	Chemical Release (aerial, ground, or injection)	\$45/acre
32	Precommercial Thinning (mechanical)	\$41/acre
33	Burning Only (longleaf pine)	\$4/acre

SITE PREPARATION FOR NATURAL REGENERATION		
	Burning Only	\$8/acre
	Chemical or Mechanical	\$45/acre
	Chemical and Burning	\$60/acre

CONTROL OF COMPETING VEGETATION		
	Chemical Release (aerial, ground, or injection)	\$45/acre
	Precommercial Thinning (mechanical)	\$41/acre
	Burning Only (longleaf pine)	\$4/acre

E. The commissioner, with the advice of the State Forester's Forestry Planning Committee, shall review annually the cost share rates established in this Section and determine if any of the rates require adjustment.

F. The state shall not provide reimbursement under this program for any forestry practice implemented by a landowner unless a cooperative agreement is on file with the department prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4412 and R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998).

§1309. Land and Landowners Eligibility, Exclusions and Limitations

A. Any landowner owning five contiguous acres or more in Louisiana suitable for growing a timber species approved by the Department is eligible for participation in this program unless excluded by these regulations or otherwise excluded by law.

B. The following landowners are not eligible to participate in this program:

1. landowners owning less than five contiguous acres of land;
2. public utilities companies;
3. landowners engaged in the manufacturing or production of forestry products;
4. any federal, state, or local government agency or political subdivision;
5. corporations with publicly traded stock;
6. any landowner with joint ownership in an eligible tract of land unless all joint owners and usufructuaries or duly authorized agent or agents, if any, sign the cooperative agreement;
7. any entity, other than a natural person, including but not limited to trusts, joint ventures, partnership, limited liability companies or successions, which have a set legal existence of less than ten years unless all persons or legal entities who would, by law, be entitled to receive title to the land upon dissolution of the entity sign the cooperative agreement.

C. The following lands are not eligible to participate in this program:

1. any tract of land that is less than five contiguous acres;
2. lands owned by any landowner not eligible for participation;
3. land subject, at the time of application, to a reforestation contract with any federal, state or local government agency or under a private reforestation program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4414.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1311. Obligations of the Landowner

A. The landowner shall abide by the provision of the law establishing this program, these regulations, and the cooperative agreement.

B. The landowner shall maintain the land subject to the

cooperative agreement in forestry usage in accordance with the cooperative agreement for a period of at least ten years from the date the Department issues a certification of performance of the terms of the cooperative agreement.

C. The landowner shall not sell, convey, or otherwise lose control of land subject to a cooperative agreement under this program without placing a provision in the act transferring the land requiring the new landowner to assume responsibility for abiding by the terms of the cooperative agreement and to maintain the approved forestry practices for the life of the cooperative agreement.

D. The landowner shall reimburse the department the cost of the state's involvement in the cooperative agreement plus court costs and reasonable attorney fees if the landowner violates the law establishing the program, these regulations or the cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1313. Approved Forestry Practices

Forestry practices approved by the commissioner for purposes of this program are:

1. site preparation for reforestation by natural or artificial means;
2. planting of seeds or seedlings;
3. timber stand improvement through removal of undesirable vegetation or trees; and
4. post planting procedures that to improve the growth, productivity, or viability of trees planted under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1315. Forestry Practice Implementation Period

Each landowner shall have eighteen months to complete the forestry practice or practices authorized by the cooperative agreement. A landowner may apply, in writing, for an extension of up to six months in which to complete the practice or practices. The department may grant the extension if it determines that the practice or practices were not completed as a result of circumstances beyond the landowner's control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1317. Payment by the Department

A. Payment by the department to any landowner under any cooperative agreement entered into under this program shall be made by the department only out of monies that are in the fund at the time payment is due.

B. The department shall make payment under any cooperative agreement only when:

1. the landowner has completed, to the department's satisfaction, all forestry practices stated in the cooperative agreement;

2. the landowner has complied with all other terms of the cooperative agreement;

3. the landowner has submitted invoices paid by him for all forestry practices authorized by the cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1319. Repayment by Landowners to the Department

A. The Department may seek repayment from a landowner when:

1. the landowner has, for any reason, received monies over and above the amount allowed by law or these regulations;

2. the landowner has failed to maintain the approved forestry practices for the life of the cooperative agreement;

3. the landowner has failed to abide by the terms of the cooperative agreement;

4. the landowner sells, conveys, or otherwise loses control of land subject to a cooperative agreement under this program and the new landowner does not abide by the terms of the cooperative agreement or does not maintain the approved forestry practices for the life of the cooperative agreement;

5. the department determines that a landowner has committed program violations or abuses that require repayment from the landowner or has violated any of the provisions of §1311 of these regulations.

B. A landowner may appeal a department's demand for repayment of monies paid the landowner under this program by filing with the Commissioner a written request for an administrative review by him of the department's demand for repayment. The landowner's request for an administrative review must be postmarked within 15 days after the landowner receives the department's demand for repayment. A copy of the request must also be sent to the state forester who, upon receipt of the landowner's request shall forward all of the department's pertinent documentation to the commissioner with a copy to the landowner.

C. The landowner's request for an administrative adjudicatory hearing shall contain the following information:

1. the name, address and telephone number of the landowner and of any party that the landowner believes may be adversely affected by the commissioner's determination;

2. a statement of the facts known to the landowner and the reasons why he believes that the department is not entitled to repayment; and

3. a copy of all invoices and documents relating to the cooperative agreement.

D. The commissioner, upon receipt of all documentation from the department and the landowner shall either review the information and make a decision or appoint a hearing officer to conduct an administrative adjudicatory hearing and submit a report and recommendation to the Commissioner for a final decision. Any administrative adjudicatory hearing shall be conducted in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1681 (September 1998).

§1321. Competitive Research and Cooperative Extension Grants

A. A competitive grant process is hereby created, subject to the following provisions, in order to provide for research and cooperative extension activities to enhance reforestation, increase productivity; and to further knowledge regarding the proper application of forestry principles.

B. Each fiscal year the commissioner shall set aside a portion of the monies in the fund to be used for competitive grants.

C. All competitive grants shall be awarded on a matching fund basis, with no more than 50 percent of the cost of the program being funded to be paid by the fund.

D. No grant shall be awarded under this program for any purposes other than research or cooperative extension activities intended to enhance reforestation, increase productivity, or to further knowledge regarding the proper application of forestry principles.

E. All grant proposals must be submitted, in writing, to the department no later than May 1 of each year. Each grant proposal must state in detail the purpose, goals, procedures, completion date and budget of the project as well as any additional information requested by the department.

F. The commissioner may award grants, no later than July 1 of each year, if the commission determines that an award of a grant will fulfill the purposes of the program. Upon the award of a grant the department and the grant recipient will enter into a written cooperative agreement detailing the terms and conditions of the grant.

G. Any grant that is awarded for a project that extends beyond the fiscal year in which the initial grant award is made may be renewed for the following fiscal year but any payment of monies by the department under the extended grant shall be subject to the availability of grant money in the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4416.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1681 (September 1998).

Bob Odom
Commissioner

9809#045

RULE

**Department of Economic Development
Racing Commission**

Racing a Horse Under Investigation
(LAC 35:I.1733)

The Racing Commission hereby amends LAC 35:I.1733 in accordance with R.S. 4:141 et seq., particular R.S. 4:142 and R.S. 4:148 and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1733. Racing a Horse Under Investigation

A. When a report as described in §1729 is received from the state chemist, the state steward shall immediately advise the trainer of his rights to have the "split" portion of the sample tested at his expense. The stable shall remain in good standing pending a ruling by the stewards, which shall not be made until the split portion of the original sample is confirmed positive by a laboratory chosen by the trainer from a list of referee laboratories. The horsemen's bookkeeper shall not release any affected purse monies until the results of the split portion of the sample are received by the commission. The horse allegedly to have been administered any such drug or substance shall not be allowed to enter in a race during the investigation, and until the completion of the stewards' hearing.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), repromulgated LR 4:287 (August 1978), amended LR 7:262 (May 1981), LR 9:755 (November 1983), amended by the Department of Economic Development, Racing Commission, LR 18:367 (April 1992), LR 23:951 (August 1997), LR 24:1682 (September 1998).

Paul D. Burgess
Executive Director

9809#012

RULE

**Department of Economic Development
Used Motor Vehicles and Parts Commission**

Meetings and Licensure
(LAC 46:V.2701, 2703, 2901, 2905, and 3303)
(LAC 46:V.2801)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes, Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission has amended sections of existing rules and regulations and repealed LAC 46:V.2801.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

**Chapter 27. The Used Motor Vehicle and Parts
Commission**

§2701. Meetings of the Commission

A. The Commission shall meet at its office in Baton Rouge, LA on the second Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 1 P.M. and shall continue at the pleasure of those present. Any change of monthly meetings

will be in accordance with the Open Meeting Law R.S. 42:5.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989), LR 18:1116 (October 1992), LR 24:1682 (September 1998).

§2703. Quorum of the Commission

Seven members of the commission shall constitute a quorum for the transaction of official business. Fewer than a quorum may adjourn the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:1682 (September 1998).

§2801. Identification Cards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:415 (April 1994), repealed LR 24:1682 (September 1998).

§2901. Dealers to be Licensed

A. ...

B. Dealers in new and used motor homes, new and used semitrailers, new and used motorcycles, new and used all-terrain vehicles, new and used recreational trailers, new and used boat trailers, new and used travel trailers, new and used buses, new and used fire trucks, new and used wreckers, new and used boats, new and used boat motors, daily rentals not of the current year or immediate prior year models that have been titled previously to an ultimate purchaser, manufacturers and distributors and other types subject to Certificate of Title Law and Title 32 and/or Vehicle Registration Tax under Title 47. All new and unused vehicle dealers and other dealers licensed by the Louisiana Motor Vehicle Commission are excluded from licensing by the Louisiana Used Motor Vehicle and Parts Commission.

C. ...

D. Automotive dismantlers and parts recyclers, motor vehicle crushers, motor vehicle scrap dealers, motor vehicle shredders.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773(A).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:1682 (September 1998).

§2905. Qualifications and Eligibility for Licensure

A. - D. ...

E. Dealers in new and used motor homes, new and used boats, new and new boat motors, new and used motorcycles,

new and used all-terrain vehicles, new and used semi-trailers, new and used recreational trailers, new and used boat trailers, new and used travel trailers, new and used buses, new and used fire trucks, new and used wreckers likewise must meet the above qualifications to be eligible and all these types license numbers will be prefixed by NM, followed by a four digit number then the current year of license (NM-0000-98). Semitrailers are described in the title law as every single vehicle without motive power designed for carrying property and passengers and so designed in conjunction and used with a motor vehicle that some part of its own weight and that of its own load rests or is carried by another vehicle and having one or more load carrying axles. This includes, of course, recreational trailers, boat trailers and travel trailers, but excludes mobile homes. One license shall be due for new and used operators at the same location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:1682 (September 1998).

§3303. Qualifications and Eligibility for Licensure

A. - C. ...

D. An automotive dismantler and parts recycler may offer a rebuilt wrecked, abandoned or repairable motor vehicle at wholesale only. If such vehicle is offered for sale at retail, the dismantler will be operating as a used motor vehicle dealer and is subject to licensing requirements and used motor vehicle dealer rules and regulations thereof. However, an automotive dismantler and parts recycler, duly licensed by the commission, shall have the authority to transfer the certificate of title as a dealer under the Louisiana Certificate of Title Law, (i.e., transfer to another dealer without payment of tax). In order to sell a vehicle at retail, an automotive dismantler and parts recycler must be licensed hereunder as a used motor vehicle dealer providing a good and sufficient bond, executed by the applicant as principal by a surety company qualified to do business as surety in the sum of \$10,000.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:752-756, R.S. 32:772(E) and R.S. 32:773(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994, repromulgated LR 20:645 (June 1994), LR 24:1683 (September 1998).

John M. Torrance
Executive Director

9809#010

RULE

Board of Elementary and Secondary Education

Bulletin 904—Guidelines for the Submission
of a Charter School Proposal (LAC 28:I.904)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary

Education adopted Bulletin 904, Guidelines for the Submission of a Charter School Proposal. The bulletin contains regulations and guidelines pertaining to the submission of Type 2 and Type 4 Charter School Proposals. The guidelines describe the educational program; financial component; eligibility criteria; application requirements; and, the application review and approval process. The *Louisiana Administrative Code* will be amended to include LAC 28:I.904 as follows:

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §904. Charter Schools

A. Bulletin 904, Guidelines for Submission of a Charter School Proposal, is adopted.

1. This Bulletin contains regulations and guidelines pertaining to the submission of Type 2 and Type 4 charter school proposals. It includes guidelines for describing the educational program and financial component of the proposed charter school. Also included are eligibility criteria, application requirements, and the application review and approval process. These guidelines comply with Louisiana's revised Charter Schools Demonstration Program Law, Act 477 of 1997, which is included in the guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3971-3973, 3981-3983, 3991-3993, 3995-3999, and 4001; and R.S. 39:75(C)(1)(b).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:1683 (September 1998).

Copies of the Guidelines for the Submission of a Charter School Proposal, Bulletin 904, may be seen in its entirety at the Office of the State Register, 900 Riverside North, Baton Rouge, or at the office of the State Board of Elementary and Secondary Education, 626 North Fourth Street, Room 104, Baton Rouge, LA.

Weegie Peabody
Executive Director

9809#079

RULE

Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

Federal Transportation Conformity
(LAC 33:III.1431 and 1434)(AQ173)

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 Division regulations, LAC 33:III.1431 and 1434 (AQ173).

This rule establishes policy, criteria, and procedures for demonstrating and assuring conformity of transportation plans, programs, and projects that are developed, funded, or

approved by the U.S. Department of Transportation and by Metropolitan Planning Organizations under Title 23 U.S.C. or the Federal Transit Act of state or federal air quality implementation plans developed in accordance with section 110 and part D of the Clean Air Act. To be consistent with the federal transportation conformity regulations, LAC 33:III.1431 and 1434 are being amended. The rule amends the interagency consultation process requirements in accordance with the federal transportation conformity rule that was amended August 15, 1997. In addition, the rule amends the public consultation procedures requirements. The federal transportation conformity rule has been amended three times. This rule incorporates the changes. This action is mandated by section 176(c) of the Clean Air Act, as amended (42 U.S.C. 7401 et seq.), and the related requirements of 23 U.S.C. 109(j). Federal requirements for transportation conformity are established in 40 CFR part 63, subpart A and in 40 CFR 51.390. The basis and rationale for this proposed rule are to comply with the federal transportation conformity requirements for states published on August 15, 1997 in 62 FR 43802-43818.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

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 Laws

§1431. Purpose

The purpose of this regulation is to implement section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 et seq.), the related requirements of 23 U.S.C. 109(j), and regulations under 40 *Code of Federal Regulations* (CFR) part 93, subpart A with respect to the conformity of transportation plans, programs, and projects that are developed, funded, or approved by the United States Department of Transportation (DOT) and by metropolitan planning organizations (MPOs) or other recipients of funds under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C Chapter 53). This regulation sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to applicable implementation plans developed according to section 110 and part D of the CAA.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), amended LR 24:1684 (September 1998).

§1434. Consultation

A. Pursuant to 40 CFR 93.105 interagency consultation (federal, state, and local) shall be undertaken before making

conformity determinations and before adopting applicable State Implementation Plan (SIP) revisions.

1. Representatives of the MPOs, DEQ, and the state and local transportation agencies shall collectively undertake an interagency consultation process in accordance with this Section with local or regional representatives of EPA, FHWA, and FTA on the development of the applicable implementation plan, the list of TCMs in the applicable implementation plan, the unified planning work program under title 23 CFR section 450.314, the transportation plan (TP), the TIP, any revisions to the preceding documents, and associated conformity determinations required by this regulation.

* * *

[See Prior Text in B.2-B.6.c]

- d. FHWA—division administrator or designee;
- e. FTA—director, Office of Program Development or designee;
- f. EPA—regional administrator or designee; and
- g. local publicly-owned transit agencies—general manager or designee.

7. Before adoption and approval of conformity analyses prepared for plans, Transportation Improvement Plans (TIPs), and projects, the Metropolitan Planning Organization (MPO) and/or Department of Transportation and Development (DOTD) shall distribute a final draft of the documents, including supporting technical materials, to the consulting agencies for review and comments. Lead agencies shall respond to significant comments made by the consulting agencies on plans, TIPs, projects, or SIPs in writing within 30 working days. Comments and responses to comments shall be distributed for review by all agencies identified in Subsection B.2 of this Section. Following resolution of all significant issues, final documents shall be revised accordingly and submitted to the designated lead agency for formal adoption and approval.

8. Meetings of the group of agencies as a whole (as found in Subsection B.6 of this Section) shall convene for the specific purpose of considering issues with regard to the conformity of TPs, TIPs, and projects with the transportation conformity SIP. The frequency of these meeting shall be determined jointly by the specified transportation and air quality lead agencies. Agencies shall meet on a regular basis, at least quarterly, unless the lead agencies decide there is a need for an earlier meeting or, alternatively, that there is no need for the regularly scheduled meeting. If the comments and issues on draft documents are substantial and warrant a group meeting, the lead agency may schedule a meeting where consultation with all agencies concerned can be accomplished simultaneously for the resolution of comments and issues. Meeting agendas are the responsibility of the designated lead agency.

9. Where TCMs are to be included in applicable SIPs in urbanized nonattainment or maintenance areas, a list of TCMs shall be selected and developed by the MPO in cooperation with other agencies specified in Subsection B.2. This list of TCMs shall be distributed to all cooperating agencies by DEQ after its review and consultation with the MPO. The list of

TCMs shall be made available for inspection or copying for all interested persons and agencies.

* * *

[See Prior Text in C]

1. An interagency consultation process in accordance with Subsection B of this Section involving the MPO, state and local air quality and transportation agencies, EPA, and DOT shall be undertaken for the following:

* * *

[See Prior Text in C.1.a]

b. for the purposes of regional emissions analysis, the MPO shall actively consult with the agencies in Subsection B.2 to determine which minor arterials and other transportation projects should be considered regionally significant projects (in addition to those functionally classified as principle arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel) and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP. The MPO shall consider the views of each agency that comments or responds in writing prior to any final action on these issues. If the MPO receives no comments within 30 days, the MPO may assume consensus by the agencies specified in Subsection B.2;

c. the MPO shall submit a list of exempt projects to agencies specified in Subsection B.2 of this Section to evaluate whether projects otherwise exempted from meeting the requirements of 40 CFR part 93, subpart A (see sections 93.126 and 127, as incorporated by reference in LAC 33:III.1432) should be treated as nonexempt in cases where potential adverse emissions impacts may exist for any reason. The MPO shall allow 30 days for comments;

d. the MPO and/or DOTD, in consultation with the agencies in Subsection B.2 of this Section, shall make a determination, as required by 40 CFR 93.113(c)(1)(as incorporated by reference in LAC 33:III.1432), whether past obstacles to implementation of TCMs that are behind the schedule established in the applicable implementation plan have been identified and are being overcome and whether state and local agencies with influence over approvals or funding for TCMs are giving highest priority to approval or funding for TCMs. This process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;

e. the MPO and/or DOTD, in consultation with the agencies in Subsection B.2 of this Section, shall identify, as required by 40 CFR 93.123(b)(as incorporated by reference in LAC 33:III.1432), projects located at sites in PM₁₀ nonattainment areas that have vehicle and roadway emission and dispersion characteristics that are essentially identical to those at sites which have violations verified by monitoring and, therefore, require quantitative PM₁₀ hot-spot analysis;

f. the MPO shall notify the agencies specified in Subsection B.2 of this Section of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in 40 CFR 93.126 or 93.127 (as incorporated by reference in LAC 33:III.1432), and allow a 30-day comment period; and

g. DOTD, in consultation with the agencies specified in Subsection B.2 of this Section, shall cooperatively choose the appropriate conformity test(s) and methodologies for use in isolated rural nonattainment and maintenance areas, as required by 40 CFR 93.109(g)(2)(iii).

2. An interagency consultation process in accordance with Subsection B of this Section involving the MPO and state and local air quality and transportation agencies shall be undertaken for the following:

a. DEQ, in cooperation with the MPO and DOTD, shall evaluate events that will trigger new conformity determinations in addition to those triggering events established in 40 CFR 93.104 (as incorporated by reference in LAC 33:III.1432). DEQ may require a new conformity determination in the event of any unforeseen circumstances; and

* * *

[See Prior Text in C.2.b-C.3]

4. The MPO, in accordance with Subsection B of this Section and with the cooperation of DOTD and local transportation agencies and recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws, shall coordinate and ensure that plans for construction of regionally significant projects that are not FHWA/FTA projects including projects for which alternate locations, design concept and scope, or the no-build option are still being considered, as well as all those by recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws, are disclosed to the MPO on a regular basis and ensure that any changes to those plans are immediately disclosed. The sponsors of non-FHWA/FTA projects and recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws shall disclose to the MPO on a regular basis significant projects and their status.

5. The MPO, in accordance with Subsections B and C.4 of this Section, and other recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws, shall cooperatively assume the location and design concept and scope of projects that are disclosed to the MPO as required by Subsection C.4 of this Section, but whose sponsors have not yet decided these features in sufficient detail to perform the regional emissions analysis according to the requirements of 40 CFR 93.122 (as incorporated by reference in LAC 33:III.1432).

* * *

[See Prior Text in C.6]

7. Within 15 days subsequent to approval and adoption of final documents, including TPs, TIPs, conformity approvals, applicable implementation plans and implementation plan revisions, the lead agency; that is, either DEQ, the MPO or DOTD, shall provide copies of such documents and supporting information to all agencies specified in Subsection B.2 of this Section.

* * *

[See Prior Text in D-D.1]

2. In the event that the MPO or DOTD determines that every effort has been made to address DEQ concerns and no further progress is possible, the MPO or DOTD shall notify

the secretary of DEQ in writing to this effect. This Section of the regulation shall be cited by the MPO or DOTD in any notification of a conflict which may require action by the governor.

* * *

[See Prior Text in D.3-D.4]

E. Public Consultation Procedures. Consistent with the requirements of 23 CFR 450.316(b), relating to public involvement, affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process that provides opportunity for public review and comment. This process shall, at a minimum, provide reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and before taking formal action on conformity determinations for all TPs and TIPs. Any charges imposed for public inspection and copying of conformity-related materials shall be consistent with the fee schedule contained in 49 CFR 7.95. In addition, any such agency must specifically address in writing any public comments claiming that known plans for a regionally significant project that is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. Any such agency shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), amended LR 24:1684 (September 1998).

Gus Von Bodungen
Assistant Secretary

9809#018

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

**Lead-Based Paint Activities
(LAC 33:III.2801)(AQ140)**

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 Division regulations, LAC 33:III.2801.B (AQ140).

This rule amends LAC 33:III.2801.B by changing "individuals" to "persons." The department is seeking authorization for its lead program from the federal government. The department believes that making this one word change will make the state's rule consistent with the intent of the federal rule and remove an impediment to authorization of the state's program. The basis and rationale for this rule are to make the state's rule consistent with the intent of the federal rule and

clarify an area of concern by the Environmental Protection Agency (EPA) in their review of the state's authorization package, which was submitted to EPA on March 5, 1998.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 28. Lead-Based Paint Activities—Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities

§2801. Scope and Applicability

* * *

[See Prior Text in A]

B. This Chapter applies to all persons and contractors who are engaged in lead-based paint activities, as defined in LAC 33:III.2803, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

* * *

[See Prior Text in C - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and R.S. 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1662 (December 1997), amended LR 24:1686 (September 1998).

Gus Von Bodungen
Assistant Secretary

9809#020

RULE

**Department of Environmental Quality
Office of Waste Services
Hazardous Waste Division**

**RCRA 7 and Land Disposal Restrictions
(LAC 33:V.1, 3, 5, 9, 11, 13, 15, 17, 19, 21, 22, 24, 25, 29, 30, 31, 32, 35, 41, 43, 49, and 53)(HW064*)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste Division regulations, LAC 33:V.Chapters 1, 3, 5, 9, 11, 13, 15, 17, 19, 21, 22, 24, 25, 29, 30, 31, 32, 35, 41, 43, 49, and 53 (Log Number HW064*).

The regulations in this package are adopted from federal regulations promulgated on or before June 1997, with the exception of Chapter 17, which corresponds with the federal register dated December 8, 1997. This proposed rule is

identical to federal regulations found in 59 FR 62896-62953 (12/6/94); 60 FR 26828-26829 (5/19/95), 50426-50430 (9/29/95), 56952-56954 (11/13/95); 61 FR 4903-4916 (2/9/96), 28508-28510 (6/5/96), 34252-34278 (7/1/96), 59932-59997 (11/25/96); 62 FR 1992-1997 (1/14/97), 32452-32463 (6/13/97), 32974-32980 (6/17/97) for RCRA 7 Authorization and 51 FR 40572 (11/7/86); 52 FR 21010 (6/4/87), 25760 (7/8/87), 41295 (10/27/87); 53 FR 31138 (8/17/88); 54 FR 8264 (2/27/89), 18836 (5/2/89), 26594 (6/23/89), 36967 (9/6/89); 55 FR 22520 (6/1/90), 23935 (6/13/90); 56 FR 3864 (1/31/91), 41164 (8/19/91); 57 FR 8086 (3/6/92), 20766 (5/15/92), 28628 (6/26/92), 37194 (8/18/92), 47772 (10/20/92); 58 FR 28506 (5/14/93), 29860 (5/24/93); 59 FR 43496 (8/24/94), 47982 (9/19/94); 60 FR 242 (1/3/95), 25492 (5/11/95); 61 FR 15566, 15660 (4/8/96), 19117 (4/30/96), 33680 (6/28/96), 36419 (7/10/96), 43924 (8/26/96); 62 FR 7502 (2/19/97) for the EPA Land Disposal Restrictions (LDR), which are applicable in Louisiana. These federal regulations correspond to the consolidated checklist that is being used for the LDR Authorization (base program to Phase III). For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. 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 rule encompasses the adoption of rules required for the EPA RCRA 7 and LDR Authorization Packages. The adoption of the federal rules will impact LAC 33:V.Chapters 1, 3, 5, 9, 11, 13, 15, 17, 19, 21, 22, 24, 25, 29, 30, 31, 32, 35, 41, 43, 49, and 53, making them equivalent to the federal regulations. The basis and rationale for this rule are to make the state regulations equivalent to the federal regulations and to obtain authorization.

The major changes, in brief, of this rule address:

1. changes and updates in LDR treatment standards due to the production of carbamate pesticides and primary aluminum production;
2. the amendment of the TCLP (method 1311) and the EP toxicity test method (method 1310);
3. changes in the LDR program due to the Universal Waste rule;
4. required RCRA air standards that control organic hazardous waste treatment processes;
5. deadline extension for K088 in regards to treatment standards;
6. adoption of military munitions rules;
7. treatment standards for wood preserving operations, products of chlorinated aliphatics related to F024;
8. references Update II to the Third Edition of the SW-846; and
9. other miscellaneous changes and clarifications required for authorization.

This rule meets the exceptions listed in R.S. 30:2019 (D)(3) and R.S.49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

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

* * *

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

k. nonwastewater splash condenser dross residue from the treatment of K061 in high-temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery;

l. recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous wastes listed in LAC 33:V.4901 (e.g., K048-K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in LAC 33:V.4001;

m. excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled; and

n. shredded circuit boards being recycled provided that they are:

i. stored in containers sufficient to prevent a release to the environment prior to recovery; and

ii. free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.

* * *

[See Prior Text in D.2 - O.2.c.vi]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid And Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687 (September 1998).

§109. Definitions

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

* * *

[See Prior Text]

Active Range—a military range that is currently in service and is being regularly used for range activities.

* * *

[See Prior Text]

Chemical Agents and Munitions—defined in 50 U.S.C. section 1521(j)(1).

* * *

[See Prior Text]

Empty Container—

1.a. any hazardous waste remaining in either of the following is not subject to regulation under LAC 33:V.Chapters 1-29, 31- 39, 43, 49, or to the notification requirements of LAC 33:V.105.A:

- i. an empty container; or
- ii. an inner liner removed from an empty container, as defined in Paragraph 2 of this definition;

b. any hazardous waste in either of the following is subject to regulation:

- i. a container that is not empty; or
- ii. an inner liner removed from a container that is not empty, as defined in Paragraph 2 of this definition;

2.a. a container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acutely hazardous waste listed in LAC 33:V.4901.B, C, or E, is empty if:

- i.(a). all wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating; and

(b). no more than 2.5 centimeters (one inch) of residue remain on the bottom of the container or inner liner; or

ii.(a). no more than three percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size; or

(b). no more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size;

b. a container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric;

c. a container or an inner liner removed from a container that has held an acutely hazardous waste listed in LAC 33:V.4901.B, C or E, is empty if:

i. the container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

ii. the container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

iii. in the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

* * *

[See Prior Text]

Excluded Scrap Metal—processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

* * *

[See Prior Text]

Explosives or Munitions Emergency—a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive materials or devices, or other potentially harmful military chemical munitions or devices, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

Explosives or Munitions Emergency Response—all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions, and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

Explosives or Munitions Emergency Response Specialist—an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), DOD-certified civilian or contractor personnel, and other federal, state, or local government or civilian personnel similarly trained in explosives or munitions emergency responses.

* * *

[See Prior Text]

Home Scrap Metal—scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

* * *

[See Prior Text]

Inactive Range—a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

* * *

[See Prior Text]

Military—The Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

Military Munitions—all ammunition products and components produced or used by or for the DOD or the U.S. Armed Services for national defense and security, including military munitions under the control of the DOD, the U.S. Coast Guard, the DOE, and National Guard personnel. The term *military munitions* includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear

devices, and nuclear components thereof. However, the term does include non-nuclear components of nuclear devices managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

Military Range—designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnances, or weapon systems or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

* * *

[See Prior Text]

Processed Scrap Metal—scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and fines, drosses, and related materials which have been agglomerated.

[Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (LAC 33:V.105.D.1.n).]

Prompt Scrap Metal—scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

* * *

[See Prior Text]

Solid Waste—

* * *

[See Prior Text in 1.a-b.i]

- ii. recycled as explained in Paragraph 3 of this definition;
- iii. considered inherently waste-like, as explained in Paragraph 4 of this definition; or
- iv. a military munition identified as a solid waste in LAC 33:V.5303.

* * *

[See Prior Text in 2 - 6]

TABLE 1				
	Use Constituting Disposal	Energy Recovery/ Fuel	Reclamation	Speculative Accumulation
	(1)	(2)	(3)	(4)
Spent Materials	*	*	*	*
Sludges (listed in LAC 33:V.4901)	*	*	*	*
Sludges exhibiting a characteristic of hazardous waste	*	*	*
By-products (listed in LAC 33:V.4901)	*	*	*	*

By-products exhibiting a characteristic of hazardous waste	*	*	*
Commercial chemical products (listed in LAC 33:V.4901.E and F)	*	*	
Scrap Metal other than excluded scrap metal (see excluded scrap metal)	*	*	*	*

* * *

[See Prior Text]

Unexploded Ordnance (UXO)—military munitions that have been primed, fused, armed, or otherwise prepared for action and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division LR 19:626 (May 1993), amended 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).

§110. References

* * *

[See Prior Text in A - A.10]

11. *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846 [Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), and III (December 1996)]. The Third Edition of SW-846 and Updates I, II, IIA, IIB, and III (document number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Copies of the Third Edition and its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4650. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460;

* * *

[See Prior Text in A.12 - 14]

15. *ASTM Standard Test Method for Vapor Pressure—Temperature Relationship and Initial*

Decomposition Temperature of Liquids by Isoteniscope, ASTM Standard D 2879-92, available from American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103.

* * *

[See Prior Text in A.16]

B. The references listed in Subsection A of this Section are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC. These materials are incorporated as they exist on the date that this rule is promulgated and a notice of any change in these materials will be published in the *Louisiana Register*.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:814 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:656 (April 1998), LR 24:1690 (September 1998).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§305. Scope of the Permit

* * *

[See Prior Text in A-C.11.a]

- b. pesticides as described in LAC 33:V.3805;
- c. thermostats as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809; and
- e. antifreeze as described in LAC 33:V.3811.

12. the owner or operator of a facility permitted, licensed, or registered to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation by LAC 33:V.Subpart 1;

13. a person, not required to obtain an RCRA permit for treatment or containment activities taken during immediate response to any of the following situations:

- a. a discharge of a hazardous waste;
- b. an imminent and substantial threat of a discharge of hazardous waste;
- c. a discharge of a material which, when discharged, becomes a hazardous waste;
- d. an immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in LAC 33:V.109;

14. any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of

LAC 33:V.Chapters 3, 5, and 7 for those activities; or

15. in the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

* * *

[See Prior Text in D - G.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:656 (April 1998), LR 24:1105 (June 1998), LR 24:1690 (September 1998).

§321. Modification of Permits

* * *

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

8. Military Hazardous Waste Munitions Treatment and Disposal. The permittee is authorized to continue to accept waste military munitions, notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if:

a. the facility was in existence as a hazardous waste facility, and the facility was already permitted to handle the waste military munitions on the date when the waste military munitions became subject to hazardous waste regulatory requirements;

b. on or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and

c. the permittee submits a complete Class 2 modification request within 180 days of the date when the waste military munitions became subject to hazardous waste regulatory requirements.

9. Permit Modification List. The administrative authority must maintain a list of all approved permit modifications and must publish a notice once a year in a statewide newspaper that an updated list is available for review.

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).

Chapter 5. Permit Application Contents

Subchapter D. Part II General Permit Information Requirements

§517. Part II Information Requirements (the Formal Permit Application)

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit application must describe how the facility will comply with each of the sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a registered professional engineer. If a section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the same numbering system and in the same order used in these regulations:

* * *

[See Prior Text in A - C]

D. chemical and physical analyses of the hazardous wastes and the hazardous debris to be handled at the facility. At a minimum, these analyses shall contain all the information that must be known to treat, store, or dispose of the wastes properly;

* * *

[See Prior Text in E - F]

G. a copy of the general inspection schedule required by LAC 33:V.1509.B. Include, where applicable, as part of the inspection schedule, specific requirements in LAC 33:V.1709, 1719, 1721, 1731, 1763, 1907.I, 1911, 2109, 2309, 2507, 2703.A-G, 2907, 3119.B and C, and 3205;

* * *

[See Prior Text in H - W]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), LR 24:1691 (September 1998).

Subchapter E. Specific Information Requirements

§521. Specific Part II Information Requirements for Containers

Except as otherwise provided in LAC 33:V.2101 owners or operators of facilities that store containers of hazardous waste must provide the following additional information:

* * *

[See Prior Text in A - C]

D. where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with LAC 33:V.2107.A-C, and 1517.B-D; and

E. information on air emission control equipment as required in LAC 33:V.526.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1692 (September 1998).

§523. Specific Part II Information Requirements for Tanks

Except as otherwise provided in LAC 33:V.1901, owners and operators of facilities that use tanks to store or treat hazardous waste must provide the following additional information:

* * *

[See Prior Text in A -H.2]

I. descriptions of controls and practices to prevent spills and overflows, as required under LAC 33:V.1909.B;

J. for tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of LAC 33:V.1917 and 1919; and

K. information on air emission control equipment as required in LAC 33:V.526.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987) LR 16:220 (March 1990), LR 16:614 (July 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1692 (September 1998).

§525. Specific Part II Information Requirements for Surface Impoundments

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that treat, store or dispose of hazardous waste in surface impoundments must provide the following additional information:

* * *

[See Prior Text in A -J.3]

4. the effectiveness of additional treatment, design, or monitoring techniques; and

K. information on air emission control equipment as required in LAC 33:V.526.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1692 (September 1998).

§526. Specific Part II Information Requirements for Air Emission Controls for Tanks, Surface Impoundments, and Containers

A. Except as otherwise provided in LAC 33:V.1501, owners and operators of tanks, surface impoundments, or containers that use air emission controls in accordance with the requirements of LAC 33:V.Chapter 17. Subchapter C shall provide the following additional information:

1. documentation for each floating roof cover installed on a tank subject to LAC 33:V.1755.D.1 or 2 that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design and certification by the owner or operator that the cover meets the applicable design specifications as listed in LAC 33:V.1755.E.1 or F.1;

2. identification of each container area subject to the requirements of LAC 33:V.Chapter 17. Subchapter C and certification by the owner or operator that the requirements of this Chapter are met;

3. documentation for each enclosure used to control air pollutant emissions from tanks or containers in accordance with the requirements of LAC 33:V.1755.D.5 or 1759.E.1.b that includes records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, appendix B;

4. documentation for each floating membrane cover installed on a surface impoundment in accordance with the requirements of LAC 33:V.1757.C that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in LAC 33:V.1757.C.1;

5. documentation for each closed-vent system and control device installed in accordance with the requirements of LAC 33:V.1761 that includes design and performance information as specified in LAC 33:V.530.C and D;

6. an emission monitoring plan for both Method 21 in 40 CFR part 60, appendix A and control device monitoring methods. This plan shall include the following information: monitoring point(s), monitoring methods for control devices, monitoring frequency, procedures for documenting exceedances, and procedures for mitigating noncompliance; and

7. when an owner or operator of a facility subject to LAC 33:V.Chapter 43. Subchapter V cannot comply with LAC 33:V.Chapter 17. Subchapter C by the date of permit issuance, the schedule of implementation required under LAC 33:V.1751.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1692 (September 1998).

Chapter 9. Manifest System for TSD Facilities

§901. Applicability

The regulations in this Chapter apply to owners and operators of both on-site and off-site TSD facilities, except as LAC 33:V.1501 provides otherwise. LAC 33:V.905, 907, and 909 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources. LAC 33:V.907.B only applies to permittees who treat, store, or dispose of hazardous wastes on-site where such wastes were generated and to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under LAC 33:V.5307.

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 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998).

Chapter 11. Generators

§1101. Applicability

* * *

[See Prior Text in A - G]

H. Persons responding to an explosives or munitions emergency in accordance with LAC 33:V.1501.C.7.a.iv or d or 4307 and 305.C.12 or 13 are not required to comply with the standards of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:398 (May 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 22:20 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:660 (April 1998), LR 24:1106 (June 1998), LR 24:1693 (September 1998).

§1103. Hazardous Waste Determination

A person who generates a solid waste, as defined in LAC 33:V.109, must determine if that waste is a hazard.

* * *

[See Prior Text in A - B.2]

C. If the waste is determined to be hazardous, the generator must refer to other parts of LAC 33:V.Subpart 1 for possible exclusions or prohibitions pertaining to management of his or her specific wastes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 17:658 (July 1991), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998).

§1107. The Manifest System

* * *

[See Prior Text in A - A.10]

11. The requirements of this Chapter and LAC 33:V.33.1109.C do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same

person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding LAC 33:V.1301.A, the generator or transporter must comply with the requirements for transporters set forth in LAC 33:V.1315 and 1317 in the event of a discharge of hazardous waste on a public or private right-of-way.

* * *

[See Prior Text in B - D.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998).

§1109. Pre-Transport Requirements

* * *

[See Prior Text in A - E.1]

a. the waste is placed:
i. in containers and the generator complies with LAC 33:V.Chapter 43.Subchapter H; and/or
ii. in tanks and the generator complies with LAC 33:V.Chapter 43.Subchapter I, except LAC 33:V.4442 and 4445 ; and/or

iii. on drip pads and the generator complies with LAC 33:V.Chapter 43.Subchapter S and maintains the following records at the facility:

(a). a description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(b). documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

iv. in containment buildings and the generator complies with LAC 33:V.Chapter 43.Subchapter T by having placed his professional engineer certification that the building complies with the design standards specified in LAC 33:V.4703 in the facility's operating record no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

(a). a written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the 90-day limit, and documentation that the procedures are complied with; or

(b). documentation that the unit is emptied at least once every 90 days;

b. such a generator is exempt from all requirements in LAC 33:V.Chapter 43. Subchapters F and G, except for LAC 33:V.4379 and 4385;

c. the date upon which each period of accumulation begins is clearly marked on each container and visible for inspection on each container;

d. while being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and

e. the generator complies with the requirements for owners or operators in LAC 33:V.2245.D, 4319 and in Chapter 43.Subchapters B and C.

2. A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the permitting requirements as specified in LAC 33:V.Subpart 1 unless he has been granted an extension to the 90-day period. Such an extension may be granted by the administrative authority if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, or uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the administrative authority on a case-by-case basis.

3. Generators who accumulate hazardous waste for less than 90 days are subject to the requirements of LAC 33:V.1115, 1117, 1119, and 2245 of these regulations.

* * *

[See Prior Text in E.4]

5. A generator who accumulates either hazardous waste or acutely hazardous waste listed in LAC 33:V.4901.E in excess of the amounts listed in Subsection E.4.a of this Section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with Subsection E.1 of this Section or other applicable provisions of this Chapter.

* * *

[See Prior Text in E.6 - 7.d.iv.(c).(v)]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998).

Chapter 13. Transporters

§1301. Applicability

* * *

[See Prior Text in A - F]

G. The regulations in this Chapter do not apply to transportation during an explosives or munitions emergency response conducted in accordance with LAC 33:V.1501.C.7.a.iv or d or 4307 and 305.C.12 or 13.

H. LAC 33:V.5305 identifies how the requirements of this Chapter apply to military munitions classified as solid waste under LAC 33:V.5303.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), LR 24:1694 (September 1998).

§1305. Transfer Facility Requirements

* * *

[See Prior Text in A - B]

C. A transporter storing manifested shipments of hazardous waste in containers meeting the requirements applicable to the LDPS regulations on packaging under LAC 33:V.Subpart 2.Chapter 101 at a transfer facility for a period of 10 days or less is not subject to regulation under LAC 33:V.Chapters 1-7, 15-29, 31-38, and 43 with respect to the storage of those wastes, except as required to obtain approval by the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), repromulgated LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1511 (November 1997), LR 24:1694 (September 1998).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A - C.6]

7.a. except as provided in Subsection C.7.b of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:

- i. a discharge of a hazardous waste;
- ii. an imminent and substantial threat of a discharge of hazardous waste;
- iii. a discharge of a material that, when discharged, becomes a hazardous waste; or
- iv. an immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in LAC 33:V.109;

b. an owner or operator of a facility otherwise regulated by this Chapter must comply with all applicable requirements of LAC 33:V.1511 and 1513;

c. any person who is covered by Subsection C.7.a of this Section and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Chapter and 40 CFR 122-124 for those activities; and

d. in the case of an explosives or munitions emergency response, if a federal, state, tribal, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the

response, the responsible persons responding, the type and description of material addressed, and its disposition;

* * *

[See Prior Text in C.8 - 9]

10. a generator accumulating waste on-site in compliance with LAC 33:V.1109.E;

11. universal waste handlers and universal waste transporters (as defined in LAC 33:V.3813) handling the wastes listed below. These handlers are subject to regulation under LAC 33:V.Chapter 38, when handling the below listed universal wastes:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805;
- c. thermostats as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809; and
- e. antifreeze as described in LAC 33:V.3811; or

12. LAC 33:V.5309 identifies when the requirements of this Chapter apply to the storage of military munitions classified as solid waste under LAC 33:V.5303. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in LAC 33:V.Subpart 1.

* * *

[See Prior Text in D - G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1694 (September 1998).

§1509. General Inspection Requirements

* * *

[See Prior Text in A - B.3]

4. The frequency of inspection may vary for the items on the schedule. However, inspections should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunction or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the terms and frequencies called for in LAC 33:V.1709, 1719, 1721, 1731, 1763, 1907, 1911, 2109, 2309, 2507, 2711, 2907, 3119, and 3205, where applicable.

[Comment: LAC 33:V.517.G requires the inspection schedule to be submitted with Part II of the permit application. The department will evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the department may modify or amend the schedule as may be necessary.]

* * *

[See Prior Text in C - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998).

§1519. General Waste Analysis

* * *

[See Prior Text in A - A.2]

[Comment: For example, the facility's records of analyses performed on the waste before the effective date of these regulations, or studies conducted on hazardous waste generated from processes similar to that which generated the waste to be managed at the facility, may be included in the data base required to comply with Subsection A.1 of this Section. The owner or operator of an off-site facility may arrange for the generator of the hazardous waste to supply part of the information required by Subsection A.1 of this Section, except as otherwise specified in LAC 33:V.2247.A and A.1. If the generator does not supply the information and the owner or operator chooses to accept a hazardous waste, the owner or operator is responsible for obtaining the information required to comply with this Section.]

* * *

[See Prior Text in A.3 - B.6]

7. where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in LAC 33:V.1517, 1711.D, 1741.D, 1753, 2515, 3107, and 2245;

* * *

[See Prior Text in B.8 - 8.c]

i. do not meet applicable treatment standards of LAC 33:V.Chapter 22.Subchapters A and B, or

* * *

[See Prior Text in B.8.c.ii - ii.(a)]

(b). such residues are prohibited from land disposal under LAC 33:V.2215; and

9. for owners and operators seeking an exemption to the air emission standards of LAC 33:V.Chapter 17. Subchapter C in accordance with LAC 33:V.1751:

a. if direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the results of the analysis of test data to verify the exemption; or

b. if knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator or by the generator of the hazardous waste, if the waste is received from off-site, that is used as the basis for knowledge of the waste.

* * *

[See Prior Text in C - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998).

§1529. Operating Record and Reporting Requirements

* * *

[See Prior Text in A - B.5]

6. Records and results of waste analyses and waste determinations performed as specified in these regulations and in LAC 33:V.1517, 1519, 1711, 1741, 1753, 2237.A, 2245, 2515, and 3107.

* * *

[See Prior Text in B.7 - 8]

9. Monitoring, testing, or analytical data where required by LAC 33:V.1504, 1711.C-F, 1713, 1741.D and I, 1743,

1763, 1765, 1903, 1907, 1911, 2304, 2306, 2309, 2504, 2507, 2508, 2509, 2709, 2711, 2719, 2904, 2906, 2907, 3119, 3203, 3205, and Chapter 33, as well as corrective action cites.

* * *

[See Prior Text in B.10 - E.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998).

Chapter 17. Air Emission Standards

§1703. Definitions

As used in this Chapter, all terms not defined herein shall have the meanings given them in LAC 33:V.109.

* * *

[See Prior Text]

Average Volatile Organic Concentration or Average VO Concentration—the mass-weighted average volatile organic concentration of a hazardous waste as determined in accordance with the requirements of LAC 33:V.4727.

* * *

[See Prior Text]

Closure Device—a cap, hatch, lid, plug, seal, valve, or other type of fitting that blocks an opening in a cover such that when the device is secured in the closed position it prevents or reduces air pollutant emissions to the atmosphere. Closure devices include devices that are detachable from the cover (e.g., a sampling port cap), manually operated (e.g., a hinged access lid or hatch), or automatically operated (e.g., a spring-loaded pressure relief valve).

* * *

[See Prior Text]

Continuous Seal—a seal that forms a continuous closure that completely covers the space between the edge of the floating roof and the wall of a tank. A continuous seal may be a vapor-mounted seal, liquid-mounted seal, or metallic shoe seal. A continuous seal may be constructed of fastened segments so as to form a continuous seal.

* * *

[See Prior Text]

Cover—a device that provides a continuous barrier over the hazardous waste managed in a unit to prevent or reduce air pollutant emissions to the atmosphere. A cover may have openings (such as access hatches, sampling ports, gauge wells) that are necessary for operation, inspection, maintenance, and repair of the unit on which the cover is used. A cover may be a separate piece of equipment which can be detached and removed from the unit or a cover may be formed by structural features permanently integrated into the design of the unit.

* * *

[See Prior Text]

Enclosure—a structure that surrounds a tank or container, captures organic vapors emitted from the tank or container, and vents the captured vapors through a closed-vent system to a control device.

* * *

[See Prior Text]

External Floating Roof—a pontoon-type or double-deck type cover that rests on the surface of the material managed in a tank with no fixed roof.

* * *

[See Prior Text]

Fixed Roof—a cover that is mounted on a unit in a stationary position and does not move with fluctuations in the level of the material managed in the unit.

* * *

[See Prior Text]

Floating Membrane Cover—a cover consisting of a synthetic flexible membrane material that rests upon and is supported by the hazardous waste being managed in a surface impoundment.

Floating Roof—a cover consisting of a double deck, pontoon single deck, or internal floating cover which rests upon and is supported by the material being contained, and is equipped with a continuous seal.

* * *

[See Prior Text]

Hard-Piping—pipe or tubing that is manufactured and properly installed in accordance with relevant standards and good engineering practices.

* * *

[See Prior Text]

In Light Material Service—the container is used to manage a material for which both of the following conditions apply: the vapor pressure of one or more of the organic constituents in the material is greater than 0.3 kilopascals (kPa) at 20°C; and the total concentration of the pure organic constituents having a vapor pressure greater than 0.3 kPa at 20°C is equal to or greater than 20 percent by weight.

* * *

[See Prior Text]

Internal Floating Roof—a cover that rests or floats on the material surface (but not necessarily in complete contact with it) inside a tank that has a fixed roof.

* * *

[See Prior Text]

Liquid-Mounted Seal—a foam or liquid-filled primary seal mounted in contact with the hazardous waste between the tank wall and the floating roof continuously around the circumference of the tank.

Malfunction—any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

Maximum Organic Vapor Pressure—the sum of the individual organic constituent partial pressures exerted by the material contained in a tank at the maximum vapor pressure-causing conditions (e.g., temperature, agitation, pH effects of combining wastes, etc.) reasonably expected to occur in the tank. For the purpose of this Chapter, maximum organic vapor pressure is determined using the procedures specified in LAC 33:V.4727.

Metallic Shoe Seal—a continuous seal that is constructed of metal sheets which are held vertically against the wall of the

tank by springs, weighted levers, or other mechanisms and is connected to the floating roof by braces or other means. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

No Detectable Organic Emissions—no escape of organics to the atmosphere as determined using the procedure specified in LAC 33:V.4727.

* * *

[See Prior Text]

Point of Waste Origination—as follows:

a. when the facility owner or operator is the generator of the hazardous waste, the point of waste origination means the point where a solid waste produced by a system, process, or waste management unit is determined to be a hazardous waste as defined in LAC 33:V.109; or

[Note: In this case, this term is being used in a manner similar to the use of the term "point of generation" in air standards established for waste management operations under authority of the Clean Air Act in 40 CFR parts 60, 61, and 63].

b. when the facility owner and operator are not the generator of the hazardous waste, point of waste origination means the point where the owner or operator accepts delivery or takes possession of the hazardous waste.

Point of Waste Treatment—the point where a hazardous waste to be treated in accordance with LAC 33:V.4725 exits the treatment process. Any waste determination shall be made before the waste is conveyed, handled, or otherwise managed in a manner that allows the waste to volatilize to the atmosphere.

* * *

[See Prior Text]

Safety Device—a closure device, such as a pressure relief valve, frangible disc, fusible plug, or any other type of device, which functions exclusively to prevent physical damage or permanent deformation to a unit or its air emission control equipment by venting gases or vapors directly to the atmosphere during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose of this Chapter, a safety device is not used for routine venting of gases or vapors from the vapor headspace underneath a cover such as during filling of the unit or to adjust the pressure in this vapor headspace in response to normal daily diurnal ambient temperature fluctuations. A safety device is designed to remain in a closed position during normal operations and open only when the internal pressure, or another relevant parameter, exceeds the device threshold setting applicable to the air emission control equipment as determined by the owner or operator based on manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials.

* * *

[See Prior Text]

Single-Seal System—a floating roof having one continuous seal. This seal may be vapor-mounted, liquid-mounted, or a metallic shoe seal.

* * *

[See Prior Text]

Vapor-Mounted Seal—a continuous seal that is mounted such that there is a vapor space between the hazardous waste in the unit and the bottom of the seal.

* * *

[See Prior Text]

Volatile Organic Concentration or VO Concentration—the fraction by weight of the volatile organic compounds contained in a hazardous waste expressed in terms of parts per million (ppmw) as determined by direct measurement or by knowledge of the waste in accordance with the requirements of LAC 33:V.4727. For the purpose of determining the VO concentration of a hazardous waste, organic compounds with a Henry's law constant value of at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³ at 25°C) must be included. Appendix Table 1 of this Chapter presents a list of compounds known to have a Henry's law constant value less than the cutoff level.

Waste Determination—performing all applicable procedures in accordance with the requirements of LAC 33:V.4727 to determine whether a hazardous waste meets standards specified in this Chapter. Examples of a waste determination include performing the procedures in accordance with the requirements of LAC 33:V.4727 to determine the average VO concentration of a hazardous waste at the point of waste origination; the average VO concentration of a hazardous waste at the point of waste treatment and comparing the results to the exit concentration limit specified for the process used to treat the hazardous waste; the organic reduction efficiency and the organic biodegradation efficiency for a biological process used to treat a hazardous waste and comparing the results to the applicable standards; or the maximum volatile organic vapor pressure for a hazardous waste in a tank and comparing the results to the applicable standards.

Waste Stabilization Process—any physical or chemical process used to either reduce the mobility of hazardous constituents in a hazardous waste or eliminate free liquids as determined by Test Method 9095 (Paint Filter Liquids Test) in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication Number SW-846, Third Edition, September 1986, as amended by Update I, November 15, 1992 (incorporated by reference—refer to LAC 33:V.110). A waste stabilization process includes mixing the hazardous waste with binders or other materials and curing the resulting hazardous waste and binder mixture. Other synonymous terms used to refer to this process are "waste fixation" or "waste solidification." This does not include the adding of absorbent materials to the surface of a waste, without mixing, agitation, or subsequent curing, to absorb free liquid.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1696 (September 1998).

Subchapter A. Process Vents

§1705. Applicability

The regulations in this Subchapter apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in LAC 33:V.1501).

A. Except for LAC 33:V.1711.D and E, this Subchapter applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 parts per million by weight (ppmw), if these operations are conducted in one of the following:

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 31, and 43;
2. a unit (including a hazardous waste recycling unit) that is not exempt from the permitting requirements under LAC 33:V.1109.E (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located on a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 31, and 43; or
3. a unit that is exempt from permitting under the provisions of LAC 33:V.1109.E (i.e., a 90-day tank or container).

* * *

[See Prior Text B]

[Note: The requirements of LAC 33:V.1707-1715 apply to process vents on hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 1501.C are not affected by these requirements.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1698 (September 1998).

§1709. Standards: Closed-Vent Systems and Control Devices

* * *

[See Prior Text in A - A.1]

2. The owner or operator of an existing facility who cannot install a closed-vent system and control device to comply with the provisions of this Subchapter on the effective date that the facility becomes subject to the provisions of this Subchapter must prepare an implementation schedule that includes dates by which the closed-vent system and control device will be installed and in operation. The controls must be installed as soon as possible, but the implementation schedule may allow up to 30 months after the effective date that the facility becomes subject to this Subchapter for installation and start-up. All units that begin operation after December 21, 1990, must comply with the rules immediately (i.e., must have control devices installed and operating on start-up of the affected unit); the two-year implementation schedule does not apply to these units.

* * *

[See Prior Text in B - F.2.f.i]

ii. a temperature-monitoring device equipped with a continuous recorder. The device shall be capable of

monitoring temperature with an accuracy of ± 1 percent of the temperature being monitored in $^{\circ}\text{C}$ or $\pm 0.5^{\circ}\text{C}$, whichever is greater. The temperature sensor shall be installed at a location in the exhaust vent stream from the condenser exit (i.e., product side).

* * *

[See Prior Text in F.2.g - J]

K. A closed-vent system shall meet either of the following design requirements:

1. a closed-vent system shall be designed to operate with no detectable emissions, as indicated by an instrument reading of less than 500 ppmv above background as determined by the procedure in LAC 33:V.1711.B and by visual inspections; or
2. a closed-vent system shall be designed to operate at a pressure below atmospheric pressure. The system shall be equipped with at least one pressure gauge or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the control device is operating.

L. The owner or operator shall monitor and inspect each closed-vent system required to comply with this Section to ensure proper operation and maintenance of the closed-vent system by implementing the following requirements:

1. each closed-vent system that is used to comply with Subsection K.1 of this Section shall be inspected and monitored in accordance with the following requirements:

a. an initial leak detection monitoring of the closed-vent system shall be conducted by the owner or operator on or before the date that the system becomes subject to this Section. The owner or operator shall monitor the closed-vent system components and connections using the procedures specified in LAC 33:V.1711.B to demonstrate that the closed-vent system operates with no detectable emissions, as indicated by an instrument reading of less than 500 ppmv above background;

b. after initial leak detection monitoring required in Subsection L.1.a of this Section, the owner or operator shall inspect and monitor the closed-vent system as follows:

i. closed-vent system joints, seams, or other connections that are permanently or semi-permanently sealed (e.g., a welded joint between two sections of hard piping or a bolted and gasketed ducting flange) shall be visually inspected at least once per year to check for defects that could result in air pollutant emissions. The owner or operator shall monitor a component or connection using the procedures specified in LAC 33:V.1711.B to demonstrate that it operates with no detectable emissions following any time the component is repaired or replaced (e.g., a section of damaged hard piping is replaced with new hard piping) or the connection is unsealed (e.g., a flange is unbolted);

ii. closed-vent system components or connections other than those specified in Subsection L.1.b.i of this Section shall be monitored annually and at other times as requested by the administrative authority, except as provided for in Subsection O of this Section, using the procedures specified in LAC 33:V.1711.B to demonstrate that the components or connections operate with no detectable emissions;

c. in the event that a defect or leak is detected, the owner or operator shall repair the defect or leak in accordance with the requirements of Subsection L.3 of this Section;

d. the owner or operator shall maintain a record of the inspection and monitoring in accordance with the requirements specified in LAC 33:V.1713;

2. each closed-vent system that is used to comply with Subsection K.2 of this Section shall be inspected and monitored in accordance with the following requirements:

a. the closed-vent system shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in ductwork or piping or loose connections;

b. the owner or operator shall perform an initial inspection of the closed-vent system on or before the date that the system becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year;

c. in the event that a defect or leak is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection L.3 of this Section; and

d. the owner or operator shall maintain a record of the inspection and monitoring in accordance with the requirements specified in LAC 33:V.1713;

3. the owner or operator shall repair all detected defects as follows:

a. detectable emissions, as indicated by visual inspection or by an instrument reading greater than 500 ppmv above background, shall be controlled as soon as practicable, but not later than 15 calendar days after the emission is detected, except as provided for in Subsection L.3.c of this Section;

b. a first attempt at repair shall be made no later than five calendar days after the emission is detected;

c. delay of repair of a closed-vent system for which leaks have been detected is allowed if the repair is technically infeasible without a process unit shutdown or if the owner or operator determines that emissions resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair. Repair of such equipment shall be completed by the end of the next process unit shutdown; and

d. the owner or operator shall maintain a record of the defect repair in accordance with the requirements specified in LAC 33:V.1713.

M. Closed-vent systems and control devices used to comply with provisions of this Chapter shall be operated at all times when emissions may be vented to them.

N. The owner or operator using a carbon adsorption system to control air pollutant emissions shall document that all carbon that is a hazardous waste and that is removed from the control device is managed in one of the following manners, regardless of the average volatile organic concentration of the carbon:

1. regenerated or reactivated in a thermal treatment unit that meets one of the following:

a. the owner or operator of the unit has been issued a final permit under LAC 33:V.Chapter 5 which implements the requirements of LAC 33:V.Chapter 32;

b. the unit is equipped with and operating air emission controls in accordance with the applicable requirements of Subchapters A and C of this Chapter or of LAC 33:V.Chapter 43; or

c. the unit is equipped with and operating air emission controls in accordance with a national emission standard for hazardous air pollutants under 40 CFR part 61 or part 63;

2. incinerated in a hazardous waste incinerator for which the owner or operator either:

a. has been issued a final permit under LAC 33:V.Chapter 5 that implements the requirements of LAC 33:V.Chapter 31; or

b. has designed and operates the incinerator in accordance with the interim status requirements of LAC 33:V.Chapter 43.Subchapter N;

3. burned in a boiler or industrial furnace for which the owner or operator either:

a. has been issued a final permit under LAC 33:V.Chapter 5 that implements the requirements of LAC 33:V.Chapter 30; or

b. has designed and operates the boiler or industrial furnace in accordance with the interim status requirements of LAC 33:V.Chapter 30.

O. Any components of a closed-vent system that are designated, as described in LAC 33:V.1713.C.9, as unsafe to monitor are exempt from the requirements of Subsection L.1.b.ii of this Section if:

1. the owner or operator of the closed-vent system determines that the components of the closed-vent system are unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with Subsection L.1.b.ii of this Section; and

2. the owner or operator of the closed-vent system adheres to a written plan that requires monitoring the closed-vent system components using the procedure specified in Subsection L.1.b.ii of this Section as frequently as practicable during safe-to-monitor times.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1698 (September 1998).

§1711. Test Methods and Procedures

* * *

[See Prior Text in A]

B. When a closed-vent system is tested for compliance with no detectable emissions, as required in LAC 33:V.1709.L, the test shall comply with the following requirements.

* * *

[See Prior Text in B.1 - D.1.b]

c. Each sample shall be analyzed, and the total organic concentration of the sample shall be computed using Method 9060 or 8260 of *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

* * *

[See Prior Text in D.1.d - E.3]

F. When an owner or operator and the administrative authority do not agree on whether a distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation manages a hazardous waste with organic concentrations of at least 10 ppmw based on knowledge of the waste, the procedures in Method 8260 *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110 may be used to resolve the dispute.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1699 (September 1998).

§1713. Recordkeeping Requirements

* * *

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

8. date of each control device start-up and shutdown;
9. an owner or operator designating any components of a closed-vent system as unsafe to monitor pursuant to LAC 33:V.1709.O shall record in a log that is kept in the facility operating record, the identification of closed-vent system components that are designated as unsafe to monitor in accordance with the requirements of LAC 33:V.1709.O, an explanation for each closed-vent system component stating why the closed-vent system component is unsafe to monitor, and the plan for monitoring each closed-vent system component;

10. when each leak is detected as specified in LAC 33:V.1709.L, the following information shall be recorded:

a. the instrument identification number, the closed-vent system component identification number, and the operator name, initials, or identification number;

b. the date the leak was detected and the date of first attempt to repair the leak;

c. the date of successful repair of the leak; and

d. maximum instrument reading measured by Method 21 of 40 CFR part 60, appendix A after it is successfully repaired or determined to be nonrepairable;

e. "repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

i. The owner or operator may develop a written procedure that identifies the conditions that justify a delay of repair. In such cases, reasons for delay of repair may be documented by citing the relevant sections of the written procedure.

ii. If delay of repair was caused by depletion of stocked parts, there must be documentation that the spare parts were sufficiently stocked on-site before depletion and the reason for depletion.

D. Record Retention. Records of the monitoring, operating, and inspection information required by LAC 33:V.1713.C.3-10 must be kept on site for three years.

* * *

[See Prior Text in E - F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 22:818 (September 1996), amended by the Office Of Waste Services, Hazardous Waste Division, LR 24:1700 (September 1998).

Subchapter B. Equipment Leaks

§1717. Applicability

* * *

[See Prior Text in A]

B. Except as provided in LAC 33:V.1743.K, this Subchapter applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 31, and 43; or

2. a unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 31, and 43; or

3. a unit that is exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a 90-day tank or container).

* * *

[See Prior Text in C - E]

F. Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year is excluded from the requirements of LAC 33:V.1719 - 1735 if it is identified, as required in LAC 33:V.1743.

[Note: The requirements of LAC 33:V.1719-1745 apply to equipment associated with hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 1501.C are not affected by these requirements.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1700 (September 1998).

§1725. Standards: Sampling Connection Systems

A. Each sampling connection system shall be equipped with a closed purge, closed loop, or closed-vent system. This system shall collect the sample purge for return to the process or for routing to the appropriate treatment system. Gases displaced during filling of the sample container are not required to be collected or captured.

B. Each closed-purge, closed loop, or closed-vent system, as required in Subsection A of this Section, shall meet one of the following requirements:

1. return the purged process fluid directly to the process line;

2. collect and recycle the purged process fluid; or

3. be designed and operated to capture and transport all the purged process fluid to a waste management unit that complies with the applicable requirements of LAC 33:V.1755-1759 or a control device that complies with the requirements of LAC 33:V.1735.

C. In situ sampling systems and sampling systems without purges are exempt from the requirements of Subsections A and B of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1700 (September 1998).

§1731. Standards: Pumps and Valves in Heavy Liquid Service, Pressure Relief Devices in Light Liquid or Heavy Liquid Service, and Flanges and Other Connectors

* * *

[See Prior Text in A - D]

E. Any connector that is inaccessible or is ceramic or ceramic-lined (e.g., porcelain, glass, or glass-lined) is exempt from the monitoring requirements of Subsection A of this Section and from the recordkeeping requirements of LAC 33:V.1743.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998).

§1741. Test Methods and Procedures

* * *

[See Prior Text in A - D.1]

2. method 9060 or 8260 of *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110; or

* * *

[See Prior Text in D.3 - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998).

§1743. Recordkeeping Requirements

* * *

[See Prior Text in A - G.5]

6. Identification: Either by list or location (area or group) of equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for a period of less than 300 hours per year.

* * *

[See Prior Text in H - M]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:723 (July 1992), Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998).

Subchapter C. Air Emission Standards for Tanks, Surface Impoundments, and Containers

§1747. Applicability

A. The requirements of this Subchapter apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either Chapter 19, 21, or 29, except as LAC 33:V.1501 and Subsection B of this Section provide otherwise.

B. The requirements of this Subchapter do not apply to the following waste management units at the facility:

1. a waste management unit that holds hazardous waste placed in the unit before December 6, 1996, and in which no hazardous waste is added to the unit on or after this date;

2. a container that has a design capacity less than or equal to 0.1 m³;

3. a tank in which an owner or operator has stopped adding hazardous waste and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan;

4. a surface impoundment in which an owner or operator has stopped adding hazardous waste (except to implement an approved closure plan) and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan;

5. a waste management unit that is used solely for on-site treatment or storage of hazardous waste that is generated as the result of implementing remedial activities required under the corrective action authorities of RCRA sections 3004(u), 3004(v), or 3008(h), CERCLA authorities, or similar state authorities;

6. a waste management unit that is used solely for the management of radioactive mixed waste in accordance with all applicable regulations under the authority of the Atomic Energy Act and the Nuclear Waste Policy Act;

7. a hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63. For the purpose of complying with this Paragraph, a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of LAC 33:V.1755.I, except as provided in LAC 33:V.1751.C.5; and

8. a tank that has a process vent as defined in LAC 33:V.1703.

C. For the owner and operator of a facility subject to this Chapter and who received a final permit under RCRA section 3005 prior to December 6, 1996, the requirements of this Chapter shall be incorporated into the permit when the permit is reissued in accordance with the requirements of LAC 33:V.705 or reviewed in accordance with the requirements of LAC 33:V.315.D. Until such date when the owner and operator receives a final permit incorporating the requirements of this Chapter, the owner and operator are

subject to the requirements of LAC 33:V.Chapter 43.Subchapter V.

D. The requirements of this Subchapter, except for the recordkeeping requirements specified in LAC 33:V.1765.I, are administratively stayed for a tank or a container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations when the owner or operator of the unit meets all of the following conditions:

1. the owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purpose of meeting the conditions of this paragraph, "organic peroxide" means an organic compound that contains the bivalent —O—O— structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical;

2. the owner or operator prepares documentation, in accordance with the requirements of LAC 33:V.1765.I, explaining why an undue safety hazard would be created if air emission controls specified in LAC 33:V.1755-1761 are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of Subsection D.1 of this Section; and

3. the owner or operator notifies the administrative authority, in writing, that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of Subsection D.1 of this Section are managed at the facility in tanks or containers meeting the conditions of Subsection D.2 of this Section. The notification shall state the name and address of the facility and be signed and dated by an authorized representative of the facility owner or operator.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998).

§1749. Definitions

As used in this Chapter, all terms shall have the meaning given to them in LAC 33:V.1703 and 109.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1702 (September 1998).

§1751. Standards: General

A. This Section applies to the management of hazardous waste in tanks, surface impoundments, and containers subject to this Subchapter.

B. The owner or operator shall control air pollutant emissions from each waste management unit in accordance with standards specified in LAC 33:V.1755-1761, as

applicable to the waste management unit, except as provided for in Subsection C of this Section.

C. A tank, surface impoundment, or container is exempt from standards specified in LAC 33:V.1755-1761, as applicable, provided that the waste management unit is one of the following:

1. a tank, surface impoundment, or container for which all hazardous waste entering the unit has an average VO concentration at the point of waste origination of less than 500 parts per million by weight (ppmw). The average VO concentration shall be determined using the procedures specified in LAC 33:V.1753.A. The owner or operator shall review and update, as necessary, this determination at least once every 12 months following the date of the initial determination for the hazardous waste streams entering the unit;

2. a tank, surface impoundment, or container for which the organic content of all the hazardous waste entering the waste management unit has been reduced by an organic destruction or removal process that achieves any one of the following conditions:

a. a process that removes or destroys the organics contained in the hazardous waste to a level such that the average VO concentration of the hazardous waste at the point of waste treatment is less than the exit concentration limit (C) established for the process. The average VO concentration of the hazardous waste at the point of waste treatment and the exit concentration limit for the process shall be determined using the procedures specified in LAC 33:V.1753.B;

b. a process that removes or destroys the organics contained in the hazardous waste to a level such that the organic reduction efficiency (R) for the process is equal to or greater than 95 percent, and the average VO concentration of the hazardous waste at the point of waste treatment is less than 100 ppmw. The organic reduction efficiency for the process and the average VO concentration of the hazardous waste at the point of waste treatment shall be determined using the procedures specified in LAC 33:V.1753.B;

c. a process that removes or destroys the organics contained in the hazardous waste to a level such that the actual organic mass removal rate (MR) for the process is equal to or greater than the required organic mass removal rate (RMR) established for the process. The required organic mass removal rate and the actual organic mass removal rate for the process shall be determined using the procedures specified in LAC 33:V.1753.B;

d. a biological process that destroys or degrades the organics contained in the hazardous waste, such that either of the following conditions is met:

i. the organic reduction efficiency (R) for the process is equal to or greater than 95 percent and the organic biodegradation efficiency (R_{bio}) for the process is equal to or greater than 95 percent. The organic reduction efficiency and the organic biodegradation efficiency for the process shall be determined using the procedures specified in LAC 33:V.1753.B; or

ii. the total actual organic mass biodegradation rate (MR_{bio}) for all hazardous waste treated by the process is equal to or greater than the required organic mass removal rate

(RMR). The required organic mass removal rate and the actual organic mass biodegradation rate for the process shall be determined using the procedures specified in LAC 33:V.1753.B;

e. a process that removes or destroys the organics contained in the hazardous waste and meets all of the following conditions:

i. from the point of waste origination through the point where the hazardous waste enters the treatment process, the hazardous waste is managed continuously in waste management units that use air emission controls in accordance with the standards specified in LAC 33:V.1755-1761, as applicable to the waste management unit;

ii. from the point of waste origination through the point where the hazardous waste enters the treatment process, any transfer of the hazardous waste is accomplished through continuous hard-piping or other closed system transfer that does not allow exposure of the waste to the atmosphere. The EPA considers a drain system that meets the requirements of 40 CFR part 63, subpart RR—National Emission Standards for Individual Drain Systems to be a closed system; and

iii. the average VO concentration of the hazardous waste at the point of waste treatment is less than the lowest average VO concentration at the point of waste origination determined for each of the individual waste streams entering the process or 500 ppmw, whichever value is lower. The average VO concentration of each individual waste stream at the point of waste origination shall be determined using the procedures specified in LAC 33:V.1753.A. The average VO concentration of the hazardous waste at the point of waste treatment shall be determined using the procedures specified in LAC 33:V.1753.B;

f. a process that removes or destroys the organics contained in the hazardous waste to a level such that the organic reduction efficiency (R) for the process is equal to or greater than 95 percent and the owner or operator certifies that the average VO concentration at the point of waste origination for each of the individual waste streams entering the process is less than 10,000 ppmw. The organic reduction efficiency for the process and the average VO concentration of the hazardous waste at the point of waste origination shall be determined using the procedures specified in LAC 33:V.1753.A and B, respectively;

g. a hazardous waste incinerator for which the owner or operator has either:

i. been issued a final permit under LAC 33:V.Chapter 5 that implements the requirements of LAC 33:V.Chapter 31; or

ii. designed and operates the incinerator in accordance with the interim status requirements of LAC 33:V.Chapter 43.Subchapter N;

h. a boiler or industrial furnace for which the owner or operator has either:

i. been issued a final permit under LAC 33:V.Chapter 5 that implements the requirements of LAC 33:V.Chapter 30; or

ii. designed and operates the boiler or industrial furnace in accordance with the interim status requirements of LAC 33:V.Chapter 30;

i. for the purpose of determining the performance of an organic destruction or removal process in accordance with the conditions in each of Subsection C.2.a-f of this Section, the owner or operator shall account for VO concentrations determined to be below the limit of detection of the analytical method by using the following VO concentration:

i. if Method 25D in 40 CFR part 60, appendix A is used for the analysis, one-half the blank value determined in the method; or

ii. if any other analytical method is used, one-half the limit of detection established for the method;

3. a tank used for biological treatment of hazardous waste in accordance with the requirements of Subsection C.2.d of this Section;

4. a tank, surface impoundment, or container for which all hazardous waste placed in the unit either:

a. meets the numerical concentration limits for organic hazardous constituents applicable to the hazardous waste, as specified in LAC 33:V.Chapter 22.Table 2 "Treatment Standards for Hazardous Waste"; or

b. has been treated by the treatment technology established by EPA for the waste in LAC 33:V.2227.A or treated by an equivalent method of treatment approved by the department in accordance with LAC 33:V.2227.B; or

5. a tank used for bulk feed of hazardous waste to a waste incinerator and all of the following conditions are met:

a. the tank is located inside an enclosure vented to a control device that is designed and operated in accordance with all applicable requirements specified under 40 CFR part 61, subpart FF—National Emission Standards for Benzene Waste Operations for a facility at which the total annual benzene quantity from the facility waste is equal to or greater than 10 megagrams per year;

b. the enclosure and control device serving the tank were installed and began operation prior to November 25, 1996; and

c. the enclosure is designed and operated in accordance with the criteria for a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, appendix B. The enclosure may have permanent or temporary openings to allow worker access; passage of material into or out of the enclosure by conveyor, vehicles, or other mechanical or electrical equipment; or to direct air flow into the enclosure. The owner or operator shall perform the verification procedure for the enclosure as specified in section 5.0 to *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* annually.

D. The administrative authority may at any time perform or request that the owner or operator perform a waste determination for a hazardous waste managed in a tank, surface impoundment, or container exempted from using air emission controls under the provisions of this Section as follows:

1. the waste determination for average VO concentration of a hazardous waste at the point of waste origination shall be performed using direct measurement in accordance with the applicable requirements of LAC 33:V.1753.A. The waste determination for a hazardous waste at the point of waste

treatment shall be performed in accordance with the applicable requirements of LAC 33:V.1753.B;

2. in performing a waste determination in accordance with Subsection D.1 of this Section, the sample preparation and analysis shall be conducted as follows:

a. in accordance with the method used by the owner or operator to perform the waste analysis, except in the case specified in Subsection D.2.b of this Section; and

b. if the administrative authority determines that the method used by the owner or operator was not appropriate for the hazardous waste managed in the tank, surface impoundment, or container, then the administrative authority may choose an appropriate method;

3. in a case when the owner or operator is requested to perform the waste determination, the administrative authority may elect to have an authorized representative observe the collection of the hazardous waste samples used for the analysis;

4. in a case when the results of the waste determination performed or requested by the administrative authority do not agree with the results of a waste determination performed by the owner or operator using knowledge of the waste, then the results of the waste determination performed in accordance with the requirements of Subsection D.1 of this Section shall be used to establish compliance with the requirements of this Subchapter;

5. in a case when the owner or operator has used an averaging period greater than one hour for determining the average VO concentration of a hazardous waste at the point of waste origination, the administrative authority may elect to establish compliance with this Subchapter by performing or requesting that the owner or operator perform a waste determination using direct measurement based on waste samples collected within a one-hour period as follows:

a. the average VO concentration of the hazardous waste at the point of waste origination shall be determined by direct measurement in accordance with the requirements of LAC 33:V.1753.A;

b. results of the waste determination performed or requested by the administrative authority showing that the average VO concentration of the hazardous waste at the point of waste origination is equal to or greater than 500 ppmw shall constitute noncompliance with this Subchapter, except in a case as provided for in Subsection D.5.c of this Section; and

c. for the case when the average VO concentration of the hazardous waste at the point of waste origination previously has been determined by the owner or operator using an averaging period greater than one hour to be less than 500 ppmw, but because of normal operating process variations the VO concentration of the hazardous waste determined by direct measurement for any given one-hour period may be equal to or greater than 500 ppmw, information that was used by the owner or operator to determine the average VO concentration of the hazardous waste (e.g., test results, measurements, calculations, and other documentation) and recorded in the facility records in accordance with the requirements of LAC 33:V.1753.A and 1765 shall be considered by the administrative authority together with the results of the waste

determination performed or requested by the administrative authority in establishing compliance with this Subchapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1702 (September 1998).

§1753. Waste Determination Procedures

A. Waste Determination Procedure to Determine Average Volatile Organic (VO) Concentration of a Hazardous Waste at the Point of Waste Origination

1. An owner or operator shall determine the average VO concentration at the point of waste origination for each hazardous waste placed in a waste management unit exempted under the provisions of LAC 33:V.1751.C.1 from using air emission controls in accordance with standards specified in LAC 33:V.4727, as applicable to the waste management unit.

2. The average VO concentration of a hazardous waste at the point of waste origination may be determined in accordance with the procedures specified in LAC 33:V.4727.

B. Waste Determination Procedures for Treated Hazardous Waste

1. An owner or operator shall perform the applicable waste determination for each treated hazardous waste placed in a waste management unit exempted under the provisions of LAC 33:V.1751.C.2 from using air emission controls in accordance with standards specified in LAC 33:V.1755-1761, as applicable to the waste management unit.

2. The waste determination for a treated hazardous waste shall be performed in accordance with the procedures specified in LAC 33:V.4727, as applicable to the treated hazardous waste.

C. Procedure to Determine the Maximum Organic Vapor Pressure of a Hazardous Waste in a Tank

1. An owner or operator shall determine the maximum organic vapor pressure for each hazardous waste placed in a tank using Tank Level 1 controls in accordance with standards specified in LAC 33:V.1755.C.

2. The maximum organic vapor pressure of the hazardous waste may be determined in accordance with the procedures specified in LAC 33:V.4727.

D. The procedure for determining no detectable organic emissions for the purpose of complying with this Subchapter shall be conducted in accordance with the procedures specified in LAC 33:V.4727.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1704 (September 1998).

§1755. Standards: Tanks

A. The provisions of this Section apply to the control of air pollutant emissions from tanks for which LAC 33:V.1751.B references the use of this Section for such air emission control.

B. The owner or operator shall control air pollutant emissions from each tank subject to this Section in accordance with the following requirements, as applicable:

1. for a tank that manages hazardous waste that meets all

of the conditions specified in Subsection B.1.a-c of this Section, the owner or operator shall control air pollutant emissions from the tank in accordance with the Tank Level 1 controls specified in Subsection C of this Section or the Tank Level 2 controls specified in Subsection D of this Section:

a. the hazardous waste in the tank has a maximum organic vapor pressure that is less than the maximum organic vapor pressure limit for the tank's design capacity category as follows:

i. for a tank design capacity equal to or greater than 151 m³, the maximum organic vapor pressure limit for the tank is 5.2 kPa;

ii. for a tank design capacity equal to or greater than 75 m³, but less than 151 m³, the maximum organic vapor pressure limit for the tank is 27.6 kPa;

iii. for a tank design capacity less than 75 m³, the maximum organic vapor pressure limit for the tank is 76.6 kPa;

b. the hazardous waste in the tank is not heated by the owner or operator to a temperature that is greater than the temperature at which the maximum organic vapor pressure of the hazardous waste is determined for the purpose of complying with Subsection B.1.a of this Section; and

c. the hazardous waste in the tank is not treated by the owner or operator using a waste stabilization process, as defined in LAC 33:V.4721; and

2. for a tank that manages hazardous waste that does not meet all of the conditions specified in Subsection B.1.a-c of this Section, the owner or operator shall control air pollutant emissions from the tank by using Tank Level 2 controls in accordance with the requirements of Subsection D of this Section. Examples of tanks required to use Tank Level 2 controls include a tank used for a waste stabilization process and a tank for which the hazardous waste in the tank has a maximum organic vapor pressure that is equal to or greater than the maximum organic vapor pressure limit for the tank's design capacity category as specified in Subsection B.1.a of this Section.

C. Owners and operators controlling air pollutant emissions from a tank using Tank Level 1 controls shall meet the requirements specified in Subsection C.1-4 of this Section:

1. the owner or operator shall determine the maximum organic vapor pressure for a hazardous waste to be managed in the tank using Tank Level 1 controls before the first time the hazardous waste is placed in the tank. The maximum organic vapor pressure shall be determined using the procedures specified in LAC 33:V.1753.C. Thereafter, the owner or operator shall perform a new determination whenever changes to the hazardous waste managed in the tank could potentially cause the maximum organic vapor pressure to increase to a level that is equal to or greater than the maximum organic vapor pressure limit for the tank design capacity category specified in Subsection B.1.a of this Section, as applicable to the tank;

2. the tank shall be equipped with a fixed roof designed to meet the following specifications:

a. the fixed roof and its closure devices shall be designed to form a continuous barrier over the entire surface area of the hazardous waste in the tank. The fixed roof may be

a separate cover installed on the tank (e.g., a removable cover mounted on an open-top tank) or may be an integral part of the tank structural design (e.g., a horizontal cylindrical tank equipped with a hatch);

b. the fixed roof shall be installed in a manner such that there are no visible cracks, holes, gaps, or other open spaces between roof section joints or between the interface of the roof edge and the tank wall;

c. each opening in the fixed roof shall be either:

i. equipped with a closure device designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the opening and the closure device; or

ii. connected by a closed-vent system that is vented to a control device. The control device shall remove or destroy organics in the vent stream, and it shall be operating whenever hazardous waste is managed in the tank;

d. the fixed roof and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices shall include organic vapor permeability; the effects of any contact with the hazardous waste or its vapors managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed;

3. whenever a hazardous waste is in the tank, the fixed roof shall be installed with each closure device secured in the closed position except as follows:

a. opening of closure devices or removal of the fixed roof is allowed at the following times:

i. to provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample the liquid in the tank or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank;

ii. to remove accumulated sludge or other residues from the bottom of the tank;

b. opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the tank internal pressure in accordance with the tank design specifications. The device shall be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever the tank internal pressure is within the internal pressure operating range determined by the owner or operator based on the tank manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the

safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the tank internal pressure exceeds the internal pressure operating range for the tank as a result of loading operations or diurnal ambient temperature fluctuations;

c. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition;

4. the owner or operator shall inspect the air emission control equipment in accordance with the following requirements:

a. the fixed roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;

b. the owner or operator shall perform an initial inspection of the fixed roof and its closure devices on or before the date that the tank becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year, except under the special conditions provided for in Subsection L of this Section;

c. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

d. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B.

D. Owners and operators controlling air pollutant emissions from a tank using Tank Level 2 controls shall use one of the following tanks:

1. a fixed-roof tank equipped with an internal floating roof in accordance with the requirements specified in Subsection E of this Section;

2. a tank equipped with an external floating roof in accordance with the requirements specified in Subsection F of this Section;

3. a tank vented through a closed-vent system to a control device in accordance with the requirements specified in Subsection G of this Section;

4. a pressure tank designed and operated in accordance with the requirements specified in Subsection H of this Section; or

5. a tank located inside an enclosure that is vented through a closed-vent system to an enclosed combustion control device in accordance with the requirements specified in Subsection I of this Section.

E. The owner or operator who controls air pollutant emissions from a tank using a fixed roof with an internal floating roof shall meet the requirements specified in Subsection E.1-3 of this Section.

1. the tank shall be equipped with a fixed roof and an internal floating roof in accordance with the following requirements:

a. the internal floating roof shall be designed to float

on the liquid surface except when the floating roof must be supported by the leg supports;

b. the internal floating roof shall be equipped with a continuous seal between the wall of the tank and the floating roof edge that meets either of the following requirements:

i. a single continuous seal that is either a liquid-mounted seal or a metallic shoe seal, as defined in LAC 33:V.4721; or

ii. two continuous seals mounted one above the other. The lower seal may be a vapor-mounted seal;

c. the internal floating roof shall meet the following specifications:

i. each opening in a noncontact internal floating roof, except for automatic bleeder vents (vacuum breaker vents) and the rim space vents, is to provide a projection below the liquid surface;

ii. each opening in the internal floating roof shall be equipped with a gasketed cover or a gasketed lid except for leg sleeves, automatic bleeder vents, rim space vents, column wells, ladder wells, sample wells, and stub drains;

iii. each penetration of the internal floating roof for the purpose of sampling shall have a slit fabric cover that covers at least 90 percent of the opening;

iv. each automatic bleeder vent and rim space vent shall be gasketed;

v. each penetration of the internal floating roof that allows for passage of a ladder shall have a gasketed sliding cover; and

vi. each penetration of the internal floating roof that allows for passage of a column supporting the fixed roof shall have a flexible fabric sleeve seal or a gasketed sliding cover;

2. the owner or operator shall operate the tank in accordance with the following requirements:

a. when the floating roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be completed as soon as practical;

b. automatic bleeder vents are to be set closed at all times when the roof is floating, except when the roof is being floated off or is being landed on the leg supports; and

c. prior to filling the tank, each cover, access hatch, gauge float well, or lid on any opening in the internal floating roof shall be bolted or fastened closed (i.e., no visible gaps). Rim space vents are to be set to open only when the internal floating roof is not floating or when the pressure beneath the rim exceeds the manufacturer's recommended setting;

3. the owner or operator shall inspect the internal floating roof in accordance with the procedures specified as follows:

a. the floating roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, the internal floating roof is not floating on the surface of the liquid inside the tank; liquid has accumulated on top of the internal floating roof; any portion of the roof seals have detached from the roof rim; holes, tears, or other openings are visible in the seal fabric; the gaskets no longer close off the hazardous waste surface from the atmosphere; or the slotted membrane has more than 10 percent open area;

b. the owner or operator shall inspect the internal floating roof components as follows, except as provided in Subsection E.3.c of this Section:

i. visually inspect the internal floating roof components through openings on the fixed-roof (e.g., manholes and roof hatches) at least once every 12 months after initial fill; and

ii. visually inspect the internal floating roof, primary seal, secondary seal (if one is in service), gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every 10 years;

c. as an alternative to performing the inspections specified in Subsection E.3.b of this Section for an internal floating roof equipped with two continuous seals mounted one above the other, the owner or operator may visually inspect the internal floating roof, primary and secondary seals, gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every 5 years;

d. prior to each inspection required by Subsection E.3.b or c of this Section, the owner or operator shall notify the administrative authority in advance of each inspection to provide the administrative authority with the opportunity to have an observer present during the inspection. The owner or operator shall notify the administrative authority of the date and location of the inspection as follows:

i. prior to each visual inspection of an internal floating roof in a tank that has been emptied and degassed, written notification shall be prepared and sent by the owner or operator so that it is received by the administrative authority at least 30 calendar days before refilling the tank except when an inspection is not planned as provided for in Subsection E.3.d.ii of this Section;

ii. when a visual inspection is not planned and the owner or operator could not have known about the inspection 30 calendar days before refilling the tank, the owner or operator shall notify the administrative authority as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the administrative authority at least seven calendar days before refilling the tank;

e. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

f. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B.

F. The owner or operator who controls air pollutant emissions from a tank using an external floating roof shall meet the requirements specified in Subsection F.1-3 of this Section.

1. the owner or operator shall design the external floating roof in accordance with the following requirements:

a. the external floating roof shall be designed to float on the liquid surface except when the floating roof must be supported by the leg supports;

b. the floating roof shall be equipped with two continuous seals, one above the other, between the wall of the tank and the roof edge. The lower seal is referred to as the primary seal, and the upper seal is referred to as the secondary seal;

i. the primary seal shall be a liquid-mounted seal or a metallic shoe seal, as defined in LAC 33:V.4721. The total area of the gaps between the tank wall and the primary seal shall not exceed 212 square centimeters (cm²) per meter of tank diameter, and the width of any portion of these gaps shall not exceed 3.8 centimeters (cm). If a metallic shoe seal is used for the primary seal, the metallic shoe seal shall be designed so that one end extends into the liquid in the tank and the other end extends a vertical distance of at least 61 centimeters above the liquid surface; and

ii. the secondary seal shall be mounted above the primary seal and cover the annular space between the floating roof and the wall of the tank. The total area of the gaps between the tank wall and the secondary seal shall not exceed 21.2 square centimeters (cm²) per meter of tank diameter, and the width of any portion of these gaps shall not exceed 1.3 centimeters (cm); and

c. the external floating roof shall meet the following specifications:

i. except for automatic bleeder vents (vacuum breaker vents) and rim space vents, each opening in a noncontact external floating roof shall provide a projection below the liquid surface;

ii. except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof shall be equipped with a gasketed cover, seal, or lid;

iii. each access hatch and each gauge float well shall be equipped with a cover designed to be bolted or fastened when the cover is secured in the closed position;

iv. each automatic bleeder vent and each rim space vent shall be equipped with a gasket;

v. each roof drain that empties into the liquid managed in the tank shall be equipped with a slotted membrane fabric cover that covers at least 90 percent of the area of the opening;

vi. each unslotted and slotted guide pole well shall be equipped with a gasketed sliding cover or a flexible fabric sleeve seal;

vii. each unslotted guide pole shall be equipped with a gasketed cap on the end of the pole;

viii. each slotted guide pole shall be equipped with a gasketed float or other device which closes off the liquid surface from the atmosphere; and

ix. each gauge hatch and each sample well shall be equipped with a gasketed cover;

2. the owner or operator shall operate the tank in accordance with the following requirements:

a. when the floating roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be completed as soon as practical;

b. except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof shall be secured and maintained in a closed position at all times except when the closure device must be open for access;

c. covers on each access hatch and each gauge float well shall be bolted or fastened when secured in the closed position;

d. automatic bleeder vents shall be set closed at all times when the roof is floating, except when the roof is being floated off or is being landed on the leg supports;

e. rim space vents shall be set to open only at those times that the roof is being floated off the roof leg supports or when the pressure beneath the rim seal exceeds the manufacturer's recommended setting;

f. the cap on the end of each unslotted guide pole shall be secured in the closed position at all times except when measuring the level or collecting samples of the liquid in the tank;

g. the cover on each gauge hatch or sample well shall be secured in the closed position at all times except when the hatch or well must be opened for access; and

h. both the primary seal and the secondary seal shall completely cover the annular space between the external floating roof and the wall of the tank in a continuous fashion except during inspections;

3. the owner or operator shall inspect the external floating roof in accordance with the procedures specified as follows:

a. the owner or operator shall measure the external floating roof seal gaps in accordance with the following requirements:

i. the owner or operator shall perform measurements of gaps between the tank wall and the primary seal within 60 calendar days after initial operation of the tank following installation of the floating roof and, thereafter, at least once every five years;

ii. the owner or operator shall perform measurements of gaps between the tank wall and the secondary seal within 60 calendar days after initial operation of the tank following installation of the floating roof and, thereafter, at least once every year;

iii. if a tank ceases to hold hazardous waste for a period of one year or more, subsequent introduction of hazardous waste into the tank shall be considered an initial operation for the purposes of Subsection F.3.a.i and ii of this Section;

iv. the owner or operator shall determine the total surface area of gaps in the primary seal and in the secondary seal individually using the following procedure:

(a). the seal gap measurements shall be performed at one or more floating roof levels when the roof is floating off the roof supports;

(b). seal gaps, if any, shall be measured around the entire perimeter of the floating roof in each place where a 0.32-centimeter (cm) diameter uniform probe passes freely (without forcing or binding against the seal) between the seal and the wall of the tank and measure the circumferential distance of each such location;

(c). for a seal gap measured under Subsection F.3 of this Section, the gap surface area shall be determined by using probes of various widths to measure accurately the actual distance from the tank wall to the seal and multiplying each such width by its respective circumferential distance;

(d). the total gap area shall be calculated by adding the gap surface areas determined for each identified gap location for the primary seal and the secondary seal individually and then dividing the sum for each seal type by the nominal perimeter of the tank. These total gap areas for the primary seal and secondary seal are then compared to the respective standards for the seal type as specified in Subsection F.1.b of this Section;

v. in the event that the seal gap measurements do not conform to the specifications in Subsection F.1.b of this Section, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

vi. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B;

b. the owner or operator shall visually inspect the external floating roof in accordance with the following requirements:

i. the floating roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, holes, tears, or other openings in the rim seal or seal fabric of the floating roof; a rim seal detached from the floating roof; all or a portion of the floating roof deck being submerged below the surface of the liquid in the tank; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;

ii. the owner or operator shall perform an initial inspection of the external floating roof and its closure devices on or before the date that the tank becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year except for the special conditions provided for in Subsection L of this Section;

iii. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

iv. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B;

c. prior to each inspection required by Subsection F.3.a or F.3.b of this Section, the owner or operator shall notify the administrative authority in advance of each inspection to provide the administrative authority with the opportunity to have an observer present during the inspection. The owner or operator shall notify the administrative authority of the date and location of the inspection as follows:

i. prior to each inspection to measure external floating roof seal gaps as required under Subsection F.3.a of this Section, written notification shall be prepared and sent by the owner or operator so that it is received by the administrative authority at least 30 calendar days before the date the measurements are scheduled to be performed;

ii. prior to each visual inspection of an external floating roof in a tank that has been emptied and degassed, written notification shall be prepared and sent by the owner or operator so that it is received by the administrative authority at least 30 calendar days before refilling the tank, except when an

inspection is not planned as provided for in Subsection F.3.c.iii of this Section; and

iii. when a visual inspection is not planned and the owner or operator could not have known about the inspection 30 calendar days before refilling the tank, the owner or operator shall notify the administrative authority as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation stating why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the administrative authority at least seven calendar days before refilling the tank.

G. The owner or operator who controls air pollutant emissions from a tank by venting the tank to a control device shall meet the requirements specified in Subsection G.1-3 of this Section:

1. the tank shall be covered by a fixed roof and vented directly through a closed-vent system to a control device in accordance with the following requirements:

a. the fixed roof and its closure devices shall be designed to form a continuous barrier over the entire surface area of the liquid in the tank;

b. each opening in the fixed roof not vented to the control device shall be equipped with a closure device. If the pressure in the vapor headspace underneath the fixed roof is less than atmospheric pressure when the control device is operating, the closure devices shall be designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device. If the pressure in the vapor headspace underneath the fixed roof is equal to or greater than atmospheric pressure when the control device is operating, the closure device shall be designed to operate with no detectable organic emissions;

c. the fixed roof and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices shall include organic vapor permeability; the effects of any contact with the liquid and its vapor managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed; and

d. the closed-vent system and control device shall be designed and operated in accordance with the requirements of LAC 33:V.1761;

2. whenever a hazardous waste is in the tank, the fixed roof shall be installed with each closure device secured in the closed position and the vapor headspace underneath the fixed roof vented to the control device except as follows:

a. venting to the control device is not required, and opening of closure devices or removal of the fixed roof is allowed at the following times:

i. to provide access to the tank for performing routine inspection, maintenance, or other activities needed for

normal operations. Examples of such activities include those times when a worker needs to open a port to sample liquid in the tank or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank; and

ii. to remove accumulated sludge or other residues from the bottom of a tank;

b. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition;

3. the owner or operator shall inspect and monitor the air emission control equipment in accordance with the following procedures:

a. the fixed roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;

b. the closed-vent system and control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in LAC 33:V.1761;

c. the owner or operator shall perform an initial inspection of the air emission control equipment on or before the date that the tank becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year, except for the special conditions provided for in Subsection L of this Section;

d. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

e. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B;

H. The owner or operator who controls air pollutant emissions by using a pressure tank shall meet the following requirements:

1. the tank shall be designed not to vent to the atmosphere as a result of compression of the vapor headspace in the tank during filling of the tank to its design capacity;

2. all tank openings shall be equipped with closure devices designed to operate with no detectable organic emissions as determined using the procedure specified in LAC 33:V.1753.D; and

3. whenever a hazardous waste is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except in the event that a safety device, as defined in LAC 33:V.1749, is required to open to avoid an unsafe condition.

I. The owner or operator who controls air pollutant emissions by using an enclosure vented through a closed-vent system to an enclosed combustion control device shall meet the requirements specified in Subsection I.1-4 of this Section:

1. the tank shall be located inside an enclosure. The enclosure shall be designed and operated in accordance with

the criteria for a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, appendix B. The enclosure may have permanent or temporary openings to allow worker access; passage of material into or out of the enclosure by conveyor, vehicles, or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The owner or operator shall perform the verification procedure for the enclosure as specified in section 5.0 to *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* initially when the enclosure is first installed and, thereafter, annually;

2. the enclosure shall be vented through a closed-vent system to an enclosed combustion control device that is designed and operated in accordance with the standards for either a vapor incinerator, boiler, or process heater specified in LAC 33:V.1761;

3. safety devices, as defined in LAC 33:V.4721, may be installed and operated as necessary on any enclosure, closed-vent system, or control device used to comply with the requirements of Subsection I.1 and 2 of this Section; and

4. the owner or operator shall inspect and monitor the closed-vent system and control device as specified in LAC 33:V.1761.

J. The owner or operator shall transfer hazardous waste to a tank subject to this Section in accordance with the following requirements:

1. transfer of hazardous waste, except as provided in Subsection J.2 of this Section, to the tank from another tank subject to this Section or from a surface impoundment subject to LAC 33:V.1757 shall be conducted using continuous hard-piping or another closed system that does not allow exposure of the hazardous waste to the atmosphere. For the purpose of complying with this provision, an individual drain system is considered to be a closed system when it meets the requirements of 40 CFR part 63, subpart RR—National Emission Standards for Individual Drain Systems; and

2. the requirements of Subsection J.1 of this Section do not apply when transferring a hazardous waste to the tank under any of the following conditions:

a. the hazardous waste meets the average VO concentration conditions specified in LAC 33:V.1751.C.1 at the point of waste origination;

b. the hazardous waste has been treated by an organic destruction or removal process to meet the requirements in LAC 33:V.1751.C.2.

K. The owner or operator shall repair each defect detected during an inspection performed in accordance with the requirements of Subsection C.4, E.3, F.3, or G.3 of this Section as follows:

1. the owner or operator shall make first efforts at repair of the defect no later than five calendar days after detection, and repair shall be completed as soon as possible, but no later than 45 calendar days after detection, except as provided in Subsection K.2 of this Section; and

2. repair of a defect may be delayed beyond 45 calendar days if the owner or operator determines that repair of the defect requires emptying or temporary removal from service of

the tank and no alternative tank capacity is available at the site to accept the hazardous waste normally managed in the tank. In this case, the owner or operator shall repair the defect the next time the process or unit that is generating the hazardous waste managed in the tank stops operation. Repair of the defect shall be completed before the process or unit resumes operation.

L. Following the initial inspection and monitoring of the cover as required by the applicable provisions of this Subchapter, subsequent inspection and monitoring may be performed at intervals longer than one year under the following special conditions:

1. in the case when inspecting or monitoring the cover would expose a worker to dangerous, hazardous, or other unsafe conditions, then the owner or operator may designate a cover as an "unsafe to inspect and monitor cover" and comply with all of the following requirements:

a. prepare a written explanation for the cover stating the reasons why the cover is unsafe to visually inspect or to monitor, if required; and

b. develop and implement a written plan and schedule to inspect and monitor the cover, using the procedures specified in the applicable section of this Subchapter, as frequently as practicable during those times when a worker can safely access the cover; and

2. in the case when a tank is buried partially or entirely underground, an owner or operator is required to inspect and monitor, as required by the applicable provisions of this Section, only those portions of the tank cover and those connections to the tank (e.g., fill ports, access hatches, gauge wells, etc.) that are located on or above the ground surface.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1704 (September 1998).

§1757. Standards: Surface Impoundments

A. The provisions of this Section apply to the control of air pollutant emissions from surface impoundments for which LAC 33:V.1751.B references the use of this Section for such air emission control.

B. The owner or operator shall control air pollutant emissions from the surface impoundment by installing and operating either of the following:

1. a floating membrane cover in accordance with the provisions specified in Subsection C of this Section; or

2. a cover that is vented through a closed-vent system to a control device in accordance with the provisions specified in Subsection D of this Section.

C. The owner or operator who controls air pollutant emissions from a surface impoundment using a floating membrane cover shall meet the requirements specified in Subsection C.1-3 of this Section.

1. the surface impoundment shall be equipped with a floating membrane cover designed to meet the following specifications:

a. the floating membrane cover shall be designed to float on the liquid surface during normal operations and form a continuous barrier over the entire surface area of the liquid;

b. the cover shall be fabricated from a synthetic membrane material that is either:

i. high density polyethylene (HDPE) with a thickness no less than 2.5 millimeters (mm); or

ii. a material or a composite of different materials determined to have both organic permeability properties that are equivalent to those of the material listed in Subsection C.1.b.i of this Section and chemical and physical properties that maintain the material integrity for the intended service life of the material;

c. the cover shall be installed in a manner such that there are no visible cracks, holes, gaps, or other open spaces between cover section seams or between the interface of the cover edge and its foundation mountings;

d. except as provided for in Subsection C.1.e of this Section, each opening in the floating membrane cover shall be equipped with a closure device designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device;

e. the floating membrane cover may be equipped with one or more emergency cover drains for removal of stormwater. Each emergency cover drain shall be equipped with a slotted membrane fabric cover that covers at least 90 percent of the area of the opening or a flexible fabric sleeve seal; and

f. the closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the closure devices throughout their intended service life. Factors to be considered when selecting the materials of construction and designing the cover and closure devices shall include: organic vapor permeability; the effects of any contact with the liquid and its vapor managed in the surface impoundment; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the surface impoundment on which the floating membrane cover is installed;

2. whenever a hazardous waste is in the surface impoundment, the floating membrane cover shall float on the liquid and each closure device shall be secured in the closed position except as follows:

a. opening of closure devices or removal of the cover is allowed at the following times:

i. to provide access to the surface impoundment for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample the liquid in the surface impoundment or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator shall promptly replace the cover and secure the closure device in the closed position, as applicable; and

ii. to remove accumulated sludge or other residues from the bottom of the surface impoundment; and

b. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition; and

3. the owner or operator shall inspect the floating membrane cover in accordance with the following procedures:

a. the floating membrane cover and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the cover section seams or between the interface of the cover edge and its foundation mountings; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices; and

b. the owner or operator shall perform an initial inspection of the floating membrane cover and its closure devices on or before the date that the surface impoundment becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year, except for the special conditions provided for in Subsection G of this Section;

c. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection F of this Section; and

d. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.C.

D. The owner or operator who controls air pollutant emissions from a surface impoundment using a cover vented to a control device shall meet the requirements specified in Subsection D.1-3 of this Section.

1. the surface impoundment shall be covered by a cover and vented directly through a closed-vent system to a control device in accordance with the following requirements:

a. the cover and its closure devices shall be designed to form a continuous barrier over the entire surface area of the liquid in the surface impoundment;

b. each opening in the cover not vented to the control device shall be equipped with a closure device. If the pressure in the vapor headspace underneath the cover is less than atmospheric pressure when the control device is operating, the closure devices shall be designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device. If the pressure in the vapor headspace underneath the cover is equal to or greater than atmospheric pressure when the control device is operating, the closure device shall be designed to operate with no detectable organic emissions using the procedure specified in LAC 33:V.1753.D;

c. the cover and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the cover and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the cover and closure devices shall include organic vapor permeability; the effects of any contact with the liquid or its vapors managed in the surface impoundment; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the surface impoundment on which the cover is installed; and

d. the closed-vent system and control device shall be designed and operated in accordance with the requirements of LAC 33:V.1761;

2. whenever a hazardous waste is in the surface impoundment, the cover shall be installed with each closure device secured in the closed position and the vapor headspace underneath the cover vented to the control device except as follows:

a. venting to the control device is not required, and opening of closure devices or removal of the cover is allowed at the following times:

i. to provide access to the surface impoundment for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample liquid in the surface impoundment or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the surface impoundment; and

ii. to remove accumulated sludge or other residues from the bottom of the surface impoundment;

b. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition;

3. the owner or operator shall inspect and monitor the air emission control equipment in accordance with the following procedures:

a. the surface impoundment cover and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the cover section seams or between the interface of the cover edge and its foundation mountings; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;

b. the closed-vent system and control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in LAC 33:V.1761;

c. the owner or operator shall perform an initial inspection of the air emission control equipment on or before the date that the surface impoundment becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year, except for the special conditions provided for in Subsection G of this Section;

d. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection F of this Section; and

e. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.C.

E. The owner or operator shall transfer hazardous waste to a surface impoundment subject to this Section in accordance with the following requirements:

1. transfer of hazardous waste, except as provided in Subsection E.2 of this Section, to the surface impoundment from another surface impoundment subject to this Section or

from a tank subject to LAC 33:V.1755 shall be conducted using continuous hard-piping or another closed system that does not allow exposure of the waste to the atmosphere. For the purpose of complying with this provision, an individual drain system is considered to be a closed system when it meets the requirements of 40 CFR part 63, subpart RR—National Emission Standards for Individual Drain Systems; and

2. the requirements of Subsection E.1 of this Section do not apply when transferring a hazardous waste to the surface impoundment under either of the following conditions:

a. the hazardous waste meets the average VO concentration conditions specified in LAC 33:V.1751.C.1 at the point of waste origination;

b. the hazardous waste has been treated by an organic destruction or removal process to meet the requirements in LAC 33:V.1751.C.2.

F. The owner or operator shall repair each defect detected during an inspection performed in accordance with the requirements of Subsection C.3 or D.3 of this Section:

1. the owner or operator shall make first efforts at repair of the defect no later than five calendar days after detection, and repair shall be completed as soon as possible, but no later than 45 calendar days, after detection except as provided in Subsection F.2 of this Section;

2. repair of a defect may be delayed beyond 45 calendar days if the owner or operator determines that repair of the defect requires emptying or temporary removal from service of the surface impoundment and no alternative capacity is available at the site to accept the hazardous waste normally managed in the surface impoundment. In this case, the owner or operator shall repair the defect the next time the process or unit that is generating the hazardous waste managed in the surface impoundment stops operation. Repair of the defect shall be completed before the process or unit resumes operation.

G. Following the initial inspection and monitoring of the cover as required by the applicable provisions of this Subchapter, subsequent inspection and monitoring may be performed at intervals longer than one year in the case when inspecting or monitoring the cover would expose a worker to dangerous, hazardous, or other unsafe conditions. In this case, the owner or operator may designate the cover as an "unsafe to inspect and monitor cover" and comply with all of the following requirements:

1. prepare a written explanation for the cover stating the reasons why the cover is unsafe to visually inspect or to monitor, if required; and

2. develop and implement a written plan and schedule to inspect and monitor the cover using the procedures specified in the applicable section of this Subchapter as frequently as practicable during those times when a worker can safely access the cover.

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

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§1759. Standards: Containers

A. The provisions of this Section apply to the control of air pollutant emissions from containers for which LAC

33:V.1751.B references the use of this Section for such air emission control.

B. General Requirements

1. The owner or operator shall control air pollutant emissions from each container subject to this Section in accordance with the following requirements, as applicable to the container, except when the special provisions for waste stabilization processes specified in Subsection B.2 of this Section apply to the container:

a. for a container having a design capacity greater than 0.1 m³ and less than or equal to 0.46 m³, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in Subsection C of this Section;

b. for a container having a design capacity greater than 0.46 m³ that is not in light material service, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in Subsection C of this Section; and

c. for a container having a design capacity greater than 0.46 m³ that is in light material service, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 2 standards specified in Subsection D of this Section.

2. When a container having a design capacity greater than 0.1 m³ is used for treatment of a hazardous waste by a waste stabilization process, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 3 standards specified in Subsection E of this Section at those times during the waste stabilization process when the hazardous waste in the container is exposed to the atmosphere.

C. Container Level 1 Standards

1. A container using Container Level 1 controls is one of the following:

a. a container that meets the applicable U.S. Department of Transportation (DOT) regulations on packaging hazardous materials for transportation, as specified in Subsection F of this Section;

b. a container equipped with a cover and closure devices that form a continuous barrier over the container openings such that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., a "portable tank" or bulk cargo container equipped with a screw-type cap);

c. an open-top container in which an organic-vapor-suppressing barrier is placed on or over the hazardous waste in the container such that no hazardous waste is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor-suppressing foam.

2. A container used to meet the requirements of Subsection C.1.b or c of this Section shall be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere and to maintain the

equipment integrity for as long as it is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices shall include organic vapor permeability, the effects of contact with the hazardous waste or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.

3. Whenever a hazardous waste is in a container using Container Level 1 controls, the owner or operator shall install all covers and closure devices for the container, as applicable to the container, and secure and maintain each closure device in the closed position except as follows:

a. opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container as follows:

i. in the case when the container is filled to the intended final level in one continuous operation, the owner or operator shall promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation; and

ii. in the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level, the completion of a batch loading after which no additional material will be added to the container within 15 minutes, the person performing the loading operation leaving the immediate vicinity of the container, or the shutdown of the process generating the material being added to the container, whichever condition occurs first;

b. opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:

i. for the purpose of meeting the requirements of this Section an empty container, as defined in LAC 33:V.109, may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container);

ii. in the case when discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in LAC 33:V.109, the owner or operator shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;

c. opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container or when a worker needs to open a manhole hatch to access equipment inside the container. Following

completion of the activity the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;

d. opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device shall be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations; and

e. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition.

4. The owner or operator of containers using Container Level 1 controls shall inspect the containers and their covers and closure devices as follows:

a. in the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied (i.e., does not meet the conditions for an empty container as specified in LAC 33:V.109) within 24 hours after the container is accepted at the facility, the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection C.4.c of this Section;

b. in the case when a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator shall visually inspect the container and its cover and closure devices initially and, thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection C.4.c of this Section;

c. when a defect is detected for the container, cover, or closure devices, the owner or operator shall make first efforts at repair of the defect no later than 24 hours after detection, and repair shall be completed as soon as possible, but no later than five calendar days, after detection. If repair of a defect cannot be completed within five calendar days, then

the hazardous waste shall be removed from the container and the container shall not be used to manage hazardous waste until the defect is repaired.

5. The owner or operator shall maintain at the facility a copy of the procedure used to determine that containers with a capacity of 0.46 m³ or greater, which do not meet applicable DOT regulations as specified in Subsection F of this Section, are not managing hazardous waste in light material service.

D. Container Level 2 Standards

1. A container using Container Level 2 controls is one of the following:

a. a container that meets the applicable DOT regulations on packaging hazardous materials for transportation, as specified in Subsection F of this Section;

b. a container that operates with no detectable organic emissions as defined in LAC 33:V.4721 and determined in accordance with the procedure specified in Subsection G of this Section;

c. a container that has been demonstrated within the preceding 12 months to be vapor-tight by using 40 CFR part 60, appendix A, Method 27 in accordance with the procedure specified in Subsection H of this Section.

2. Transfer of hazardous waste in or out of a container using Container Level 2 controls shall be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the EPA considers to meet the requirements of this Paragraph include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container, a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations, or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

3. Whenever a hazardous waste is in a container using Container Level 2 controls, the owner or operator shall install all covers and closure devices for the container and secure and maintain each closure device in the closed position except as follows:

a. opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container as follows:

i. in the case when the container is filled to the intended final level in one continuous operation, the owner or operator shall promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation;

ii. in the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level, the completion of a batch loading after which no additional material will be added to the container within 15 minutes, the person performing the loading

operation leaving the immediate vicinity of the container, or the shutdown of the process generating the material being added to the container, whichever condition occurs first;

b. opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:

i. for the purpose of meeting the requirements of this Section an empty container, as defined in LAC 33:V.109, may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container);

ii. in the case when discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in LAC 33:V.109, the owner or operator shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;

c. opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;

d. opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device shall be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations;

e. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition.

4. The owner or operator of containers using Container Level 2 controls shall inspect the containers and their covers and closure devices as follows:

a. in the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied (i.e., does not meet the conditions for an empty container as specified in LAC 33:V.109) within 24 hours after the container arrives at the facility, the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection D.4.c of this Section;

b. in the case when a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator shall visually inspect the container and its cover and closure devices initially and, thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection D.4.c of this Section;

c. when a defect is detected for the container, cover, or closure devices, the owner or operator shall make first efforts at repair of the defect no later than 24 hours after detection, and repair shall be completed as soon as possible, but no later than five calendar days, after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste shall be removed from the container and the container shall not be used to manage hazardous waste until the defect is repaired.

E. Container Level 3 Standards

1. A container using Container Level 3 controls is one of the following:

a. a container that is vented directly through a closed-vent system to a control device in accordance with the requirements of Subsection E.2.b of this Section;

b. a container that is vented inside an enclosure that is exhausted through a closed-vent system to a control device in accordance with the requirements of Subsection E.2.a and b of this Section.

2. The owner or operator shall meet the following requirements, as applicable to the type of air emission control equipment selected by the owner or operator:

a. the container enclosure shall be designed and operated in accordance with the criteria for a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, appendix B. The enclosure may have permanent or temporary openings to allow worker access, passage of containers through the enclosure by conveyor or other mechanical means, entry of permanent mechanical or electrical equipment, or direct airflow into the enclosure. The

owner or operator shall perform the verification procedure for the enclosure as specified in section 5.0 to *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* initially when the enclosure is first installed and, thereafter, annually; and

b. the closed-vent system and control device shall be designed and operated in accordance with the requirements of LAC 33:V.1761.

3. Safety devices, as defined in LAC 33:V.4721, may be installed and operated as necessary on any container, enclosure, closed-vent system, or control device used to comply with the requirements of Subsection E.1 of this Section.

4. Owners and operators using Container Level 3 controls in accordance with the provisions of this Subchapter shall inspect and monitor the closed-vent systems and control devices as specified in LAC 33:V.1761.

5. Owners and operators that use Container Level 3 controls in accordance with the provisions of this Subchapter shall prepare and maintain the records specified in LAC 33:V.1765.D.

F. For the purpose of compliance with Subsection C.1.a or D.1.a of this Section, containers shall be used that meet the applicable DOT regulations on packaging hazardous materials for transportation as follows:

1. the container meets the applicable requirements specified in 49 CFR part 178—Specifications for Packaging or 49 CFR part 179—Specifications for Tank Cars;

2. hazardous waste is managed in the container in accordance with the applicable requirements specified in 49 CFR part 107, subpart B—Exemptions; 49 CFR part 172—Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements; 49 CFR part 173—Shippers—General Requirements for Shipments and Packages; and 49 CFR part 180—Continuing Qualification and Maintenance of Packagings;

3. for the purpose of complying with this Subchapter, no exceptions to the 49 CFR part 178 or part 179 regulations are allowed except as provided for in Subsection F.4 of this Section; and

4. for a lab pack that is managed in accordance with the requirements of 49 CFR part 178 for the purpose of complying with this Subchapter, an owner or operator may comply with the exceptions for combination packagings specified in 49 CFR 173.12(b).

G. The owner or operator shall use the procedure specified in LAC 33:V.1753.D for determining when a container operates with no detectable organic emissions for the purpose of complying with Subsection D.1.b of this Section.

1. Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the container, its cover, and associated closure devices, as applicable to the container, shall be checked. Potential leak interfaces that are associated with containers include, but are not limited to, the interface of the cover rim and the container wall, the periphery of any opening on the container or container cover and its associated closure device, and the sealing seat interface on a spring-loaded pressure-relief valve.

2. The test shall be performed when the container is filled with a material having a volatile organic concentration representative of the range of volatile organic concentrations for the hazardous wastes expected to be managed in this type of container. During the test, the container cover and closure devices shall be secured in the closed position.

H. The owner or operator shall use the procedure for determining a container to be vapor-tight using Method 27 of 40 CFR part 60, appendix A for the purpose of complying with Subsection D.1.c of this Section.

1. The test shall be performed in accordance with Method 27 of 40 CFR part 60, appendix A.

2. A pressure measurement device shall be used that has a precision of ± 2.5 mm water and that is capable of measuring above the pressure at which the container is to be tested for vapor tightness.

3. If the test results determined by Method 27 indicate that the container sustains a pressure change less than or equal to 750 Pascals within five minutes after it is pressurized to a minimum of 4,500 Pascals, then the container is determined to be vapor-tight.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1712 September 1998).

§1761. Standards: Closed-Vent Systems and Control Devices

A. This Section applies to each closed-vent system and control device installed and operated by the owner or operator to control air emissions in accordance with standards of this Subchapter.

B. The closed-vent system shall meet the following requirements:

1. shall route the gases, vapors, and fumes emitted from the hazardous waste in the waste management unit to a control device that meets the requirements specified in Subsection C of this Section;

2. shall be designed and operated in accordance with the requirements specified in LAC 33:V.1709.K;

3. in the case when the closed-vent system includes bypass devices that could be used to divert the gas or vapor stream to the atmosphere before entering the control device, each bypass device shall be equipped with either a flow indicator as specified in Subsection B.3.a of this Section or a seal or locking device as specified in Subsection B.3.b of this Section. For the purpose of complying with this Paragraph, low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, spring-loaded pressure-relief valves, and other fittings used for safety purposes are not considered to be bypass devices:

a. if a flow indicator is used to comply with this Subsection, the indicator shall be installed at the inlet to the bypass line used to divert gases and vapors from the closed-vent system to the atmosphere at a point upstream of the control device inlet. For this paragraph, a flow indicator means a device that indicates the presence of either gas or vapor flow in the bypass line;

b. if a seal or locking device is used to comply with this Subsection, the device shall be placed on the mechanism

by which the bypass device position is controlled (e.g., valve handle, damper lever) when the bypass device is in the closed position such that the bypass device cannot be opened without breaking the seal or removing the lock. Examples of such devices include, but are not limited to, a car-seal or a lock-and-key configuration valve. The owner or operator shall visually inspect the seal or closure mechanism at least once every month to verify that the bypass mechanism is maintained in the closed position;

4. shall be inspected and monitored by the owner or operator in accordance with the procedure specified in LAC 33:V.1709.L.

C. The control device shall meet the following requirements:

1. shall be one of the following devices:

a. a control device designed and operated to reduce the total organic content of the inlet vapor stream vented to the control device by at least 95 percent by weight;

b. an enclosed combustion device designed and operated in accordance with the requirements of LAC 33:V.1709.C; or

c. a flare designed and operated in accordance with the requirements of LAC 33:V.1709.D;

2. the owner or operator who elects to use a closed-vent system and control device to comply with the requirements of this Section shall comply with the requirements specified in Subsection C.2.a-f of this Section:

a. periods of planned routine maintenance of the control device, during which the control device does not meet the specifications of Subsection C.1.a, b, or c of this Section, as applicable, shall not exceed 240 hours per year;

b. the specifications and requirements in Subsection C.1.a, b, or c of this Section for control devices do not apply during periods of planned routine maintenance;

c. the specifications and requirements in Subsection C.1.a, b, or c of this Section for control devices do not apply during a control device system malfunction;

d. the owner or operator shall demonstrate compliance with the requirements of Subsection C.2.a of this Section (i.e., planned routine maintenance of a control device, during which the control device does not meet the specifications of Subsection C.1.a, b, or c of this Section, as applicable, shall not exceed 240 hours per year) by recording the information specified in LAC 33:V.1765.E.1.e;

e. the owner or operator shall correct control device system malfunctions as soon as practicable after their occurrence in order to minimize excess emissions of air pollutants; and

f. the owner or operator shall operate the closed-vent system such that gases, vapors, or fumes are not actively vented to the control device during periods of planned maintenance or control device system malfunction (i.e., periods when the control device is not operating or not operating normally) except in cases when it is necessary to vent the gases, vapors, and/or fumes to avoid an unsafe condition or to implement malfunction corrective actions or planned maintenance actions;

3. the owner or operator using a carbon adsorption system to comply with Subsection C.1 of this Section shall

operate and maintain the control device in accordance with the following requirements:

a. following the initial startup of the control device, all activated carbon in the control device shall be replaced with fresh carbon on a regular basis in accordance with the requirements of LAC 33:V.1709.G or H; and

b. all carbon removed from the control device shall be managed in accordance with the requirements of LAC 33:V.1709.N;

4. an owner or operator using a control device other than a thermal vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with Subsection C.1 of this Section shall operate and maintain the control device in accordance with the requirements of LAC 33:V.1709.J;

5. the owner or operator shall demonstrate that a control device achieves the performance requirements of Subsection C.1 of this Section as follows:

a. an owner or operator shall demonstrate, using either a performance test as specified in Subsection C.5.c of this Section or a design analysis as specified in Subsection C.5.d of this Section, the performance of each control device except for the following:

i. a flare;

ii. a boiler or process heater with a design heat input capacity of 44 megawatts or greater;

iii. a boiler or process heater into which the vent stream is introduced with the primary fuel;

iv. a boiler or industrial furnace burning hazardous waste for which the owner or operator has been issued a final permit under LAC 33:V.Chapter 5 and has designed and operates the unit in accordance with the requirements of LAC 33:V.Chapter 30; or

v. a boiler or industrial furnace burning hazardous waste for which the owner or operator has designed and operates in accordance with the interim status requirements of LAC 33:V.Chapter 30;

b. an owner or operator shall demonstrate the performance of each flare in accordance with the requirements specified in LAC 33:V.1709.E;

c. for a performance test conducted to meet the requirements of Subsection C.5.a of this Section, the owner or operator shall use the test methods and procedures specified in LAC 33:V.1711.C.1-4;

d. for a design analysis conducted to meet the requirements of Subsection C.5.a of this Section, the design analysis shall meet the requirements specified in LAC 33:V.1713.B.4.c; and

e. the owner or operator shall demonstrate that a carbon adsorption system achieves the performance requirements of Subsection C.1 of this Section based on the total quantity of organics vented to the atmosphere from all carbon adsorption system equipment that is used for organic adsorption, organic desorption or carbon regeneration, organic recovery, and carbon disposal;

6. if the owner or operator and the administrative authority do not agree on a demonstration of control device performance using a design analysis, then the disagreement shall be resolved using the results of a performance test

performed by the owner or operator in accordance with the requirements of Subsection C.5.c of this Section. The administrative authority may choose to have an authorized representative observe the performance test; and

7. the control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in LAC 33:V.1709.F.2 and L. The readings from each monitoring device required by LAC 33:V.1709.F.2 shall be inspected at least once each operating day to check control device operation. Any necessary corrective measures shall be immediately implemented to ensure the control device is operated in compliance with the requirements of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1716 (September 1998).

§1763. Inspection and Monitoring Requirements

A. The owner or operator shall inspect and monitor air emission control equipment used to comply with this Chapter in accordance with the applicable requirements specified in LAC 33:V.1755-1761.

B. The owner or operator shall develop and implement a written plan and schedule to perform the inspections and monitoring required by Subsection A of this Section. The owner or operator shall incorporate this plan and schedule into the facility inspection plan required under LAC 33:V.1509.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1718 (September 1998).

§1765. Recordkeeping Requirements

A. Each owner or operator of a facility subject to requirements in this Subchapter shall record and maintain the information specified in Subsections B-I of this Section, as applicable to the facility. Except for air emission control equipment design documentation and information required by Subsection I of this Section, records required by this Section shall be maintained in the operating record for a minimum of three years. Air emission control equipment design documentation shall be maintained in the operating record until the air emission control equipment is replaced or otherwise no longer in service. Information required by Subsection I of this Section shall be maintained in the operating record for as long as the tank or container is not using air emission controls specified in LAC 33:V.1755-1761 in accordance with the conditions specified in LAC 33:V.1755.D.

B. The owner or operator of a tank using air emission controls in accordance with the requirements of LAC 33:V.1755 shall prepare and maintain records for the tank that include the following information:

1. for each tank using air emission controls in accordance with the requirements of LAC 33:V.1755, the owner or operator shall record:

a. a tank identification number (or other unique identification description as selected by the owner or operator); and

b. a record for each inspection required by LAC 33:V.1755 that includes the following information:

i. date inspection was conducted; and

ii. for each defect detected during the inspection, include the following information: the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of LAC 33:V.1755, the owner or operator shall also record the reason for the delay and the date that completion of repair of the defect is expected; and

2. in addition to the information required by Subsection B.1 of this Section, the owner or operator shall record the following information, as applicable to the tank:

a. the owner or operator using a fixed roof to comply with the Tank Level 1 control requirements specified in LAC 33:V.1755.C shall prepare and maintain records for each determination for the maximum organic vapor pressure of the hazardous waste in the tank performed in accordance with the requirements of LAC 33:V.1755.C. The records shall include the date and time the samples were collected, the analysis method used, and the analysis results;

b. the owner or operator using an internal floating roof to comply with the Tank Level 2 control requirements specified in LAC 33:V.1755.E shall prepare and maintain documentation describing the floating roof design;

c. owners and operators using an external floating roof to comply with the Tank Level 2 control requirements specified in LAC 33:V.1755.F shall prepare and maintain the following records:

i. documentation describing the floating roof design and the dimensions of the tank; and

ii. records for each seal gap inspection required by LAC 33:V.1755.F.3 describing the results of the seal gap measurements. The records shall include the date that the measurements were performed, the raw data obtained for the measurements, and the calculations of the total gap surface area. In the event that the seal gap measurements do not conform to the specifications in LAC 33:V.1755.F.1, the records shall include a description of the repairs that were made, the date the repairs were made, and the date the tank was emptied, if necessary; and

d. each owner or operator using an enclosure to comply with the Tank Level 2 control requirements specified in LAC 33:V.1755.I shall prepare and maintain the following records:

i. records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, appendix B; and

ii. records required for the closed-vent system and control device in accordance with the requirements of Subsection E of this Section.

C. The owner or operator of a surface impoundment using air emission controls in accordance with the requirements of LAC 33:V.1757 shall prepare and maintain records for the

surface impoundment that include the following information:

1. a surface impoundment identification number (or other unique identification description as selected by the owner or operator);

2. documentation describing the floating membrane cover or cover design, as applicable to the surface impoundment, that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design and certification by the owner or operator that the cover meets the specifications listed in LAC 33:V.1757.C;

3. a record for each inspection required by LAC 33:V.1757 that includes the following information:

- a. date inspection was conducted; and

- b. for each defect detected during the inspection, include the following, the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of LAC 33:V.1757.F, the owner or operator shall also record the reason for the delay and the date that completion of repair of the defect is expected; and

4. for a surface impoundment equipped with a cover and vented through a closed-vent system to a control device, the owner or operator shall prepare and maintain the records specified in Subsection E of this Section.

D. The owner or operator of containers using Container Level 3 air emission controls in accordance with the requirements of LAC 33:V.1759 shall prepare and maintain records that include the following information:

1. records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, appendix B; and

2. records required for the closed-vent system and control device in accordance with the requirements of Subsection E of this Section.

E. The owner or operator using a closed-vent system and control device in accordance with the requirements of LAC 33:V.1761 shall prepare and maintain records that include documentation for the closed-vent system and control device that includes:

1. certification that is signed and dated by the owner or operator stating that the control device is designed to operate at the performance level documented by a design analysis as specified in Subsection E.2 of this Section or by performance tests as specified in Subsection E.3 of this Section when the tank, surface impoundment, or container is or would be operating at capacity or the highest level reasonably expected to occur;

2. if a design analysis is used, then design documentation as specified in LAC 33:V.1713.B.4. The documentation shall include information prepared by the owner or operator or provided by the control device manufacturer or vendor that describes the control device design in accordance with LAC 33:V.1713.B.4.c and

certification by the owner or operator that the control equipment meets the applicable specifications;

3. if performance tests are used, then a performance test plan as specified in LAC 33:V.1713.B.3 and all test results;

4. information as required by LAC 33:V.1713.C.1 and 2, as applicable;

5. an owner or operator shall record, on a semiannual basis, the information specified in Subsection E.5.a and b of this Section for those planned routine maintenance operations that would require the control device not to meet the requirements of LAC 33:V.1761.C.1.a, b, or c, as applicable:

- a. a description of the planned routine maintenance that is anticipated to be performed for the control device during the next six-month period. This description shall include the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods; and

- b. a description of the planned routine maintenance that was performed for the control device during the previous six-month period. This description shall include the type of maintenance performed and the total number of hours during those six months that the control device did not meet the requirements of LAC 33:V.1761.C.1.a, b, or c, as applicable, due to planned routine maintenance;

6. an owner or operator shall record the information specified in Subsection E.6.a-c of this Section for those unexpected control device system malfunctions that would require the control device not to meet the requirements of LAC 33:V.1761.C.1.a, b, or c, as applicable:

- a. the occurrence and duration of each malfunction of the control device system;

- b. the duration of each period during a malfunction when gases, vapors, or fumes are vented from the waste management unit through the closed-vent system to the control device while the control device is not properly functioning; and

- c. actions taken during periods of malfunction to restore a malfunctioning control device to its normal or usual manner of operation; and

7. records of the management of carbon removed from a carbon adsorption system conducted in accordance with LAC 33:V.1761.C.3.b.

F. The owner or operator of a tank, surface impoundment, or container exempted from standards in accordance with the provisions of LAC 33:V.1751.C shall prepare and maintain the following records, as applicable:

1. for tanks, surface impoundments, or containers exempted under the hazardous waste organic concentration conditions specified in LAC 33:V.1751.C.1 or 2, the owner or operator shall record the information used for each waste determination (e.g., test results, measurements, calculations, and other documentation) in the facility operating log. If analysis results for waste samples are used for the waste determination, then the owner or operator shall record the date, time, and location that each waste sample is collected in accordance with applicable requirements of LAC 33:V.1753;

2. for tanks, surface impoundments, or containers exempted under the provisions of LAC 33:V.1751.C.2.g or h, the owner or operator shall record the identification number

for the incinerator, boiler, or industrial furnace in which the hazardous waste is treated.

G. An owner or operator designating a cover as "unsafe to inspect and monitor" in accordance with LAC 33:V.1755.L or 1757.G shall record in a log that is kept in the facility operating record the following information: the identification numbers for waste management units with covers that are designated as "unsafe to inspect and monitor"; the explanation for each cover stating why the cover is unsafe to inspect and monitor; and the plan and schedule for inspecting and monitoring each cover.

H. The owner or operator of a facility that is subject to this Subchapter and to the control device standards in 40 CFR part 60, subpart VV or 40 CFR part 61, subpart V may elect to demonstrate compliance with the applicable sections of this Subchapter by documentation either in accordance with this Subchapter or the provisions of 40 CFR part 60, subpart VV or 40 CFR part 61, subpart V, to the extent that the documentation required by 40 CFR part 60 or 61 duplicates the documentation required by this Section.

I. For each tank or container not using air emission controls specified in LAC 33:V.1755 - 1761 in accordance with the conditions specified in LAC 33:V.1747.D, the owner or operator shall record and maintain the following information:

1. a list of the individual organic peroxide compounds manufactured at the facility that meet the conditions specified in LAC 33:V.1747.D.1;

2. a description of how the hazardous waste containing the organic peroxide compounds identified in Subsection I.1 of this Section are managed at the facility in tanks and containers. This description shall include:

a. for the tanks used at the facility to manage this hazardous waste, sufficient information shall be provided to describe, for each tank, a facility identification number for the tank; the purpose and placement of this tank in the management train of this hazardous waste, and the procedures used to ultimately dispose of the hazardous waste managed in the tanks; and

b. for containers used at the facility to manage these hazardous wastes, sufficient information shall be provided to describe a facility identification number for the container or group of containers, the purpose and placement of this container or group of containers in the management train of this hazardous waste, and the procedures used to ultimately dispose of the hazardous waste handled in the containers;

3. an explanation of why managing the hazardous waste containing the organic peroxide compounds identified in Subsection I.1 of this Section in the tanks and containers as described in Subsection I.2 of this Section would create an undue safety hazard if the air emission controls, as required under LAC 33:V.1755 - 1761, are installed and operated on these waste management units. This explanation shall include the following information:

a. for tanks used at the facility to manage these hazardous wastes, sufficient information shall be provided to explain how use of the required air emission controls on the tanks would affect the tank design features and facility operating procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the

tanks, and why installation of safety devices on the required air emission controls, as allowed under this Subchapter, will not address those situations in which evacuation of tanks equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides; and

b. for containers used at the facility to manage these hazardous wastes, sufficient information shall be provided to explain how use of the required air emission controls on the containers would affect the container design features and handling procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the containers, and why installation of safety devices on the required air emission controls, as allowed under this Subchapter, will not address those situations in which evacuation of containers equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1718 (September 1998).

§1767. Reporting Requirements

A. Each owner or operator managing hazardous waste in a tank, surface impoundment, or container exempted from using air emission controls under the provisions of LAC 33:V.1751.C shall report to the administrative authority each occurrence when hazardous waste is placed in the waste management unit in noncompliance with the conditions specified in LAC 33:V.1751.C.1 or 2, as applicable. Examples of such occurrences include placing in the waste management unit a hazardous waste having an average VO concentration equal to or greater than 500 ppmw at the point of waste origination or placing in the waste management unit a treated hazardous waste of which the organic content has been reduced by an organic destruction or removal process that fails to achieve the applicable conditions specified in LAC 33:V.1751.C.2.a-f. The owner or operator shall submit a written report within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

B. Each owner or operator using air emission controls on a tank in accordance with the requirements LAC 33:V.1755.C shall report to the administrative authority each occurrence when hazardous waste is managed in the tank in noncompliance with the conditions specified in LAC 33:V.1755.B. The owner or operator shall submit a written report within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the

noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

C. Each owner or operator using a control device in accordance with the requirements of LAC 33:V.1761 shall submit a semiannual written report to the administrative authority, except as provided for in Subsection D of this Section. The report shall describe each occurrence during the previous six-month period when either:

1. a control device is operated continuously for 24 hours or longer in compliance with the applicable operating values defined in LAC 33:V.1713.C.4; or

2. a flare is operated with visible emissions for five minutes or longer in a two-hour period, as defined in LAC 33:V.1709.D. The written report shall include the EPA identification number, facility name and address, an explanation why the control device could not be returned to compliance within 24 hours, and actions taken to correct the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

D. A report to the administrative authority in accordance with the requirements of Subsection C of this Section is not required for a six-month period during which all control devices subject to this Chapter are operated by the owner or operator such that:

1. during no period of 24 hours or longer did a control device operate continuously in noncompliance with the applicable operating values defined in LAC 33:V.1713.C.4; and

2. no flare was operated with visible emissions for five minutes or longer in a two-hour period, as defined in LAC 33:V.1709.D.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1720 (September 1998).

Appendix

Table 1

Compounds With Henry's Law Constant Less Than 0.1 Y/X

[At 25EC]

Compound Name	CAS Number
Acetaldo	107-89-1
Acetamide	60-35-5
2-Acetylaminoflourene	53-96-3
3-Acetyl-5-hydroxypiperidine	
3-Acetyl piperidine	618-42-8
1-Acetyl-2-thiourea	591-08-2
Acrylamide	79-06-1
Acrylic acid	79-10-7
Adenine	73-24-5
Adipic acid	124-04-9

Adiponitrile	111-69-3
Alachlor	15972-60-8
Aldicarb	116-06-3
Ametryn	834-12-8
4-Aminobiphenyl	92-67-1
4-Aminopyridine	504-24-5
Aniline	62-53-3
o-Anisidine	90-04-0
Anthraquinone	84-65-1
Atrazine	1912-24-9
Benzeneearsonic acid	98-05-5
Benzenesulfonic acid	98-11-3
Benzidine	92-87-5
Benzo (a) anthracene	56-55-3
Benzo (k) flouranthene	207-08-9
Benzoic acid	65-85-0
Benzo (g,h,i) perylene	191-24-2
Benzo (a) pyrene	50-32-8
Benzyl alcohol	100-51-6
gamma-BHC	58-89-9
Bis (2-ethylhexyl) phthalate	117-81-7
Bromochloromethyl acetate	
Bromoxynil	1689-84-5
Butyric acid	107-92-6
Caprolactam (hexahydro-2H-azepin-2-one)	105-60-2
Catechol (o-dihydroxybenzene)	120-80-9
Cellulose	9004-34-6
Cell wall	
Chlorohydrin (3 Chloro-1,2-propanediol)	96-24-2
Chloroacetic acid	79-11-8
2-Chloroacetophenone	93-76-5
p-Chloroaniline	106-47-8
p-Chlorobenzophenone	134-85-0
Chlorobenzylate	510-15-6
p-Chloro-m-cresol (6-chloro-m-cresol)	59-50-7
3-Chloro-2,5-diketopyrrolidine	
Chloro-1,2-ethane diol	
4-Chlorophenol	106-48-9
Chlorophenol polymers (2-chlorophenol and 4-chlorophenol)	95-57-8 and 106-48-9

1-(o-Chlorophenyl) thiourea	5344-82-1	3,3-Dimethylbenzidine	119-93-7
Chrysene	218-01-9	Dimethylcarbamoyl chloride	79-44-7
Citric acid	77-92-9	Dimethyldisulfide	624-92-0
Creosote	8001-58-9	Dimethylformamide	68-12-2
m-Cresol	108-39-4	1,1 -Dimethylhydrazine	57-14-7
o-Cresol	95-48-7	Dimethylphthalate	131-11-3
p-Cresol	106-44-5	Dimethylsulfone	67-71-0
Cresol (mixed isomers)	1319-77-3	Dimethylsulfoxide	67-68-5
4-Cumylphenol	27576-86	4,6-Dinitro-o-cresol	534-52-1
Cyanide	57-12-5	1,2-Diphenylhydrazine	122-66-7
4-Cyanomethyl benzoate		Dipropylene glycol (1,1'-oxydi-2-propanol)	110-98-5
Diazinon	333-41-5	Endrin	72-20-8
Dibenzo (a, h) anthracene	53-70-3	Epinephrine	51-43-4
Dibutylphthalate	84-74-2	mono-Ethanolamine	141-43-5
2,5-Dichloroaniline (N,N'-Dichloroaniline)	95-82-9	Ethyl carbamate (urethane)	5-17-96
2,6-Dichlorobenzonitrile	1194-65-6	Ethylene glycol	107-21-1
2,6-Dichloro-4-nitroaniline	99-30-9	Ethylene glycol monobutyl ether (butyl Cellosolve)	111-76-2
2,5-Dichlorophenol	333-41-5	Ethylene glycol monoethyl ether (Cellosolve)	110-80-5
3,4-Dichlorotetrahydrofuran	3511-19	Ethylene glycol monoethyl ether acetate (Cellosolve acetate)	111-15-9
Dichlorvos (DDVP)	62737	Ethylene glycol monomethyl ether (methyl Cellosolve)	109-86-4
Diethanolamine	111-42-2	Ethylene glycol monophenyl ether (phenyl Cellosolve)	122-99-6
N,N-Diethylaniline	91-66-7	Ethylene glycol monopropyl ether (propyl Cellosolve)	2807-30-9
Diethylene glycol	111-46-6	Ethylene thiourea (2-imidazolidinethione)	9-64-57
Diethylene glycol dimethyl ether (dimethyl Carbitol)	111-96-6	4-Ethylmorpholine	100-74-3
Diethylene glycol monobutyl ether (butyl Carbitol)	112-34-5	3-Ethylphenol	620-17-7
Diethylene glycol monoethyl ether acetate (Carbitol acetate)	112-15-2	Flouroacetic acid, sodium salt	62-74-8
Diethylene glycol monoethyl ether (Carbitol Cellosolve)	111-90-0	Formaldehyde	50-00-0
Diethylene glycol monomethyl ether (methyl Carbitol)	111-77-3	Formamide	75-12-7
N,N' -Diethylhydrazine	1615-80-1	Formic acid	64-18-6
Diethyl (4-methylumbelliferyl) thiophosphate	299-45-6	Fumaric acid	110-17-8
Diethyl phosphorothioate	126-75-0	Glutaric acid	110-94-1
N,N' -Diethyl propionamide	15299-99-77	Glycerin (Glycerol)	56-81-5
Dimethoate	60-51-5	Glycidol	556-52-5
2,3-Dimethoxystrychnidin-10-one	357-57-3	Glycinamide	598-41-4
4-Dimethylaminoazobenzene	60-11-7	Glyphosate	1071-83-6
7,12-Dimethylbenz(a)anthracene	57-97-6	Guthion	86-50-0

Hexamethylene-1,6-diisocyanate (1,6-Diisocyanatohexane)	822-06-0	Neopentyl glycol (dimethylolpropane)	126-30-7
Hexamethyl phosphoramidate	680-31-9	Niacinamide	98-92-0
Hexanoic acid	142-62-1	o-Nitroaniline	88-74-4
Hydrazine	302-01-2	Nitroglycerin	55-63-0
Hydrocyanic acid	74-90-8	2-Nitrophenol	88-75-5
Hydroquinone	123-31-9	4-Nitrophenol	100-02-7
Hydroxy-2-propionitrile (hydracrylonitrile)	109-78-4	N-Nitrosodimethylamine	62-75-9
Indeno (1,2, 3-cd) pyrene	193-39-5	Nitrasoguanidine	674-81-7
Lead acetate	301-04-2	N-Nitroso-n-methylurea	684-93-5
Lead subacetate (lead acetate, monobasic)	1335-32-6	N-Nitrosomorpholine (4-Nitrosomorpholine)	59-89-2
Leucine	61-90-5	Oxalic acid	144-62-7
Malathion	121-75-5	Parathion	56-38-2
Maleic acid	110-16-7	Pentaerythritol	115-77-5
Maleic anhydride	108-31-6	Phenacetin	62-44-2
Mesityl oxide	141-79-7	Phenol	108-95-2
Methane sulfonic acid	75-75-2	Phenylacetic acid	103-82-2
Methomyl	16752-77-5	m-Phenylene diamine	108-45-2
p-Methoxyphenol	150-76-5	o-Phenylene diamine	95-54-5
Methyl acrylate	96-33-3	p-Phenylene diamine	106-50-3
4,4'-Methylene-bis-(2-chloroaniline)	101-14-4	Phenyl mercuric acetate	62-38-4
4,4'-Methylenediphenyl diisocyanate (diphenyl methane diisocyanate)	101-68-8	Phorate	298-02-2
4,4'-Methylenedianiline	101-77-9	Phthalic anhydride	85-44-9
Methylene diphenylamine (MDA)		alpha-Piciline (2-methyl pyridine)	109-06-8
5-Methylfurfural	620-02-0	1,3-Propane sultone	1120-71-4
Methylhydrazine	60-34-4	Beta-Propiolactone	57-57-8
Methyliminoacetic acid		Proporur (Baygon)	
Methyl methane sulfonate	66-27-3	Porpylene glycol	57-55-6
1-Methyl-2-methoxyaziridine		Pyrene	129-00-0
Methylparathion	298-00-0	Pyridinium bromide	39416-48-3
Methyl sulfuric acid (sulfuric acid, dimethyl ester)	77-78-1	Quinoline	91-22-5
4-Methylthiophenol	106-45-6	Quinone (p-benzoquinone)	106-51-4
Monomethylformamide (N-methylformamide)	123-39-7	Resorcinol	108-46-3
Nabam	142-59-6	Simazine	122-34-9
alpha-Naphthol	90-15-3	Sodium acetate	127-09-3
beta-Naphthol	135-19-3	Sodium formate	141-53-7
alpha-Naphthylamine	134-32-7	Strychnine	57-24-9
beta-Naphthylamine	91-59-8	Succinic acid	110-15-6
		Succinimide	123-56-8
		Sulfanilic acid	121-47-1

Terephthalic acid	100-21-0
Tetraethyldithiopyrophosphate	3689-24-5
Tetraethylenepentamine	112-57-2
Thiofanox	39196-18-4
Thiosemicarbazide	79-19-6
2,4-Toluenediamine	95-80-7
2,6-Toluenediamine	823-40-5
3,4-Toluenediamine	496-72-0
2,4-Toluene diisocyanate	584-84-9
p-Toluic acid	99-94-5
m-Toluidine	108-44-1
1,1,2-Trichloro-1,2,2-Trifluoroethane	76-13-1
Triethanolamine	102-71-6
Triethylene glycol dimethyl ether	
Trippropylene glycol	24800-44-0
Warfarin	81-81-2
3,4-Xylenol (3,4-dimethylphenol)	95-65-8

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1721 (September 1998).

Chapter 19. Tanks

§1921. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a tank in accordance with the applicable requirements of LAC 33:V.Chapter 17.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1724 (September 1998).

Chapter 21. Containers

§2119. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a container in accordance with the applicable requirements of LAC 33:V.Chapter 17.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1724 (September 1998).

Chapter 22. Prohibitions on Land Disposal
Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A - I.2]

3. de minimis losses of characteristic wastes to wastewaters are not considered to be prohibited wastes and are defined as losses 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; rinsate from empty containers or from containers that are rendered empty by that rinsing; and laboratory wastes not exceeding one percent of the total flow of wastewater into the facility's headworks on an annual basis or with a combined annualized average concentration not exceeding one part per million in the headworks of the facility's wastewater treatment or pretreatment facility;

4. Reserved.

* * *

[See Prior Text in I.5 - 5.c]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:666 (April 1998), LR 24:1107 (June 1998), LR 24:1724 (September 1998).

§2205. Storage of Prohibited Wastes

A. The storage of hazardous wastes prohibited from land disposal is prohibited except under the following conditions.

1. A generator may store such wastes in tanks, containers, or containment buildings on-site solely for the purpose of accumulating such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements of LAC 33:V.1109.E, Chapters 9, 15, 17, 18, 19, 21, 23, 25, 26, 27, 28, 29, 31, 32, 33, 35, 37, 43, 51, and 53. A small quantity generator as defined in LAC 33:V.Chapter 39 may accumulate hazardous waste in accordance with LAC 33:V.3913.

* * *

[See Prior Text in A.2 - G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR

16:220 (March 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1724 (September 1998).

§2209. Waste-Specific Prohibitions—Wood Preserving Wastes

A. Effective September 20, 1998, the following wastes are prohibited from land disposal: the wastes specified in LAC 33:V.Chapter 49 as EPA Hazardous Waste Numbers F032, F034, and F035.

B. Effective May 12, 1999, the following wastes are prohibited from land disposal: soil and debris contaminated with F032, F034, F035, and radioactive wastes mixed with EPA Hazardous Waste Numbers F032, F034, and F035.

C. Between September 20, 1998 and May 12, 1999, soil and debris contaminated with F032, F034, F035, and radioactive waste mixed with F032, F034, and F035 may be disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in LAC 33:V.2239.I.2.

D. The requirements of Subsections A and B of this Section do not apply if:

1. an exemption from a prohibition has been granted pursuant to a petition under LAC 33:V.2241 or 2271 with respect to those wastes and units covered by the petition;

2. the wastes meet the applicable alternate treatment standards established in accordance with a petition granted under LAC 33:V.2231;

3. the wastes meet the applicable treatment standards specified in this Subchapter; or

4. persons have been granted an extension to the effective date of a prohibition in accordance with LAC 33:V.2239, with respect to those wastes covered by the extension.

E. 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 constituents in excess of the applicable Universal Treatment Standard levels of Table 7 of this Chapter, the waste is prohibited from land disposal and all requirements of this Chapter are applicable, except as otherwise specified.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998).

§2211. Waste-Specific Prohibitions—Dioxin-Containing Wastes

* * *

[See Prior Text in A - B.1]

2. the wastes are disposed of at a facility that has been granted an exemption from a prohibition in accordance with a petition under LAC 33:V.2241 or 2271 with respect to those wastes covered by the exemption; or

3. an extension to the effective date of a prohibition in accordance with LAC 33:V.2239, with respect to those wastes covered by the extension.

* * *

[See Prior Text in C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998).

§2213. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), LR 22:819 (September 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998).

§2215. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998).

§2217. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998).

§2219. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998).

§2221. Schedule of Wastes Identified or Listed After November 8, 1984

* * *

[See Prior Text in A - B]

C. Reserved.

* * *

[See Prior Text in D - E.5]

F. Waste-Specific Prohibitions: Spent Aluminum Potliners and Reactive and Carbamate Wastes

1. Effective April 20, 1998, the wastes specified in LAC 33:V.4901.C as EPA Hazardous Waste Numbers K156-K159, K161, and in LAC 33:V.4901.E as EPA Hazardous Waste Numbers P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364, U367, U372, U373,

U387, U389, U394, U395, U404, and U409-U411 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

* * *

[See Prior Text in F.2-3]

4. On April 20, 1998, radioactive wastes mixed with K088, K156-K159, K161, P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364, U367, U372, U373, U387, U389, U394, U395, U404, and U409-U411 are also prohibited from land disposal. In addition, soil and debris contaminated with these radioactive mixed wastes are prohibited from land disposal.

* * *

[See Prior Text in F.5-7]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:667 (April 1998), LR 24:1725 (September 1998).

§2223. Applicability of Treatment Standards

* * *

[See Prior Text in A - B]

C. When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

D. Notwithstanding the prohibitions specified in Subsection A of this Section, treatment and disposal facilities may demonstrate (and certify in accordance with LAC 33:V.2247.C) compliance with the treatment standards for organic constituents specified by footnote in LAC 33:V.Chapter 22.Table 2, Treatment Standards for Hazardous Wastes, provided the following conditions are satisfied:

1. the treatment standards for the organic constituents were established based on incineration in units operated in accordance with the technical requirements of LAC 33:V.Chapter 31 or based on combustion in fuel substitution units operating in accordance with applicable technical requirements;

2. the treatment or disposal facility has used the methods referenced in Subsection D.1 of this Section to treat the organic constituents; and

3. the treatment or disposal facility may demonstrate compliance with organic constituents if good-faith analytical efforts achieve detection limits for the regulated organic constituents that do not exceed the treatment standards specified in this Section by an order of magnitude.

E. For characteristic wastes (D001-D003 and D012-D043) that are subject to treatment standards in LAC 33:V.Chapter 22.Table 2, Treatment Standards for Hazardous Wastes, all underlying hazardous constituents (as defined in LAC 33:V.2203) must meet Universal Treatment Standards, found in LAC 33:V.Chapter 22.Table 7, prior to land disposal as defined in LAC 33:V.2203.

F. The treatment standards for F001-F005 nonwastewater constituents carbon disulfide, cyclohexanone, and/or methanol

apply to wastes that contain only one, two, or three of these constituents. Compliance is measured for these constituents in the waste extract from Test Method 1311, the Toxicity Characteristic Leaching Procedure found in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110. If the waste contains any of these three constituents along with any of the other 25 constituents found in F001-F005, then compliance with treatment standards for carbon disulfide, cyclohexanone, and/or methanol are not required.

G. Between August 26, 1996, and August 26, 1998, the treatment standards for the wastes specified in LAC 33:V.4901.C as EPA Hazardous Waste Numbers K156-K159, K161 and in LAC 33:V.4901.E-F as EPA Hazardous Waste Numbers P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364-U367, U372, U373, U375-U379, U381-U387, U389-U396, U404, and U409-U411 and soil contaminated with these wastes were satisfied by either meeting the constituent concentrations presented in LAC 33:V.Chapter 22.Table 2, or by treating the waste by the following technologies: combustion, as defined by the technology code CMBST at LAC 33:V.Chapter 22.Table 3, for nonwastewaters; and biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at LAC 33:V.Chapter 22.Table 3, for wastewaters.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:668 (April 1998), LR 24:1726 (September 1998).

§2225. Repealed.

Editor's Note: For the requirements previously found in LAC 33:V.2225, refer to LAC 33:V.2223.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:565 (May 1997), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1726 (September 1998).

§2229. Repealed.

Editor's Note: For the requirements previously found in LAC 33:V.2229, refer to LAC 33:V.2223.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1726 (September 1998).

§2237. Exemption for Surface Impoundments Treating Hazardous Waste

* * *

[See Prior Text in A - A.2]

a. Sampling and Testing. For wastes with treatment standards and/or prohibition levels in LAC 33:V.Chapter 22.Subchapter A or RCRA section 3004(d), the residues from the treatment must be analyzed, as specified in LAC 33:V.2245, 2247, or 2213.F and G to determine if they meet the applicable treatment standards or where no treatment standards have been established for the waste, the applicable prohibition levels. The sampling method, specified in the waste analysis plan under LAC 33:V.1519 or 4313, must be designed such that representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples.

* * *

[See Prior Text in A.2.b - c]

d. Recordkeeping. Sampling and testing and recordkeeping provisions of LAC 33:V.1519 and 4313 apply.

* * *

[See Prior Text in A.2.e - A.3.c]

4. The owner or operator must submit to the administrative authority a written certification that the requirements of Subsection A.3 of this Section have been met and a copy of the waste analysis plan required under Subsection A.2 of this Section. The following certification is required:

"I certify under penalty of law that the requirements of LAC 33:V.2237.A.3 have been met for all surface impoundments being used to treat prohibited wastes. I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

* * *

[See Prior Text in B - C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998).

§2239. Procedures for Case-by-Case Extensions of an Effective Date

* * *

[See Prior Text in A - A.2]

3. written evidence that due to circumstances beyond the applicant's control, such alternative capacity cannot reasonably be made available by the applicable effective date. This demonstration may include a showing that the technical and practical difficulties associated with providing the alternative capacity will result in the capacity not being available by the applicable effective date;

* * *

[See Prior Text in A.4 - E]

F. On the basis of the information referred to in Subsection A of this Section, after notice and opportunity for public comment, and after consultation with appropriate state agencies in all affected states, the administrative authority may grant an extension of up to one year from the effective date of

the prohibition. The administrative authority may renew this extension for up to one additional year at the applicant's request if the demonstration required in Subsection A of this Section can still be made. In no event will an extension extend beyond 24 months from the applicable effective date specified in this Subchapter. The length of any extension authorized will be determined by the administrative authority based on the time required to construct or obtain the type of capacity the applicant needs, as described in the completion schedule discussed in Subsection A.5 of this Section. The administrative authority will give public notice of the intent to approve or deny a petition or for an extension and will provide an opportunity for public comment as provided in LAC 33:V.2243. The final decision on a petition or extension will be published in the official state journal.

* * *

[See Prior Text in G-J]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998).

§2241. Exemptions to Allow Land Disposal of a Prohibited Waste Except by Deep Well Injection

* * *

[See Prior Text in A-J]

K. After receiving a petition, the administrative authority may request any additional information that may be reasonably required to evaluate the demonstration.

L. A petition submitted in accordance with this Section must apply to land disposal of the specific prohibited waste at the individual disposal unit described in the showing and demonstration and will not apply to any other prohibited waste at that disposal unit or to that specific prohibited waste at any other disposal unit.

M. The administrative authority will give public notice of the intent to approve or deny a petition and will provide an opportunity for public comment in accordance with LAC 33:V.Chapter 7.Subchapter C and LAC 33:V.2243. Notice will also be given when a final decision on a petition is issued.

N. The term of an exemption granted under this Section shall be no longer than the term of the final operating permit if the disposal unit is operating under a final operating permit, or up to a maximum of five years from the date of approval if the unit is operating under interim status. In either case, the term of the exemption granted shall expire upon the termination, revocation, or denial of a final operating permit or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached. The exemption must be reviewed at least once every three years.

O. During the petition review process, the applicant is required to comply with all prohibitions on land disposal under this Chapter, unless a petition for an exemption has been approved by the EPA, and the administrative authority grants an emergency variance. If EPA has approved the exemption,

the land disposal of the waste may continue for up to one year under an emergency variance issued by the administrative authority until the administrative authority makes a decision on the petition for exemption. In no case shall an emergency variance extend beyond one year after the date of issuance. After the administrative authority issues a decision on the exemption, the waste may be land disposed only in accordance with the provisions of the exemption.

P. The petition granted by the administrative authority does not relieve the petitioner from compliance with all other applicable regulations.

Q. Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm are not eligible for an exemption under this Section.

R. As a condition of the exemption, the petitioner must submit a report by March 1 of each calendar year during the term of the exemption that describes in detail the efforts undertaken during the preceding calendar year to reduce the volume and toxicity of the waste generated. The report shall provide data indicating the change in volume and toxicity of waste actually achieved during the year in comparison to previous years.

S. Whenever the administrative authority determines that the basis for approval of a petition may no longer be valid, he or she shall require a new demonstration in accordance with this Section.

T. Termination of an Approved Petition

1. The administrative authority may terminate an exemption granted under this Section for the following causes:

a. noncompliance by the petitioner with any condition of the exemption;

b. the petitioner's failure in the petition or during the review and approval to disclose fully all relevant facts, or the petitioner's misrepresentation of any relevant facts at any time; or

c. a determination that new information shows that the basis for approval of the petition is no longer valid.

2. The administrative authority shall terminate an exemption granted under this Section for the following cause: the petitioner's willful withholding during the review and approval of the petition of facts directly and materially relevant to the administrative authority's decision on the petition.

3. The administrative authority shall follow the procedures in LAC 33:V.323 in terminating any exemption under this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998).

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

A. Requirements for generators: determine if the waste has to be treated before being land disposed, as follows: A

generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in LAC 33:V.2223 or 2230. This determination can be made in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing would normally determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using Test Method 1311 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste's extract. In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed. These treatment standards are also found in LAC 33:V.2223 and are described in detail in Table 3 of this Chapter. These wastes do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested). If a generator determines they are managing a waste that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, they must comply with the special requirements of LAC 33:V.2246 in addition to any applicable requirements in this Section.

B. If the waste does not meet the treatment standard, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste and place a copy in the file. The notice must include the information in column "LAC 33:V.2245.B" of the Generator Paperwork Requirements Table in Subsection D of this Section. No further notification is necessary until such time when the waste or facility changes, in which case a new notification must be sent and a copy placed in the generator's file.

C. If the waste meets the treatment standard at the original point of generation:

1. with the initial shipment of waste to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each treatment, storage, or disposal facility receiving the waste and place a copy in the file. The notice must include the information indicated in column "LAC 33:V.2245.C" of the Generator Paperwork Requirements Table in Subsection D of this Section and the following certification statement, signed by an authorized representative:

"I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in LAC 33:V.2223 - 2233. I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment";

2. if the waste changes, the generator must send a new notice and certification to the receiving facility and place a copy in their files. Generators of hazardous debris excluded from the definition of hazardous waste under LAC 33:V.109 are not subject to these requirements.

D. For reporting, tracking, and recordkeeping when exceptions allow certain wastes that do not meet the treatment standards to be land disposed, there are certain exemptions from the requirement that hazardous wastes meet treatment standards before they can be land disposed. These include, but are not limited to, case-by-case extensions under LAC 33:V.2239, disposal in a no-migration unit under LAC 33:V.2241, or a national capacity variance or case-by-case capacity variance under LAC 33:V.2209-2221. If a generator's

waste is so exempt, then with the initial shipment of waste, the generator must send a one-time written notice to each land disposal facility receiving the waste. The notice must include the information indicated in column "LAC 33:V.2245.D" of the Generator Paperwork Requirements Table in this Subsection. If the waste changes, the generator must send a new notice to the receiving facility and place a copy in their files.

Generator Paperwork Requirements Table

Required Information	LAC 33:V.2245.B	LAC 33:V.2245.C	LAC 33:V.2245.D	LAC 33:V.2245.I
EPA Hazardous Waste and Manifest numbers	X	X	X	X
Statement: This waste is not prohibited from land disposal.			X	
The waste is subject to the LDRs. The constituents of concern for F001-F005 and F039, and underlying hazardous constituents (for wastes that are not managed in a Clean Water Act (CWA) or CWA-equivalent facility), unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice.	X	X		
The notice must include the applicable wastewater/nonwastewater category (see LAC 33:V.2203.A) and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanide).	X	X		
Waste analysis data (when available).	X	X	X	
Date the waste is subject to the prohibition.			X	
For hazardous debris, when treating with the alternative treatment technologies provided by LAC 33:V.2230: the contaminants subject to treatment, as described in LAC 33:V.2230; and an indication that these contaminants are being treated to comply with LAC 33:V.2230.	X		X	
A certification is needed (see applicable section for exact wording)		X		X

[See Prior Text in E.2]

E. If a generator is managing and treating a prohibited waste in tanks, containers, or containment buildings regulated under LAC 33:V.1109.E to meet applicable LDR treatment standards found in LAC 33:V.2223, the generator must develop and follow a written waste analysis plan that describes the procedures the generator will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table 8 of this Chapter, however, are not subject to these waste analysis requirements.) The plan must be kept on-site in the generator's records, and the following requirements must be met.

1. The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited waste(s) being treated, and contain all information necessary to treat the waste(s) in accordance with the requirements of this Chapter, including the selected testing frequency.

3. Wastes shipped off-site in accordance with this Section must comply with the notification requirements of Subsection C of this Section.

F. If a generator determines that the waste is prohibited solely on the basis of his or her knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files. If a generator determines whether the waste is prohibited on the basis of tests of this waste or an extract developed using the Test Method 1311 described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, all waste analysis data must be retained on-site in the generator's files.

G. If a generator determines that a prohibited waste that the generator is managing was excluded from the definition of

* * *

hazardous or solid waste or exempted from regulation under LAC 33:V.Chapter 1, 39, or 41 subsequent to the point of generation (including deactivated characteristic hazardous wastes managed in wastewater treatment systems subject to the Clean Water Act (CWA) as specified in LAC 33:V.105.D.1.b, or that are CWA-equivalent), the generator must place a one-time notice stating such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from the regulation under LAC 33:V.Subpart 1, and the disposition of the waste, in the facility's file.

H. Generators must retain on-site a copy of all notices, certifications, demonstrations, waste analysis data, and other documentation produced in accordance with this Section for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. The three-year record

retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the administrative authority. The requirements of this Paragraph apply to solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under LAC 33:V.Chapter 1, 39, or 41, or exempted from regulation under LAC 33:V.Subpart 1, subsequent to the point of generation.

I. If a generator is managing a lab pack that contains hazardous wastes and wishes to use the alternative treatment standard for lab packs found at LAC 33:V.2227.C:

1. with the initial shipment of waste to a treatment facility, the generator must submit a notice that provides the information in column "LAC 33:V.2245.I" in the Generator Paperwork Requirements Table of Subsection D of this Section and the following certification. The certification that must be signed by an authorized representative and must be placed in the generator's files, must say the following:

"I certify under penalty of law that I personally have examined and am familiar with the waste, and that the lab pack contains only wastes that have not been excluded under LAC 33:V.Chapter 22.Table 6, and that this lab pack will be sent to a combustion facility in compliance with the alternative treatment standards for lab packs at LAC 33:V.2227.C. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment";

2. no further notification is necessary until such time that the wastes in the lab pack change or the receiving facility changes, in which case a new notice and certification must be sent and a copy placed in the generator's file;

3. if the lab pack contains characteristic hazardous wastes (D001-D043), underlying hazardous constituents (as defined in LAC 33:V.2203) need not be determined;

4. the generator must also comply with the requirements in Subsections F and G of this Section.

* * *

[See Prior Text in J - K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR

16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1728 (September 1998).

§2246. Special Rules Regarding Wastes That Exhibit a Characteristic

A. The initial generator of a solid waste must determine each EPA Hazardous Waste Number (waste code) applicable to the waste in order to determine the applicable treatment standards under this Chapter. For purposes of this Chapter, the waste will carry the waste code for any applicable listing under LAC 33:V.4901. In addition, where the waste exhibits a characteristic, the waste will carry one or more of the characteristic waste codes (LAC 33:V.4903), except in the case when the treatment standard for the listed waste operates in lieu of the standard for the characteristic waste, as specified in Subsection B of this Section. If the generator determines that his waste displays a hazardous characteristic (and is not D001 nonwastewaters treated by CMBST, RORGS, or POLYM of Table 3 of this Chapter), the generator must determine the underlying hazardous constituents (as defined in LAC 33:V.2203.A), in the characteristic waste.

* * *

[See Prior Text in B - D.1.a]

b. a description of the waste as initially generated, including the applicable EPA Hazardous Waste Number(s), treatability group(s), and underlying hazardous constituents (as defined in LAC 33:V.2203), unless the waste will be treated and monitored for all underlying hazardous constituents. If all underlying hazardous constituents will be treated and monitored, there is no requirement to list any of the underlying hazardous constituents on the notice.

* * *

[See Prior Text in D.2 - E.3.c]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1730 (September 1998).

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping, and Notice Requirements

A. Treatment facilities must test their wastes according to the frequency specified in their waste analysis plans, as required by LAC 33:V.1519 (for permitted TSDs) or 4313 (for interim status facilities). Such testing must be performed as provided in Subsection A.1-2 of this Section:

1. for wastes with treatment standards expressed as concentrations in the waste extract (Toxicity Characteristic Leaching Procedure, TCLP), the owner or operator of the treatment facility must test an extract of the treatment residues, using Test Method 1311 (the TCLP, described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110), to assure that the treatment residues extract meets the applicable treatment standards;

2. for wastes with treatment standards expressed as concentrations in the waste, the owner or operator of the treatment facility must test the treatment residues (not an extract of such residues) to ensure that they meet the applicable treatment standards.

B. A one-time notice must be sent with the initial shipment of waste to the land disposal facility. A copy of the notice must be placed in the treatment facility's file.

1. No further notification is necessary until such time that the waste or receiving facility changes, in which case a new notice must be sent and a copy placed in the treatment facility's file.

2. The one-time notice must include these requirements:

- EPA Hazardous Waste and Manifest Numbers;
- the waste is subject to the LDRs. The constituents of concern for F001-F005, and F039, and underlying hazardous constituents (for wastes that are not managed in a Clean Water Act (CWA) or CWA-equivalent facility), unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice;

- the notice must include the applicable wastewater/nonwastewater category (see LAC 33:V.2203.A) and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanide);

- waste analysis data (when available); and

- a certification statement is needed (see applicable section for exact wording).

C. The treatment facility must submit a one-time certification signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. The certification must state:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the treatment standards specified in LAC 33:V.2223 without impermissible dilution of the prohibited waste. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

1. A copy of the certification must be placed in the treatment facility's on-site files. If the waste or treatment residue changes, or the receiving facility changes, a new certification must be sent to the receiving facility, and a copy placed in the file.

2. Debris excluded from the definition of hazardous waste under LAC 33:V.109.Hazardous Waste.6 (i.e., debris treated by an extraction or destruction technology provided by Table 8 of this Chapter, and debris that the administrative authority has determined does not contain hazardous waste), however, is subject to the notification and certification requirements of LAC 33:V.2246.E rather than the certification requirements of this Subsection.

3. For wastes with organic constituents having treatment standards expressed as concentration levels, if compliance with the treatment standards is based in whole or in part on the analytical detection limit alternative specified in LAC 33:V.2223, the certification, signed by an authorized representative, must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by incineration in units operated in accordance with LAC 33:V.Chapter 31 or Chapter 43.Subchapter N, or by combustion in fuel substitution units operating in accordance with applicable technical requirements, and combustion units as specified in Table 3 of this Chapter. I have been unable to detect the nonwastewater organic constituents despite having used best good-faith efforts to analyze for such constituents. I am aware that there are significant penalties for submitting a false certification, including the possibility of fines and imprisonment."

* * *

[See Prior Text in D]

E. Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions in LAC 33:V.4139.A.2-4 regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (the recycler) is not required to notify the receiving facility, in accordance with Subsection C of this Section. With each shipment of such wastes the owner or operator of the recycling facility must submit a certification described in Subsection D of this Section and a notice which includes the information listed in Subsection C of this Section (except the manifest number) to the administrative authority or his delegated representative. The recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

F. Except where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal in accordance with LAC 33:V.4139.A.2-4, the owner or operator of any land disposal facility disposing of any waste subject to prohibitions under this Chapter must do the following:

- he must have copies of the notice and certification specified in either Subsection B, C, D, or E of this Section; and

- he must test the waste or an extract of the waste or treatment residue developed using Test Method 1311 (the Toxicity Characteristic Leaching Procedure, described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110) to ensure that the wastes or treatment residues comply with the applicable treatment standards set forth in LAC 33:V.2223-2233. Such testing must be performed according to the frequency specified in the facility's waste analysis plan, as required by LAC 33:V.1519 or 4313.

* * *

[See Prior Text in G-H]

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Table 2 - TREATMENT STANDARDS FOR HAZARDOUS WASTES

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		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
D001 ⁹	Ignitable Characteristic Waste, except for the LAC 33:V.4903.B.1 High TOC Subcategory.	NA	NA	DEACT and meet LAC 33:V.2233 standards ⁸ ; or RORGS; or CMBST	DEACT and meet LAC 33:V.2233 standards ⁸ ; or RORGS; or CMBST
	High TOC Ignitable Characteristic Liquids Subcategory based on LAC 33:V.4903.B.1 - Greater than or equal to 10 percent total organic carbon. (Note: This subcategory consists of nonwastewaters only.)	NA	NA	NA	RORGS; or CMBST; or POLYM
* * * [See Prior Text in D002 -F028]					
F024	Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in LAC 33:V.4901.C or LAC 33:V.4901.B.Table 1.).	All F024 wastes	NA	CMBST ¹¹	CMBST ¹¹
		2-Chloro-1,3-butadiene	126-99-8	0.057	0.28
		3-Chloropropylene	107-05-1	0.036	30
		1,1-Dichloroethane	75-34-3	0.059	6.0
		1,2-Dichloroethane	107-06-2	0.21	6.0
		1,2-Dichloropropane	78-87-5	0.85	18
		cis-1,3-Dichloropropylene	10061-01-5	0.036	18
		trans-1,3-Dichloropropylene	10061-02-6	0.036	18
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Hexachloroethane	67-72-1	0.055	30
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP
		Nickel	7440-02-0	3.98	5.0 mg/l TCLP
* * * [See Prior Text in F025]					

F032	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with LAC 33:V.4901.B.3 or potentially cross-contaminated wastes that are otherwise currently regulated as hazardous wastes (i.e., F034 or F035), and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benz(a)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		2,4 Dimethylphenol	105-67-9	0.036	14
		Fluorene	86-73-7	0.059	3.4
		Hexachlorodibenzo-p-dioxins	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		Hexachlorodibenzofurans	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
		Naphthalene	91-20-3	0.059	5.6
		Pentachlorodibenzo-p-dioxins	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		Pentachlorodibenzofurans	NA	0.000035, or CMBST ¹¹	0.001, or CMBST ¹¹
		Pentachlorophenol	87-86-5	0.089	7.4
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	1089-5-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Tetrachlorodibenzo-p-dioxins	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		Tetrachlorodibenzofurans	NA	0.000063, or CMBST ¹¹	0.001, or CMBST ¹¹
		2,3,4,6- Tetrachlorophenol	58-90-2	0.030	7.4
		2,4,6- Trichlorophenol	88-06-2	0.035	7.4
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP

F034	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benz(a)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluorene	86-73-7	0.059	3.4
		Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP
F035	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP
* * *					
[See Prior Text F037-K151]					

K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) ¹⁰	Acetonitrile	75-05-8	5.6	38
		Acetophenone	96-86-2	0.010	9.7
		Aniline	62-53-3	0.81	14
		Benomyl	17804-35-2	0.056	1.4
		Benzene	71-43-2	0.14	10
		Carbaryl	63-25-2	0.006	0.14
		Carbenzadim	10605-21-7	0.056	1.4
		Carbofuran	1563-66-2	0.006	0.14
		Carbosulfan	55285-14-8	0.028	1.4
		Chlorobenzene	108-90-7	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Methomyl	16752-77-5	0.028	0.14
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Naphthalene	91-20-3	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyridine	110-86-1	0.014	16
Toluene	108-88-3	0.080	10		
Triethylamine	121-44-8	0.081	1.5		
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) ¹⁰	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0

		Chloromethane	74-87-3	0.19	30
		Methomyl	16752-77-5	0.028	0.14
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		o-Phenylenediamine	95-54-5	0.056	5.6
		Pyridine	110-86-1	0.014	16
		Triethylamine	121-44-8	0.081	1.5
K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) ¹⁰	Benomyl	17804-35-2	0.056	14
		Benzene	71-43-2	0.14	10
		Carbenzadim	10605-21-7	0.056	1.4
		Carbofuran	1563-66-2	0.006	0.14
		Carbosulfan	55285-14-8	0.028	1.4
		Chloroform	67-66-3	0.046	6.0
		Methylene chloride	75-09-2	0.089	30
		Phenol	108-95-2	0.039	6.2
* * *					
[See Prior Text in K159 -U411]					

* * *

[See Prior Text in Notes 1-10]

11 For these wastes, the definition of CMBST is limited to: (1) combustion units operating under LAC 33:V.Chapter 30, (2) combustion units permitted under LAC 33:V.Chapter 31, or (3) combustion units operating under LAC 33:V.Chapter 43.Subchapter N, which have obtained a determination of equivalent treatment under LAC 33.V.2227.B.

NOTE: NA means not applicable.

Table 3. Technology Codes and Description of Technology-Based Standards	
Technology Code	Description of Technology-Based Standard
	* * * [See Prior Text in ADGAS -CHRED]
CMBST	High temperature organic destruction technologies, such as combustion in incinerators, boilers, or industrial furnaces operated in accordance with the applicable requirements of LAC 33:V.Chapter 30 or 31 or 41, and 43.Subchapter N, and in other units operated in accordance with applicable technical operating requirements; and certain non-combustive technologies, such as the Catalytic Extraction Process.
	* * * [See Prior Text in DEACT -NLDBR]
POLYM	Formation of complex high-molecular weight solids through polymerization of monomers in high-TOC D001 nonwastewaters that are chemical components in the manufacture of plastics.
	* * * [See Prior Text in PRECP - WTRRX]

Note 1: When a combination of these technologies (i.e., a treatment train) is specified as a single treatment standard, the order of application is specified in Table 2 by indicating the five-letter technology code that must be applied first, then the designation "fb" (an abbreviation for "followed by"), then the five-letter technology code for the technology that must be applied next, and so on.

Note 2: When two or more technologies (or treatment trains) are specified as alternative treatment standards, the five-letter technology codes (or the treatment trains) are separated by a semicolon (;) with the last technology preceded by the word "or." This indicates that any one of these BDAT technologies or treatment trains can be used for compliance with the standard.

* * *
[See Prior Text in Table 4]

Table 5
Metal Bearing Wastes Prohibited From Dilution in a Combustion Unit¹ According to
LAC 33:V.2207.C.1

Waste Code	Waste Description
D004	Toxicity Characteristic for Arsenic
D005	Toxicity Characteristic for Barium
D006	Toxicity Characteristic for Cadmium
D007	Toxicity Characteristic for Chromium
D008	Toxicity Characteristic for Lead
D009	Toxicity Characteristic for Mercury
D010	Toxicity Characteristic for Selenium
D011	Toxicity Characteristic for Silver
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum
F007	Spent cyanide plating bath solutions from electroplating operations
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations
F012	Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process

F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments
K003	Wastewater treatment sludge from the production of molybdate orange pigments
K004	Wastewater treatment sludge from the production of zinc yellow pigments
K005	Wastewater treatment sludge from the production of chrome green pigments
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated)
K007	Wastewater treatment sludge from the production of iron blue pigments
K008	Oven residue from the production of chrome oxide green pigments
K061	Emission control dust/sludge from the primary production of steel in electric furnaces
K069	Emission control dust/sludge from secondary lead smelting
K071	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting
K106	Sludges from the mercury cell processes for making chlorine
P010	Arsenic acid H_3AsO_4
P011	Arsenic oxide As_2O_5
P012	Arsenic trioxide
P013	Barium cyanide
P015	Beryllium
P029	Copper cyanide $Cu(CN)$
P074	Nickel cyanide $Ni(CN)_2$
P087	Osmium tetroxide
P099	Potassium silver cyanide
P104	Silver cyanide
P113	Thallic oxide
P114	Thallium (I) selenite
P115	Thallium (I) sulfate
P119	Amonium vanadate
P120	Vanadium oxide V_2O_5
P121	Zinc cyanide
U032	Calcium chromate
U145	Lead phosphate
U151	Mercury
U204	Selenious acid
U205	Selenium disulfide
U216	Thallium (I) chloride
U217	Thallium (I) nitrate

¹ A combustion unit is defined as any thermal technology subject to LAC 33:V.Chapter 30 or Chapter 31 and Chapter 43.Subchapter N.

* * *

[See Prior Text in Tables 6-9]

Table 10. Wastes Excluded from the Treatment Standards under LAC 33:V.2223					
Facility Name ¹ and Address	Waste Code	See also	Regulated Hazardous Constituent	Wastewaters	Nonwastewaters
				Concentration (mg/l) (Notes)	Concentration (mg/Kg) (Notes)
Craftsman Plating and Tinning Corp. Chicago, IL	F006	Table 2	Cyanides (Total)	1.2 ⁽²⁾	1800 ⁽⁴⁾
			Cyanides (amenable)	0.86 ^(2 and 3)	30 ⁽⁴⁾
			Cadmium	1.6	NA
			Chromium	0.32	NA
			Lead	0.040	NA
			Nickel	0.44	NA
Northwestern Plating Works, Inc. Chicago, IL	F006	Table 2	Cyanides (Total)	1.2 ^(2 and 3)	970 ⁽⁴⁾
			Cyanides (amenable)	0.86 ⁽²⁾	30 ⁽⁴⁾
			Cadmium	1.6	NA
			Chromium	0.32	NA
			Lead	0.040	NA
			Nickel	0.44	NA

⁽¹⁾—A facility may certify compliance with these treatment standards according to provisions in LAC 33:V.2245 and 2247.

⁽²⁾—Cyanide Wastewater Standards for F006 are based on analysis of composite samples.

⁽³⁾—These facilities must comply with 0.86 mg/l for amenable cyanides in the wastewater exiting the alkaline chlorination system. These facilities must also comply with LAC 33:V.2245.D for appropriate monitoring frequency consistent with the facilities' waste analysis plan.

⁽⁴⁾—Cyanide nonwastewaters are analyzed using SW-846 Method 9010 or 9012, sample size 10 grams, distillation time, 1 hour and 15 minutes.

Note: NA means Not Applicable.

* * *

[See Prior Text in Table 12]

Chapter 24. Hazardous Waste Munitions and Explosives Storage

§2401. Applicability

The requirements of this Chapter apply to owners or operators who store munitions and explosive hazardous wastes, except as LAC 33:V.1501 provides otherwise.

[NOTE: Depending on explosive hazards, hazardous waste munitions and explosives may also be managed in other types of storage units, including containment buildings (LAC 33:V.Chapter 18), tanks (LAC 33:V.Chapter 19), or containers (LAC 33:V.Chapter 21). See LAC 33:V.5309 for storage of waste military munitions.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24.1739 (September 1998).

§2403. Design and Operating Standards

A. Hazardous waste munitions and explosives storage units must be designed and operated with containment systems, controls, and monitoring that:

1. minimize the potential for detonation or other means

of release of hazardous waste, hazardous constituents, hazardous decomposition products, or contaminated runoff to the soil, groundwater, surface water, and atmosphere;

2. provide a primary barrier, which may be a container (including a shell) or tank, designed to contain the hazardous waste;

3. for wastes stored outdoors, provide that the waste and containers will not be in standing precipitation;

4. for liquid wastes, provide a secondary containment system that assures that any released liquids are contained and promptly detected and removed from the waste area or vapor detection system that assures that any released liquids or vapors are promptly detected and an appropriate response taken (e.g., additional containment, such as overpacking or removal from the waste area); and

5. provide monitoring and inspection procedures that assure the controls and containment systems are working as designed and that releases that may adversely impact human health or the environment are not escaping from the unit.

B. Hazardous waste munitions and explosives stored under this Chapter may be stored in one of the following:

1. earth-covered magazines, must be:
 - a. constructed of waterproofed, reinforced concrete or structural steel arches, with steel doors that are kept closed when not being accessed;
 - b. designed and constructed as follows:
 - i. to be of sufficient strength and thickness to support the weight of any explosives or munitions stored and any equipment used in the unit;
 - ii. to provide working space for personnel and equipment in the unit; and
 - iii. to withstand movement activities that occur in the unit; and
 - c. located and designed, with walls and earthen covers that direct an explosion in the unit in a safe direction, so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion;

2. above-ground magazines must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion;

3. outdoor or open storage areas must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.

C. Hazardous waste munitions and explosives must be stored in accordance with a standard operating procedure specifying procedures to ensure safety, security, and environmental protection. If these procedures serve the same purpose as the security and inspection requirements of LAC 33:V.1507, the preparedness and prevention procedures of LAC 33:V.1511, and the contingency plan and emergency procedures requirements of LAC 33:V.1513, then these procedures will be used to fulfill those requirements.

D. Hazardous waste munitions and explosives must be packaged to ensure safety in handling and storage.

E. Hazardous waste munitions and explosives must be inventoried at least annually.

F. Hazardous waste munitions and explosives and their storage units must be inspected and monitored as necessary to ensure the explosives' safety and to ensure that there is no migration of contaminants out of the unit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1739 (September 1998).

§2405. Closure and Post-Closure Care

A. At closure of a magazine or unit that stored hazardous waste under this Chapter, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components, contaminated subsoils, and structures and equipment contaminated with waste and manage them as hazardous waste unless LAC 33:V.109.Hazardous Waste.6 applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for magazines or units must meet all of the requirements specified in LAC 33:V.Chapters 35 and 37, except that the owner or operator may defer closure of the unit as long as it remains in service as a munitions or explosives magazine or storage unit.

B. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in Subsection A of this Section, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he or she must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (LAC 33:V.2521).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1740 (September 1998).

Chapter 25. Landfills

§2511. Special Requirements for Ignitable or Reactive Waste

A. Except as provided in LAC 33:V.2511.B and 2519, ignitable or reactive waste must not be placed in a landfill, unless the waste and landfill meet all applicable requirements of LAC 33:V.Chapter 22, and:

* * *

[See Prior Text in A.1]

2. LAC 33:V.1517.B is complied with.

* * *

[See Prior Text in B - B.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1740 (September 1998).

Chapter 29. Surface Impoundments

2919. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a surface impoundment in accordance with the applicable requirements of LAC 33:V.Chapter 17.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1740 (September 1998).

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3007. Interim Status Standards for Burners

* * *

[See Prior Text in A-B.9]

C. Certification of Compliance. The owner or operator shall conduct emissions testing to document compliance with the emissions standards of Subsection A.5.a.iv of this Section and LAC 33:V.3009.B-E, 3011, 3013, and 3015, under the procedures prescribed by this Subsection, except under extensions of time provided by Subsection C.7 of this Section. Based on the compliance test, the owner or operator shall submit to the administrative authority, on or before August 21, 1992, a complete and accurate "certification of compliance" (under LAC 33:V.3007.C.4) with those emission standards establishing limits on the operating parameters specified in LAC 33:V.3007.C.1.

* * *

[See Prior Text in C.1 - L]

[Note: Parts of this Section were previously promulgated in LAC 33:V.4142 which has been repealed.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:822 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1740 (September 1998).

§3009. Standards to Control Organic Emissions

A boiler or industrial furnace burning hazardous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under LAC 33:V.3005.E, it will meet the following standards:

[See Prior Text in A-E]

1. during the trial burn (for new facilities or an interim status facility applying for a permit) or compliance test (for interim status facilities), determine emission rates of the tetra-octa congeners of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs/CDFs) using Method 0023A, Sampling Method for Polychlorinated Dibenzop-Dioxins and Polychlorinated Dibenzofurans Emissions from Stationary Sources, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110;

[See Prior Text in E.2 - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:823 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998).

§3013. Standards to Control Metals Emissions

[See Prior Text in A-F.2.b.ii]

G. Metal Emission Testing

1. General. Emission testing for metals shall be conducted using Method 0060, Determinations of Metals in Stack Emissions, EPA Publication SW-846, as incorporated by reference in LAC:33.V.110.

2. Hexavalent Chromium. Emissions of chromium are assumed to be hexavalent chromium unless the owner or operator conducts emissions testing to determine hexavalent chromium emissions using procedures prescribed in Method 0061, Determination of Hexavalent Chromium Emissions from Stationary Sources, EPA Publication SW-846, as incorporated by reference in LAC:33.V.110.

[See Prior Text in H- I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:824 (September 1996), repromulgated LR 22:980 (October 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998).

§3015. Standards to Control Hydrogen Chloride (HCl) and Chlorine Gas (Cl₂) Emissions

[See Prior Text in A-E]

F. Emissions Testing. Emissions testing for HCl and Cl₂ shall be conducted using the procedures described in 40 CFR 266, appendix IX, as adopted and amended in Methods 0050 or 0051, EPA Publication SW-846, as incorporated by reference in LAC 33:V:110.

[See Prior Text in G-H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:825 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998).

Chapter 31. Incinerators

§3105. Applicability

[See Prior Text in A-D]

E. The owner or operator of an incinerator may conduct trial burns subject only to the requirements of LAC 33:V.3115.

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
*** [See Prior Text in A2213 -Potassium dimethyldithiocarbamate]			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
Potassium n-hydroxymethyl-n-methyl-dithiocarbamate	Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt	51026-28-9	

* * *			
[See Prior Text in Potassium n-methyldithiocarbamate -TCDD]			
Tetrabutylthiuram disulfide	Thioperoxydicarbonic diamide, tetrabutyl	1634-02-2	U402
1,2,4,5-Tetrachloro-benzene	Benzene, 1,2,4,5- tetrachloro-	95-94-3	U207
* * *			
[See Prior Text in Tetrachlorodibenzo-p-dioxins -Ziram]			

¹ 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).

Chapter 32. Miscellaneous Units

§3203. Environmental Performance Standards

A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of LAC 33:V.Chapters 17, 19, 21, 23, 25, 27, 29, 31, and all other applicable requirements of LAC 33:V.Subpart 1, and of 40 CFR 146, 1988, pp. 674-694, which are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

* * *

[See Prior Text in A-C.7]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:399 (May 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1742 (September 1998).

Chapter 33. Groundwater Protection

§3325. Groundwater Monitoring List¹

Table 4 lists groundwater monitoring constituents.

* * *

[See Prior Text in Table 4 - Note 4]

⁵ Suggested Methods refer to analytical procedure numbers used in EPA Report SW-846, *Test Methods for Evaluating Solid Waste*, Third Edition. Analytical details can be found in SW-846 and in documentation on file at the agency. The packed column gas chromatography methods 8010, 8020, 8030, 8040, 8060, 8080, 8090, 8110, 8120, 8140, 8150,

8240, and 8250 were promulgated methods through Update IIB of SW-846 and, as of Update III, the agency has replaced these methods with "capillary column GC methods," as the suggested methods. Caution: The methods listed are representative SW-846 procedures and may not always be the most suitable method(s) for monitoring an analyte under the regulations.

* * *

[See Prior Text in Notes 6-9]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:399 (May 1990), amended LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1742 (September 1998).

Chapter 35. Closure and Post-Closure

§3501. Applicability

* * *

[See Prior Text in A-C.1]

2. waste piles, surface impoundments, or any facility from which the owner or operator intends to remove waste at closure, to the extent that these sections are made applicable to such facilities in LAC 33:V.2315 and 2911;

* * *

[See Prior Text in C.3-4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 24:1742 (September 1998).

Chapter 41. Recyclable Materials

§4105. Requirements for Recyclable Material

Recyclable materials are subject to additional regulations as follows:

* * *

[See Prior Text in A-B.3]

4. scrap metal that is not excluded under LAC 33:V.105.D.1.m;

* * *

[See Prior Text in B.5-C.2]

3. recyclable materials from which precious metals are reclaimed;

4. spent lead-acid batteries that are being reclaimed; and

5. used oil that exhibits one or more of the characteristics of hazardous waste and is burned for energy recovery in boilers and industrial furnaces that are not regulated under LAC 33:V.Chapter 31 or Chapter 43.Subchapter N.

* * *

[See Prior Text in D-F]

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Subchapter C. Special Requirements for Group III Recyclable Materials

§4137. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:433 (August 1987), LR 20:1000 (September 1994), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998).

§4139. Recyclable Materials Used in a Manner Constituting Disposal

* * *

[See Prior Text in A-A.5]

B. General Requirements

1. Generators and transporters of materials that are used in a manner that constitutes disposal are subject to all the requirements of LAC 33:V.Chapters 11 and 13, and LAC 33:V.105.A of these regulations, and the notification requirement under section 3010 of RCRA or 105.A.

2. Owners and operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal but who are not the ultimate users of the materials are regulated under all applicable provisions of LAC 33:V.Chapters 3, 5, 7, 9, 11, 15, 19, 21, 23, 29, 33, 35, 37; Subchapters A-L of Chapter 43; and the notification requirement under section 3010 of RCRA or 105.A.

3. Owners and operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of LAC 33:V.Chapters 3, 5, 7, 9, 11, 15, 19, 21, 22, 23, 25, 27, 29, 31, 33, 35, 37; Subchapters A-M of Chapter 43; and the notification requirement under section 3010 of RCRA or 105.A. (These requirements do not apply to products which contain these recyclable materials under the provisions of LAC 33:V.4139.A.2.)

4. The use of waste or used oil or other material that is contaminated with dioxin or any other hazardous waste (other than a waste identified solely on the basis of ignitability) for dust suppression or road treatment is prohibited.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:367 (April 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 22:21 (January 1996), repromulgated LR 22:100 (February 1996), amended LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998).

Chapter 43. Interim Status

§4301. Purpose and Applicability

* * *

[See Prior Text in A-D]

E. Interim status facilities must comply with LAC 33:V.Chapters 3, 5, 9, 11, 15, 39, 41, 43, and 49. The requirements of this Chapter apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in LAC 33:V.Chapter 22, and Chapter 22 standards are material conditions or requirements of interim status standards.

* * *

[See Prior Text in F-I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998).

Subchapter A. General Facility Standards

§4313. General Waste Analysis

* * *

[See Prior Text in A-E.5]

6. where applicable, the methods that will be used to meet the additional waste analysis requirements for specific waste management methods as specified in LAC 33:V.2245, 2247, 4445, 4453, 4467, 4481, 4507, 4515, 4527, 4539, 4557, 4585, and 4727;

* * *

[See Prior Text in E.7-7.c.ii.(a)]

(b). such residues are prohibited from land disposal under LAC 33:V.Chapter 22; and

8. for owners and operators seeking an exemption to the air emission standards of Subchapter V of this Chapter in accordance with LAC 33:V.4725:

a. if direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the results of the analysis of test data to verify the exemption; and

b. if knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator or by the generator of the hazardous waste, if the waste is received from off-site, that is used as the basis for knowledge of the waste.

* * *

[See Prior Text in F-F.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998).

§4317. General Inspection Requirements

* * *

[See Prior Text in A-B.2]

3. The frequency of inspection may vary for the items on the schedule. However, it should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in LAC 33:V.4425, 4437, 4440, 4455, 4470, 4485, 4502, 4519, 4529, 4541, 4555, 4565, 4567, 4577, and 4737, where applicable.

* * *

[See Prior Text in C-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998).

Subchapter D. Manifest System, Recordkeeping, and Reporting

§4357. Operating Record

* * *

[See Prior Text in A-B.4. Table 2]

5. records and results of waste analyses and trial tests performed as specified in LAC 33:V.2237.A, 2245, 4313, 4445, 4453, 4467, 4481, 4507, 4515, 4527, 4539, 4557, and 4727;

* * *

[See Prior Text in B.6-7]

8. monitoring, testing, or analytical data, and corrective action when required by LAC 33:V.Chapter 43.Subchapter E, 4320, 4367, 4375, 4433, 4437, 4440, 4449, 4451, 4455, 4470, 4472, 4474, 4483, 4485, 4489.D.1, 4497-4502, 4519, 4529, 4557, 4559, 4587, 4589, 4737, and 4739;

[Comment: As required by LAC 33:V.4375, monitoring data at disposal facilities must be kept throughout the post-closure period.]

* * *

[See Prior Text in B.9]

10. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, monitoring data required in accordance with a petition under LAC 33:V.2241 or 2271 or a certification under LAC 33:V.2235, and the applicable notice required of a generator under LAC 33:V.2245;

11. for an off-site treatment facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2245 or 2247;

12. for an on-site treatment facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required by the generator or the owner or operator under LAC 33:V.2245 or 2247;

13. for an off-site land disposal facility, a copy of the notice and the certification and demonstration, if applicable, required by the generator or the owner or operator of a treatment facility under LAC 33:V.2245 or 2247;

14. for an on-site land disposal facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required by the generator or the owner or operator of a treatment facility under LAC 33:V.2245 or 2247;

15. for an off-site storage facility, a copy of the notice and the certification and demonstration, if applicable, required by the generator or the owner or operator under LAC 33:V.2245 or 2247;

16. for an on-site storage facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required by the generator or the owner or operator of a treatment facility under LAC 33:V.2245 or 2247.

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 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998).

§4365. Additional Reports

In addition to submitting the biennial report and unmanifested waste reports described in LAC 33:V.4361 and 4363, the owner or operator must also report to the administrative authority:

* * *

[See Prior Text in A-C]

D. as otherwise required by LAC 33:V.Chapter 43, Subchapters Q, R, and V.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998).

Subchapter F. Closure and Post-Closure

§4379. Closure Performance Standard

The owner or operator must close his facility in a manner that:

* * *

[See Prior Text in A-B]

C. complies with the closure requirements of these regulations including, but not limited to, LAC 33:V.4442, 4457, 4475, 4489, 4501, 4521, 4531, and 4543.

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 15:181 (March 1989), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998).

Subchapter H. Containers

§4430. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a container in accordance with the applicable requirements of Subchapters Q, R, and V of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1745 (September 1998).

Subchapter I. Tanks

§4446. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a tank in accordance with the applicable requirements of Subchapters Q, R, and V of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1745 (September 1998).

Subchapter J. Surface Impoundments

§4456. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a surface impoundment in accordance with the applicable requirements of Subchapters R and V of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1745 (September 1998).

Subchapter M. Landfills

§4511. Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)

Lab packs may be placed in a landfill if the following requirements are met:

* * *

[See Prior Text in A-E]

F. Such disposal is in compliance with the requirements of LAC 33:V.Chapter 22. Persons who incinerate lab packs according to the requirements in LAC 33:V.2227.C.1 may use fiber drums in place of metal outer containers. Such fiber drums must meet the specifications of the Louisiana Department of Public Safety and Corrections or its successor agency in LAC 33:V.Subpart 2, Chapter 101, the DOT specifications in 49 CFR 173.12, and be overpacked according to the requirements in Subsection B of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1745 (September 1998).

Subchapter Q. Air Emission Standards for Process Vents

§4549. Applicability

* * *

[See Prior Text in A]

B. Except for LAC 33:V.1711.D and E, as referenced in LAC 33:V.4557, this Subchapter applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 ppmw, if these operations are conducted in one of the following:

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43;

2. a unit (including a hazardous waste recycling unit) that is not exempt from permitting under LAC 33:V.1109.E.1 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43; or

3. a unit that is exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a 90-day tank or container).

[Note: The requirements of LAC 33:V.4553-4559 apply to process vents on hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 4307 are not affected by these requirements.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1745 (September 1998).

Subchapter R. Air Emission Standards for Equipment Leaks

§4561. Applicability

* * *

[See Prior Text in A]

B. Except as provided in LAC 33:V.1743.K, as referenced in LAC 33:V.4509, this Subchapter applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43;

2. a unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43; or

3. a unit that is exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a 90-day tank or container).

* * *

[See Prior Text in C-D]

E. Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight

for a period of less than 300 hours per calendar year is excluded from the requirements of LAC 33:V.4565 and 4581 if it is identified as required in LAC 33:V.4589.

[Note: The requirements of LAC 33:V.4565-4589 apply to equipment associated with hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 4307 are not affected by these requirements.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1745 (September 1998).

Subchapter U. Hazardous Waste Munitions and Explosives Storage

§4707. Applicability

The requirements of this Subchapter apply to owners or operators who store munitions and explosive hazardous wastes, except as LAC 33:V.4301 provides otherwise.

[NOTE: Depending on explosive hazards, hazardous waste munitions and explosives may also be managed in other types of storage units, including containment buildings (Subchapter T of this Chapter), tanks (Subchapter I of this Chapter), or containers (Subchapter H of this Chapter). See LAC 33:V.5311 for storage of waste military munitions].

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1746 (September 1998).

§4709. Design and Operating Standards

A. Hazardous waste munitions and explosives storage units must be designed and operated with containment systems, controls, and monitoring that:

1. minimize the potential for detonation or other means of release of hazardous waste, hazardous constituents, hazardous decomposition products, or contaminated runoff to the soil, groundwater, surface water, and atmosphere;
2. provide a primary barrier, which may be a container (including a shell) or tank, designed to contain the hazardous waste;
3. for wastes stored outdoors, provide that the waste and containers will not be in standing precipitation;
4. for liquid wastes, provide a secondary containment system that assures that any released liquids are contained and promptly detected and removed from the waste area or vapor detection system that assures that any released liquids or vapors are promptly detected and an appropriate response taken (e.g., additional containment, such as overpacking or removal from the waste area); and
5. provide monitoring and inspection procedures that assure the controls and containment systems are working as designed and that releases that may adversely impact human health or the environment are not escaping from the unit.

B. Hazardous waste munitions and explosives stored under this Subchapter may be stored in one of the following:

1. earth-covered magazines that must be:
 - a. constructed of waterproofed, reinforced concrete, or structural steel arches, with steel doors that are kept closed when not being accessed;
 - b. designed and constructed:
 - i. to be of sufficient strength and thickness to

support the weight of any explosives or munitions stored and any equipment used in the unit;

ii. to provide working space for personnel and equipment in the unit; and

iii. to withstand movement activities that occur in the unit; and

c. located and designed with walls and earthen covers that direct an explosion in the unit in a safe direction, so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion;

2. above-ground magazines that must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion; or

3. outdoor or open storage areas that must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.

C. Hazardous waste munitions and explosives must be stored in accordance with a standard operating procedure specifying procedures to ensure safety, security, and environmental protection. If these procedures serve the same purpose as the security and inspection requirements of LAC 33:V.4315, the preparedness and prevention procedures of Subchapter B of this Chapter, and the contingency plan and emergency procedures requirements of Subchapter C of this Chapter, then these procedures will be used to fulfill those requirements.

D. Hazardous waste munitions and explosives must be packaged to ensure safety in handling and storage.

E. Hazardous waste munitions and explosives must be inventoried at least annually.

F. Hazardous waste munitions and explosives and their storage units must be inspected and monitored as necessary to ensure explosives safety and to ensure that there is no migration of contaminants out of the unit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1746 (September 1998).

§4711. Closure and Post-Closure Care

A. At closure of a magazine or unit that stored hazardous waste under this Subchapter, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components, contaminated subsoils, and structures and equipment contaminated with waste and manage them as hazardous waste unless LAC 33:V.109.Hazardous Waste.6 applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for magazines or units must meet all of the requirements specified in Subchapters F and G of this Chapter, except that the owner or operator may defer closure of the unit as long as it remains in service as a munitions or explosives magazine or storage unit.

B. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in Subsection A of this Section, the owner or operator finds that not all contaminated

subsoils can be practicably removed or decontaminated, he or she must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (LAC 33:V.2521).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1746 (September 1998).

Subchapter V. Air Emission Standards for Tanks, Surface Impoundments, and Containers

§4719. Applicability

Interim status facilities are subject to the requirements of LAC 33:V.1747.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1747 (September 1998).

§4721. Definitions

As used in this Subchapter, all terms shall have the meanings given to them in LAC 33:V.1703.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1747 (September 1998).

§4723. Schedule for Implementation of Air Emission Standards

A. Owners or operators of facilities existing on December 6, 1996, and subject to Subchapters H, I, and J of this Chapter shall meet the following requirements:

1. install and begin operation of all control equipment required by this Subchapter by December 6, 1996, except as provided for in Subsection A.2 of this Section;

2. when control equipment required by this Subchapter cannot be installed and in operation by December 6, 1996, the owner or operator shall:

a. install and begin operation of the control equipment as soon as possible, but no later than December 6, 1997;

b. prepare an implementation schedule that includes the following information: specific calendar dates for award of contracts or issuance of purchase orders for the control equipment, initiation of on-site installation of the control equipment, completion of the control equipment installation, and performance of any testing to demonstrate that the installed equipment meets the applicable standards of this Subchapter;

c. for facilities subject to the recordkeeping requirements of LAC 33:V.4357, the owner or operator shall enter the implementation schedule specified in Subsection A.2.b of this Section in the operating record no later than December 6, 1996; and

d. for facilities not subject to LAC 33:V.4357, the owner or operator shall enter the implementation schedule specified in Subsection A.2.b of this Section in a permanent,

readily available file located at the facility no later than December 6, 1996.

B. Owners or operators of facilities in existence on the effective date of statutory or regulatory amendments under the act that render the facility subject to Subchapters H, I, or J of this Chapter shall meet the following requirements:

1. install and begin operation of all control equipment required by this Subchapter by the effective date of the amendment, except as provided for in Subsection B.2 of this Section;

2. when control equipment required by this Subchapter cannot be installed and begin operation by the effective date of the amendment, the owner or operator shall:

a. install and operate the control equipment as soon as possible, but no later than 30 months after the effective date of the amendment;

b. for facilities subject to the recordkeeping requirements of LAC 33:V.4357, enter and maintain the implementation schedule specified in Subsection A.2.b of this Section in the operating record no later than the effective date of the amendment; or

c. for facilities not subject to LAC 33:V.4357, the owner or operator shall enter and maintain the implementation schedule specified in Subsection A.2.b of this Section in a permanent, readily available file located at the facility site no later than the effective date of the amendment.

C. The administrative authority may elect to extend the implementation date for control equipment at a facility, on a case by case basis, to a date later than December 8, 1997, when special circumstances that are beyond the facility owner's or operator's control delay installation or operation of control equipment and the owner or operator has made all reasonable and prudent attempts to comply with the requirements of this Subchapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1747 (September 1998).

§4725. Standards: General

Interim status facilities are subject to the requirements of LAC 33:V.1751.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1747 (September 1998).

§4727. Waste Determination Procedures

A. Waste Determination Procedures to Determine Average Volatile Organic (VO) Concentration of a Hazardous Waste at the Point of Waste Origination

1. An owner or operator shall determine the average VO concentration at the point of waste origination for each hazardous waste placed in a waste management unit exempted under the provisions of LAC 33:V.4725 from using air

emission controls in accordance with standards specified in LAC 33:V.4729-4735, as applicable to the waste management unit.

2. For a waste determination that is required by Subsection A.1 of this Section, the average VO concentration of a hazardous waste at the point of waste origination shall be determined using either direct measurement as specified in Subsection A.3 of this Section or by knowledge as specified in Subsection A.4 of this Section.

3. Direct Measurement to Determine Average VO Concentration of a Hazardous Waste at the Point of Waste Origination

a. Identification. The owner or operator shall identify and record the point of waste origination for the hazardous waste.

b. Sampling. Samples of the hazardous waste stream shall be collected at the point of waste origination in a manner such that volatilization of organics contained in the waste and in the subsequent sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.

i. The averaging period to be used for determining the average VO concentration for the hazardous waste stream on a mass-weighted average basis shall be designated and recorded. The averaging period can represent any time interval that the owner or operator determines is appropriate for the hazardous waste stream, but shall not exceed one year.

ii. A sufficient number of samples, but no less than four samples, shall be collected and analyzed for a hazardous waste determination. The average of the four or more sample results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature.

iii. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste stream are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of an acceptable sampling plan includes a plan incorporating sample collection and handling procedures in accordance with the requirements specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, or in Method 25D in 40 CFR part 60, appendix A.

c. Analysis. Each collected sample shall be prepared and analyzed in accordance with one or more of the methods listed in Subsection A.3.c.i-ix of this Section, including appropriate quality assurance and quality control (QA/QC)

checks and use of target compounds for calibration. If Method 25D in 40 CFR part 60, appendix A is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25EC. Each of the analytical methods listed in Subsection A.3.c.ii - vii of this Section has an associated list of approved chemical compounds for which the department considers the method appropriate for measurement. If an owner or operator uses Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses EPA Method 8260 or 8270 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, to analyze one or more compounds that are not on that method's published list, the procedures in Subsection A.3.c.viii of this Section must be followed. At the owner's or operator's discretion, the concentration of each individual chemical constituent measured in the waste by a method other than Method 25D may be corrected to the concentration had it been measured using Method 25D by multiplying the measured concentration by the constituent-specific adjustment factor (f_{m25D}) as specified in Subsection A.4.c of this Section. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711:

- i. Method 25D in 40 CFR part 60, appendix A;
- ii. Method 624 in 40 CFR part 136, appendix A;
- iii. Method 625 in 40 CFR part 136, appendix A.

Perform corrections to the compounds for which the analysis is being conducted based on the "accuracy as recovery" using the factors in Table 7 of the method;

- iv. Method 1624 in 40 CFR part 136, appendix A;
- v. Method 1625 in 40 CFR part 136, appendix A;
- vi. Method 8260 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A.

Maintain a formal quality assurance program consistent with the requirements of Method 8260. The quality assurance program shall include the following elements:

(a). documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps; and

(b). measurement of the overall accuracy and precision of the specific procedures;

vii. Method 8270 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A. Maintain a formal quality assurance program consistent with the requirements of Method 8270. The quality assurance program shall include the following elements:

(a). documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps; and

(b). measurement of the overall accuracy and precision of the specific procedures;

viii. any other EPA standard method that has been validated in accordance with *Alternative Validation Procedure for EPA Waste and Wastewater Methods*, 40 CFR part 63, appendix D. As an alternative, other EPA standard methods may be validated by the procedure specified in Subsection A.3.c.ix of this Section; and

ix. any other analysis method that has been validated in accordance with the procedures specified in section 5.1 or section 5.3, and the corresponding calculations in section 6.1 or section 6.3, of Method 301 in 40 CFR part 63, appendix A. The data are acceptable if they meet the criteria specified in section 6.1.5 or section 6.3.3 of Method 301. If correction is required under section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.

d. Calculations

i. The average VO concentration (\bar{C}) on a mass-weighted basis shall be calculated by using the results for all waste determinations conducted in accordance with Subsection A.3.b and c of this Section and the following equation:

$$\bar{C} = \frac{1}{Q_T} \sum_{i=1}^n (Q_i \times C_i)$$

where:

\bar{C} = average VO concentration of the hazardous waste at the point of waste origination on a mass-weighted basis, ppmw.

I = individual waste determination "i" of the hazardous waste.

n = total number of waste determinations of the hazardous waste conducted for the averaging period (not to exceed one year).

Q_i = mass quantity of hazardous waste stream represented by C_i , kg/hr.

Q_T = total mass quantity of hazardous waste during the averaging period, kg/hr.

C_i = measured VO concentration of waste determination "i" as determined in accordance with the requirements of Subsection A.3.c of this Section (i.e., the average of the four or more samples specified in Subsection A.3.b.ii of this Section), ppmw.

ii. For the purpose of determining C_i , for individual waste samples analyzed in accordance with Subsection A.3.c of this Section, the owner or operator shall account for VO concentrations determined to be below the limit of detection of the analytical method by using the following VO concentration:

(a). if Method 25D in 40 CFR part 60, appendix A is used for the analysis, one-half the blank value determined in the method at section 4.4 of Method 25D in 40 CFR part 60, appendix A;

(b). if any other analytical method is used, one-half the sum of the limits of detection established for each organic constituent in the waste that has a Henry's law constant value at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/ m^3) at 25EC.

e. Provided that the test method is appropriate for the waste as required under Subsection A.3.c of this Section, the department will determine compliance based on the test method used by the owner or operator as recorded in accordance with LAC 33:V.4735.

4. Use of Owner or Operator Knowledge to Determine Average VO Concentration of a Hazardous Waste at the Point of Waste Origination

a. Documentation shall be prepared that presents the information used as the basis for the owner's or operator's knowledge of the hazardous waste stream's average VO concentration. Examples of information that may be used as the basis for knowledge include: material balances for the source or process generating the hazardous waste stream; constituent-specific chemical test data for the hazardous waste stream from previous testing that are still applicable to the current waste stream; previous test data for other locations managing the same type of waste stream; or other knowledge based on information included in manifests, shipping papers, or waste certification notices.

b. If test data are used as the basis for knowledge, then the owner or operator shall document the test method, sampling protocol, and the means by which sampling variability and analytical variability are accounted for in the determination of the average VO concentration. For example, an owner or operator may use organic concentration test data for the hazardous waste stream that is validated in accordance with Method 301 in 40 CFR part 63, appendix A as the basis for knowledge of the waste.

c. An owner or operator using chemical constituent-specific concentration test data as the basis for knowledge of the hazardous waste may adjust the test data to the corresponding average VO concentration value that would have been obtained had the waste samples been analyzed using Method 25D in 40 CFR part 60, appendix A. To adjust these data, the measured concentration for each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (f_{m25D}).

d. In the event that the administrative authority and the owner or operator disagree on a determination of the average VO concentration for a hazardous waste stream using knowledge, then the results from a determination of average VO concentration using direct measurement as specified in Subsection A.3 of this Section shall be used to establish compliance with the applicable requirements of this Subpart. The administrative authority may perform or request that the owner or operator perform this determination using direct measurement. The owner or operator may choose one or more appropriate methods to analyze each collected sample in

accordance with the requirements of Subsection A.3.c of this Section.

B. Waste Determination Procedures for Treated Hazardous Waste

1. An owner or operator shall perform the applicable waste determination for each treated hazardous waste placed in a waste management unit exempted under the provisions of LAC 33:V.4725 from using air emission controls in accordance with standards specified in LAC 33:V.4729-4735, as applicable to the waste management unit.

2. The owner or operator shall designate and record the specific provision in LAC 33:V.4725 under which the waste determination is being performed. The waste determination for the treated hazardous waste shall be performed using the applicable procedures specified in Subsection B.3 - 9 of this Section.

3. Procedure to Determine the Average VO Concentration of a Hazardous Waste at the Point of Waste Treatment

a. Identification. The owner or operator shall identify and record the point of waste treatment for the hazardous waste.

b. Sampling. Samples of the hazardous waste stream shall be collected at the point of waste treatment in a manner such that volatilization of organics contained in the waste and in the subsequent sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.

i. The averaging period to be used for determining the average VO concentration for the hazardous waste stream on a mass-weighted average basis shall be designated and recorded. The averaging period can represent any time interval that the owner or operator determines is appropriate for the hazardous waste stream, but shall not exceed one year.

ii. A sufficient number of samples, but no less than four samples, shall be collected and analyzed for a hazardous waste determination. The average of the four or more sample results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature.

iii. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste stream are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of an acceptable sampling plan includes a plan incorporating sample collection and handling procedures in accordance with the requirements specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA

Publication SW-846, incorporated by reference in LAC 33:V.110.A, or in Method 25D in 40 CFR part 60, appendix A.

c. Analysis. Each collected sample shall be prepared and analyzed in accordance with one or more of the methods listed in Subsection B.3.c.i-ix of this Section, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration. When the owner or operator is making a waste determination for a treated hazardous waste that is to be compared to an average VO concentration at the point of waste origination or the point of waste entry to the treatment system, to determine if the conditions of LAC 33:V.4723 or 4725 are met, the waste samples shall be prepared and analyzed using the same method or methods as were used in making the initial waste determinations at the point of waste origination or at the point of entry to the treatment system. If Method 25D in 40 CFR part 60, appendix A is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³] at 25EC. Each of the analytical methods listed in Subsection B.3.c.ii - vii of this Section has an associated list of approved chemical compounds for which the department considers the method appropriate for measurement. If an owner or operator uses Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses Method 8260 or 8270 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, to analyze one or more compounds that are not on that method's published list, the procedures in Subsection B.3.c.viii of this Section must be followed. At the owner or operator's discretion, the concentration of each individual chemical constituent measured in the waste by a method other than Method 25D may be corrected to the concentration had it been measured using Method 25D by multiplying the measured concentration by the constituent-specific adjustment factor (f_{m25D}) as specified in Subsection B.4.c of this Section. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711:

- i. Method 25D in 40 CFR part 60, appendix A;
- ii. Method 624 in 40 CFR part 136, appendix A;
- iii. Method 625 in 40 CFR part 136, appendix A.

Perform corrections to the compounds for which the analysis is being conducted based on the "accuracy as recovery" using the factors in Table 7 of the method;

- iv. Method 1624 in 40 CFR part 136, appendix A;
- v. Method 1625 in 40 CFR part 136, appendix A;
- vi. Method 8260 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication

SW-846, incorporated by reference in LAC 33:V.110.A.

Maintain a formal quality assurance program consistent with the requirements of Method 8260. The quality assurance program shall include the following elements:

(a). documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps; and

(b). measurement of the overall accuracy and precision of the specific procedures;

vii. Method 8270 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A. Maintain a formal quality assurance program consistent with the requirements of Method 8270. The quality assurance program shall include the following elements:

(a). documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps;

(b). measurement of the overall accuracy and precision of the specific procedures;

viii. any other EPA standard method that has been validated in accordance with *Alternative Validation Procedure for EPA Waste and Wastewater Methods*, 40 CFR part 63, appendix D. As an alternative, other EPA standard methods may be validated by the procedure specified in Subsection B.3.c.ix of this Section;

ix. any other analysis method that has been validated in accordance with the procedures specified in section 5.1 or section 5.3, and the corresponding calculations in section 6.1 or section 6.3, of Method 301 in 40 CFR part 63, appendix A. The data are acceptable if they meet the criteria specified in section 6.1.5 or section 6.3.3 of Method 301. If correction is required under section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.

d. Calculations. The average VO concentration (\bar{C}) on a mass-weighted basis shall be calculated by using the results for all waste determinations conducted in accordance with Subsection B.3.b and c of this Section and the following equation:

$$\bar{C} = \frac{1}{Q_r} \sum_{i=1}^u (Q_i \times C_i)$$

where:

\bar{C} = average VO concentration of the hazardous waste at the point of waste treatment on a mass-weighted basis, ppmw.

I = individual waste determination "i" of the hazardous waste.

n = total number of waste determinations of the hazardous waste conducted for the averaging period (not to exceed one year).

Q_i = mass quantity of hazardous waste stream represented by C_i , kg/hr.

Q_T = total mass quantity of hazardous waste during the averaging period, kg/hr.

C_i = measured VO concentration of waste determination "i" as determined in accordance with the requirements of Subsection B.3.c of this Section (i.e., the average of the four or more samples specified in Subsection B.3.b.ii of this Section), ppmw.

e. Provided that the test method is appropriate for the waste as required under Subsection B.3.c of this Section, compliance shall be determined based on the test method used by the owner or operator as recorded in accordance with LAC 33:V.4739.

4. Procedure to Determine the Exit Concentration Limit (C_t) for a Treated Hazardous Waste

a. The point of waste origination for each hazardous waste treated by the process at the same time shall be identified.

b. If a single hazardous waste stream is identified in Subsection B.4.a of this Section, then the exit concentration limit (C_t) shall be 500 ppmw.

c. If more than one hazardous waste stream is identified in Subsection B.4.a of this Section, then the average VO concentration of each hazardous waste stream at the point of waste origination shall be determined in accordance with the requirements of Subsection A of this Section. The exit concentration limit (C_t) shall be calculated by using the results determined for each individual hazardous waste stream and the following equation:

$$C_t = \frac{\sum_{x=1}^m (Q_x \times \bar{C}_x) \% \sum_{y=1}^n (Q_y \times 500 \text{ ppmw})}{\sum_{x=1}^m Q_x \% \sum_{y=1}^n Q_y}$$

where:

C_t = exit concentration limit for treated hazardous waste, ppmw.

x = individual hazardous waste stream "x" that has an average VO concentration less than 500 ppmw at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section.

y = individual hazardous waste stream "y" that has an average VO concentration equal to or greater than 500 ppmw at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section.

m = total number of "x" hazardous waste streams treated by process.

n = total number of "y" hazardous waste streams treated by process.

Q_x = annual mass quantity of hazardous waste stream "x," kg/yr.

Q_y = annual mass quantity of hazardous waste stream "y," kg/yr.

\bar{C}_x = average VO concentration of hazardous waste stream "x" at the point of waste origination as determined in

accordance with the requirements of Subsection A of this Section, ppmw.

5. Procedure to Determine the Organic Reduction Efficiency (R) for a Treated Hazardous Waste

a. The organic reduction efficiency (R) for a treatment process shall be determined based on results for a minimum of three consecutive runs.

b. All hazardous waste streams entering the treatment process and all hazardous waste streams exiting the treatment process shall be identified. The owner or operator shall prepare a sampling plan for measuring these streams that accurately reflects the retention time of the hazardous waste in the process.

c. For each run, information shall be determined for each hazardous waste stream identified in Subsection B.5.b of this Section using the following procedures:

i. the mass quantity of each hazardous waste stream entering the process (Q_b) and the mass quantity of each hazardous waste stream exiting the process (Q_a) shall be determined;

ii. the average VO concentration at the point of waste origination of each hazardous waste stream entering the process (\overline{C}_b) during the run shall be determined in accordance with the requirements of Subsection A.3 of this Section. The average VO concentration at the point of waste treatment of each waste stream exiting the process (\overline{C}_a) during the run shall be determined in accordance with the requirements of Subsection B.3 of this Section.

d. The waste volatile organic mass flow entering the process (E_b) and the waste volatile organic mass flow exiting the process (E_a) shall be calculated by using the results determined in accordance with Subsection B.5.c of this Section and the following equations:

$$E_b = \frac{1}{10^6} \sum_{j=1}^m (Q_{bj} \times \overline{C}_{bj})$$

$$E_a = \frac{1}{10^6} \sum_{j=1}^m (Q_{aj} \times \overline{C}_{aj})$$

where:

E_a = waste volatile organic mass flow exiting process, kg/hr.

E_b = waste volatile organic mass flow entering process, kg/hr.

m = total number of runs (at least 3).

j = individual run "j".

Q_b = mass quantity of hazardous waste entering process during run "j," kg/hr.

Q_a = average mass quantity of hazardous waste exiting process during run "j," kg/hr.

\overline{C}_a = average VO concentration of hazardous waste exiting process during run "j" as determined in accordance with the requirements of Subsection B.3 of this Section, ppmw.

\overline{C}_b = average VO concentration of hazardous waste entering process during run "j" as determined in accordance

with the requirements of Subsection A.3 of this Section, ppmw.

e. The organic reduction efficiency of the process shall be calculated by using the results determined in accordance with Subsection B.5.d of this Section and the following equation:

$$R = \frac{E_b \& E_a}{E_b} \times 100\%$$

where:

R = organic reduction efficiency, percent.

E_b = waste volatile organic mass flow entering process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

E_a = waste volatile organic mass flow exiting process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

6. Procedure to Determine the Organic Biodegradation Efficiency (R_{bio}) for a Treated Hazardous Waste

a. The fraction of organics biodegraded (F_{bio}) shall be determined using the procedure specified in 40 CFR part 63, appendix C.

b. The R_{bio} shall be calculated by using the following equation:

$$R_{bio} = F_{bio} \times 100\%$$

where:

R_{bio} = organic biodegradation efficiency, percent.

F_{bio} = fraction of organic biodegraded as determined in accordance with the requirements of Subsection B.6.a of this Section.

7. Procedure to Determine the Required Organic Mass Removal Rate (RMR) for a Treated Hazardous Waste

a. All of the hazardous waste streams entering the treatment process shall be identified.

b. The average VO concentration of each hazardous waste stream at the point of waste origination shall be determined in accordance with the requirements of Subsection A of this Section.

c. For each individual hazardous waste stream that has an average VO concentration equal to or greater than 500 ppmw at the point of waste origination, the average volumetric flow rate and the density of the hazardous waste stream at the point of waste origination shall be determined.

d. The RMR shall be calculated by using the average VO concentration, average volumetric flow rate, and density determined for each individual hazardous waste stream and the following equation:

$$RMR = \sum_{y=1}^n \left[V_y \times k_y \times \frac{(\overline{C}_y \& 500 \text{ ppmw})}{10^6} \right]$$

where:

RMR = required organic mass removal rate, kg/hr.

y = individual hazardous waste stream "y" that has an average VO concentration equal to or greater than 500 ppmw at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section.

n = total number of "y" hazardous waste streams treated by process.

V_y = average volumetric flow rate of hazardous waste stream "y" at the point of waste origination, m³/hr.

k_y = density of hazardous waste stream "y," kg/m³.

C_y = average VO concentration of hazardous waste stream "y" at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section, ppmw.

8. Procedure to Determine the Actual Organic Mass Removal Rate (MR) for a Treated Hazardous Waste

a. The MR shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be one hour.

b. The waste volatile organic mass flow entering the process (E_b) and the waste volatile organic mass flow exiting the process (E_a) shall be determined in accordance with the requirements of Subsection B.5.d of this Section.

c. The MR shall be calculated by using the mass flow rate determined in accordance with the requirements of Subsection B.8.b of this Section and the following equation:

$$MR = E_b - E_a$$

where:

MR=actual organic mass removal rate, kg/hr.

E_b =waste volatile organic mass flow entering process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

E_a =waste volatile organic mass flow exiting process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

9. Procedure to Determine the Actual Organic Mass Biodegradation Rate (MR_{bio}) for a Treated Hazardous Waste

a. The MR_{bio} shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be one hour.

b. The waste organic mass flow entering the process (E_b) shall be determined in accordance with the requirements of Subsection B.5.d of this Section.

c. The fraction of organic biodegraded (F_{bio}) shall be determined using the procedure specified in 40 CFR part 63, appendix C.

d. The MR_{bio} shall be calculated by using the mass flow rates and fraction of organic biodegraded determined in accordance with the requirements of Subsection B.9.b and c of this Section, respectively, and the following equation:

$$MR_{bio} = E_b \times F_{bio}$$

where:

MR_{bio}=actual organic mass biodegradation rate, kg/hr.

E_b =waste organic mass flow entering process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

F_{bio} =fraction of organic biodegraded as determined in accordance with the requirements of Subsection B.9.c of this Section.

C. Procedure to Determine the Maximum Organic Vapor Pressure of a Hazardous Waste in a Tank

1. An owner or operator shall determine the maximum organic vapor pressure for each hazardous waste placed in a tank using Tank Level 1 controls in accordance with the standards specified in LAC 33:V.4729.

2. An owner or operator shall use either direct measurement as specified in Subsection C.3 of this Section or knowledge of the waste as specified by Subsection C.4 of this Section to determine the maximum organic vapor pressure which is representative of the hazardous waste composition stored or treated in the tank.

3. Direct Measurement to Determine the Maximum Organic Vapor Pressure of a Hazardous Waste

a. Sampling. A sufficient number of samples shall be collected to be representative of the waste contained in the tank. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of an acceptable sampling plan includes a plan incorporating sample collection and handling procedures in accordance with the requirements specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, or in Method 25D in 40 CFR part 60, appendix A.

b. Analysis. Any appropriate one of the following methods may be used to analyze the samples and compute the maximum organic vapor pressure of the hazardous waste:

- i. Method 25E in 40 CFR part 60 appendix A;
- ii. methods described in American Petroleum Institute Publication 2517, Third Edition, February 1989, *Evaporative Loss from External Floating-Roof Tanks*, incorporated by reference in LAC 33:V.110.A;
- iii. methods obtained from standard reference texts;
- iv. ASTM Method 2879-92, incorporated by reference in LAC 33:V.110.A; and
- v. any other method approved by the administrative authority.

4. Use of Knowledge to Determine the Maximum Organic Vapor Pressure of the Hazardous Waste. Documentation shall be prepared and recorded that presents the information used as the basis for the owner's or operator's knowledge that the maximum organic vapor pressure of the hazardous waste is less than the maximum vapor pressure limit listed in LAC 33:V.4729 for the applicable tank design capacity category. An example of information that may be used is documentation that the hazardous waste is generated by a process for which, at other locations, it previously has been determined by direct measurement that the waste maximum organic vapor pressure is less than the maximum vapor pressure limit for the appropriate tank design capacity category.

D. Procedure for Determining No Detectable Organic Emissions for the Purpose of Complying with this Subpart

1. The test shall be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A. Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the cover and associated closure devices shall be checked. Potential leak

interfaces that are associated with covers and closure devices include, but are not limited to: the interface of the cover and its foundation mounting; the periphery of any opening on the cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure relief valve.

2. The test shall be performed when the unit contains a hazardous waste having an organic concentration representative of the range of concentrations for the hazardous waste expected to be managed in the unit. During the test the cover and closure devices shall be secured in the closed position.

3. The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the organic constituents in the hazardous waste placed in the waste management unit, not for each individual organic constituent.

4. The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

5. Calibration gases shall be as follows:

- a. zero air (less than 10 ppmv hydrocarbon in air); and
- b. a mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppmv methane or n-hexane.

6. The background level shall be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A.

7. Each potential leak interface shall be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21 of 40 CFR part 60, appendix A. In the case when the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface shall be sampled. In the case when the configuration of the closure device prevents any sampling at the interface and the device is equipped with an enclosed extension or horn (e.g., some pressure relief devices), the instrument probe inlet shall be placed at approximately the center of the exhaust area to the atmosphere.

8. The arithmetic difference between the maximum organic concentration indicated by the instrument and the background level shall be compared with the value of 500 ppmv, except when monitoring a seal around a rotating shaft that passes through a cover opening, in which case the comparison shall be as specified in Subsection D.9 of this Section. If the difference is less than 500 ppmv, then the potential leak interface is determined to operate with no detectable organic emissions.

9. For the seals around a rotating shaft that passes through a cover opening, the arithmetic difference between the maximum organic concentration indicated by the instrument and the background level shall be compared with the value of 10,000 ppmw. If the difference is less than 10,000 ppmw, then the potential leak interface is determined to operate with no detectable organic emissions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1747 (September 1998).

§4729. Standards: Tanks

Interim status facilities are subject to the requirements of LAC 33:V.1755.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1754 (September 1998).

§4731. Standards: Surface Impoundments

Interim status facilities are subject to the requirements of LAC 33:V.1757.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1754 (September 1998).

§4733. Standards: Containers

Interim status facilities are subject to the requirements of LAC 33:V.1759.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1754 (September 1998).

§4735. Standards: Closed-Vent Systems and Control Devices

Interim status facilities are subject to the requirements of LAC 33:V.1761.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1754 (September 1998).

§4737. Inspection and Monitoring Requirements

Interim status facilities are subject to the requirements of LAC 33:V.1763.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1754 (September 1998).

§4739. Recordkeeping Requirements

Interim status facilities are subject to the requirements of LAC 33:V.1765.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1754 (September 1998).

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

A. A solid waste is a hazardous waste if it is listed in this Chapter, unless it has been excluded from this list under LAC 33:V.105.M.

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

Hazard codes are defined as follows for the listed hazardous wastes.

Ignitable waste	(I)
Corrosive waste	(C)
Reactive waste	(R)
Toxicity Characteristic waste	(E)
Acute hazardous waste or acutely hazardous waste	(H)
Toxic waste	(T)

1. Each hazardous waste listed in this Chapter is assigned an EPA Hazardous Waste number, which precedes the name of the waste. This number must be used in complying with the notification requirements of Section 3010 or 105.A of the act and certain recordkeeping and reporting requirements under LAC 33:V.Chapters 3-29, 31-39, and 43.

* * *

[See Prior Text in A.2-D.2]

3. any residue remaining in a container or an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in LAC 33:V.4901.E or F, unless the container is empty as defined in LAC 33:V.109.Empty Container.2 ;

4. any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in LAC 33:V.4901.E or F, or any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in LAC 33:V.4901.E or F;

[Comment: The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in . . ." refers to a chemical substance that is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in LAC 33:V.4901.E or F. Where a manufacturing process waste is deemed to be a hazardous waste because it contains a substance listed in LAC 33:V.4901.E or F, such waste will be listed in either LAC 33:V.4901.B or C or will be identified as a hazardous waste by the characteristics set forth in LAC 33:V.4903.]

* * *

[See Prior Text in E -Table 3]

F. Commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in LAC 33:V.4901.D.1-4 are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity generator exclusion defined in LAC 33:V.3903, 3913, and 3915.A and C. These wastes and their corresponding EPA Hazardous Waste Numbers are listed in Table 4.

[Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability), and C (Corrosivity). Absence of a letter indicates that the compound is listed only for toxicity.]

Table 4. Toxic Wastes		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste
* * *		
[See Prior Text]		
U119	62-50-0	Ethyl methanesulfonate
U120	206-44-0	Fluoranthene
* * *		
[See Prior Text]		
U182	123-63-7	Paraldehyde
U183	608-93-5	Pentachlorobenzene
* * *		
[See Prior Text]		
U179	100-75-4	Piperidine, 1-nitroso-
U192	23950-58-5	Pronamide
* * *		
[See Prior Text]		
U205	7488-56-4	Selenium sulfide SeS ₂ (R,T)
U015	115-02-6	L-Serine, diazoacetate (ester)
See F027	93-72-1	Silvex(2,4,5-TP)
U206	18883-66-4	Streptozotocin
U103	77-78-1	Sulfuric acid, dimethyl ester
* * *		
[See Prior Text]		
See F027	93-76-5	2,4,5-T
U207	95-94-3	1,2,4,5-Tetrachlorobenzene
* * *		
[See Prior Text]		
U213	109-99-9	Tetrahydrofuran (I)
U214	563-68-8	Thallium(I) acetate
* * *		
[See Prior Text]		
U217	10102-45-1	Thallium(I) nitrate
U218	62-55-5	Thioacetamide
* * *		
[See Prior Text]		
U244	137-26-8	Thioperoxydicarbonic diamide [(H ₂ N)C(S)] ₂ S ₂ , tetramethyl-
U409	23564-05-8	Thiophanatemethyl
* * *		
[See Prior Text]		
U177	684-93-5	Urea, N-methyl-N-nitroso-

U043	75-01-4	Vinyl chloride
* * *		
[See Prior Text]		

¹CAS Number given for parent compound only.

* * *

[See Prior Text in G-Table 6]

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 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), 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).

Chapter 53. Military Munitions

§5301. Applicability

A. The regulations in this Chapter identify when military munitions become a solid waste and if these wastes are also hazardous under this Chapter or LAC 33:V.Chapter 1 and the management standards that apply to these wastes.

B. Unless otherwise specified in this Chapter, all applicable requirements in these regulations apply to waste military munitions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1756 (September 1998).

§5303. Definition of Military Munitions as a Solid Waste

A. A military munition is not a solid waste when:

1. used for its intended purpose, including:
 - a. use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions);
 - b. use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or
 - c. recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use;
2. an unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as defined in LAC 33:V.109. Solid Waste, or burning for energy recovery as defined in LAC 33:V.109.Solid Waste.

B. An unused military munition is a solid waste when any of the following occurs:

1. the munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in Subsection A of this Section), incinerated, or treated prior to disposal;
2. the munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal;
3. the munition is deteriorated or damaged (e.g., the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition and cannot reasonably be recycled or used for other purposes; or
4. the munition has been declared a solid waste by an authorized military official.

C. A used or fired military munition is a solid waste:

1. when transported off range or from the site of use, where the site of use is not a range, for the purposes of storage, reclamation, treatment, disposal, or treatment prior to disposal; or
2. if recovered, collected, and then disposed of by burial, or landfilling either on or off a range.

D. For purposes of RCRA section 1004(27), a used or fired military munition is a solid waste and, therefore, is potentially subject to RCRA corrective action authorities under sections 3004(u) and (v), and 3008(h) or imminent and substantial endangerment authorities under section 7003, if the munition lands off-range and is not promptly rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1756 (September 1998).

§5305. Standards Applicable to the Transportation of Solid Waste Military Munitions

A. Criteria for Hazardous Waste Regulation of Waste Non-Chemical Military Munitions in Transportation

1. Waste military munitions that are being transported and that exhibit a hazardous waste characteristic or are listed as hazardous waste under LAC 33:V.Chapter 49 are listed or identified as a hazardous waste (and thus are subject to regulation under LAC 33:V.Subpart 1) unless all the following conditions are met:
 - a. the waste military munitions are not chemical agents or chemical munitions;
 - b. the waste military munitions must be transported in accordance with the Department of Defense (DOD) shipping controls applicable to the transport of military munitions;
 - c. the waste military munitions must be transported from a military owned or operated installation to a military owned or operated treatment, storage, or disposal facility; and

d. the transporter of the waste must provide oral notice to the administrative authority within 24 hours from the time the transporter becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within five days from the time the transporter becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section.

2. If any waste military munitions shipped under Subsection A.1 of this Section are not received by the receiving facility within 45 days of the day the waste was shipped, the owner or operator of the receiving facility must report this non-receipt to the administrative authority within five days.

3. The exemption in Subsection A.1 of this Section from regulation as hazardous waste shall apply only to the transportation of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to storage, treatment, or disposal.

4. The conditional exemption in Subsection A.1 of this Section applies only so long as all of the conditions in Subsection A.1 of this Section are met.

B. Reinstatement of Exemption. If any waste military munition loses its exemption under Subsection A.1 of this Section, an application may be filed with the administrative authority for reinstatement of the exemption from hazardous waste transportation regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of Subsection A.1 of this Section. If the administrative authority finds that reinstatement of the exemption is appropriate based on factors such as the transporter's provision of a satisfactory explanation of the circumstances of the violation or a demonstration that the violations are not likely to recur, the administrative authority may reinstate the exemption under Subsection A.1 of this Section. If the administrative authority does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement shall be deemed granted, retroactive to the date of the application. However, the administrative authority may terminate a conditional exemption reinstated by default in the preceding sentence if the administrative authority finds that reinstatement is inappropriate based on factors such as the transporter's failure to provide a satisfactory explanation of the circumstances of the violation or failure to demonstrate that the violations are not likely to recur. In reinstating the exemption under Subsection A.1 of this Section, the administrative authority may specify additional conditions as are necessary to ensure and document proper transportation to protect human health and the environment.

C. Amendments to DOD Shipping Controls. The Department of Defense shipping controls applicable to the transport of military munitions referenced in Subsection A.1.b of this Section are Government Bill of Lading (GBL) (GSA Standard Form 1109), requisition-tracking form DD Form 1348, the Signature and Talley Record (DD Form 1907), Special Instructions for Motor Vehicle Drivers (DD Form 836), and the Motor Vehicle Inspection Report (DD Form 626) in effect on November 8, 1995, except as provided in the

following sentence. Any amendments to the Department of Defense shipping controls shall become effective for purposes of Subsection A.1 of this Section on the date the Department of Defense publishes notice in the Federal Register that the shipping controls referenced in Subsection A.1.b of this Section have been amended.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1756 (September 1998).

§5307. Standards Applicable to Emergency Responses

Explosives and munitions emergencies involving military munitions or explosives are subject to LAC 33:V.1101.H, 1301.G, 1501.7.a, and 4307, or alternatively to LAC 33:V.701.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1757 (September 1998).

§5309. Standards Applicable to the Storage of Solid Waste Military Munitions

A. Criteria for Hazardous Waste Regulation of Waste Non-Chemical Military Munitions in Storage

1. Waste military munitions in storage that exhibit a hazardous waste characteristic or are listed as hazardous waste under LAC 33:V.Chapter 49 are listed or identified as a hazardous waste (and thus are subject to regulation under LAC 33:V.Subpart 1), unless all the following conditions are met:

a. the waste military munitions are not chemical agents or chemical munitions;

b. the waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB);

c. the waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions;

d. within 90 days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the administrative authority of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in Subsection A.1 of this Section is claimed;

e. the owner or operator must provide oral notice to the administrative authority within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section;

f. the owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of Subsection A.1 of this Section, and must maintain records of the findings of these inventories and inspections for at least three years; and

g. access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

2. The conditional exemption in Subsection A.1 of this Section from regulation as hazardous waste shall apply only to the storage of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to transportation, treatment or disposal.

3. The conditional exemption in Subsection A.1 of this Section applies only so long as all of the conditions in Subsection A.1 of this Section are met.

B. Notice of Termination of Waste Storage. The owner or operator must notify the administrative authority when a storage unit identified in Subsection A.1.d of this Section will no longer be used to store waste military munitions.

C. Reinstatement of Conditional Exemption. If any waste military munition loses its conditional exemption under Subsection A.1 of this Section, an application may be filed with the administrative authority for reinstatement of the conditional exemption from hazardous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of Subsection A.1 of this Section. If the administrative authority finds that reinstatement of the conditional exemption is appropriate based on factors such as the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation or a demonstration that the violations are not likely to recur, the administrative authority may reinstate the conditional exemption under Subsection A.1 of this Section. If the administrative authority does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement shall be deemed granted, retroactive to the date of the application. However, the administrative authority may terminate a conditional exemption reinstated by default in the preceding sentence if he/she finds that reinstatement is inappropriate based on factors such as the owner's or operator's failure to provide a satisfactory explanation of the circumstances of the violation or failure to demonstrate that the violations are not likely to recur. In reinstating the conditional exemption under Subsection A.1 of this Section, the administrative authority may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.

D. Waste Chemical Munitions

1. Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under LAC 33:V.Chapter 49 are listed or identified as a hazardous waste and shall be subject to the applicable regulatory requirements of RCRA subtitle C.

2. Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under LAC 33:V.Chapter 49 are not subject to the storage prohibition in RCRA section 3004(j), codified at LAC 33:V.2205.

E. Amendments to DDESB Storage Standards. The DDESB storage standards applicable to waste military munitions, referenced in Subsection A.1.c of this Section, are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the

DDESB storage standards shall become effective for purposes of Subsection A.1 of this Section on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in Subsection A.1 of this Section have been amended.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1757 (September 1998).

§5311. Standards Applicable to the Treatment and Disposal of Waste Military Munitions

The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in LAC 33:V.Subpart 1.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1758 (September 1998).

H.M. Strong
Assistant Secretary

9809#036

RULE

Department of Environmental Quality Office of Waste Services Hazardous Waste Division

Universal Waste
(LAC 33:V.105, 305, 1501, 2201 and Chapter 38)
(HW059)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste Division regulations, LAC 33:V.Chapters 1, 3, 15, 22, and 38 (HW059).

This rule will allow waste antifreeze and fluorescent lamps to be handled as universal wastes rather than hazardous wastes. As this change will facilitate recycling, regulating these items as universal wastes is more cost-effective and environmentally beneficial. The basis for this rule is to utilize LAC 33:V.Chapter 38. The rationale is to improve implementation of the hazardous waste program by regulating potentially hazardous waste antifreeze and fluorescent lamps as universal wastes instead of as hazardous wastes. This is expected to improve the management practices for these wastes by increasing the likelihood that the wastes will be diverted from nonhazardous and hazardous waste management systems to recycling.

This rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

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

* * *

[See Prior Text in A-D.7.a]

- b. pesticides as described in LAC 33:V.3805;
- c. thermostats as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809; and
- e. antifreeze as described in LAC 33:V.3811.

* * *

[See Prior Text in D.8-O.2.c.vi]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:1093 (June 1998), LR 24:1759 (September 1998).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§305. Scope of the Permit

* * *

[See Prior Text in A-C.11.a]

- b. pesticides as described in LAC 33:V.3805;
- c. thermostats as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809; and
- e. antifreeze as described in LAC 33:V.3811.

* * *

[See Prior Text in C.12-G.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1105 (June 1998), 24:1759 (September 1998).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A-C.11.a]

- b. pesticides as described in LAC 33:V.3805;
- c. thermostats as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809; and
- e. antifreeze as described in LAC 33:V.3811; or

12. LAC 33:V.5309 identifies when the requirements of this Chapter apply to the storage of military munitions classified as solid waste under LAC 33:V.5303. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in LAC 33:V.Subpart 1.

* * *

[See Prior Text in D-G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1759 (September 1998).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A-I.5.a]

- b. pesticides as described in LAC 33:V.3805;
- c. thermostats as described in LAC 33:V.3807;
- d. lamps as described in LAC 33:V.3809; and
- e. antifreeze as described in LAC 33:V.3811.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:1107 (June 1998), LR 24:1759 (September 1998).

Chapter 38. Universal Wastes

Subchapter A. General

§3801. Scope and Applicability

A. This Chapter establishes requirements for managing batteries, pesticides, thermostats, lamps, and antifreeze as described in LAC 33:V.3813. This Chapter provides an alternative set of management standards in lieu of regulations under LAC 33:V.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17, 18, 19,

21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 37, 39, 40, 41, 43, 49, and 51.

* * *

[See Prior Text in B - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 24:1496 (August 1998), LR 24:1759 (September 1998).

§3809. Applicability—Lamps

A. Lamps Covered Under this Chapter. The requirements for this Chapter apply to persons managing lamps as described in LAC 33:V.3813, except those listed in Subsection B of this Section.

B. Lamps Not Covered Under this Chapter. The requirements of this Chapter do not apply to persons managing the following lamps:

1. lamps, as described in LAC 33:V.3813, that are not yet wastes under LAC 33:V.4901, including those that do not meet the criteria for waste generation in Subsection C of this Section; and

2. lamps, as described in this Chapter, that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Lamps

1. A used lamp becomes a waste on the date it is discarded (i.e., sent for reclamation).

2. An unused lamp becomes a waste on the date the handler decides to discard it.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998).

§3811. Applicability—Antifreeze

A. Antifreeze Covered Under this Chapter. The requirements for this Chapter apply to persons managing antifreeze as described in LAC 33:V.3813, except those listed in Subsection B of this Section.

B. Antifreeze Not Covered Under this Chapter. The requirements of this Chapter do not apply to persons managing the following antifreeze:

1. antifreeze, as described in LAC 33:V.3813, that is not yet a waste under LAC 33:V.4901, including those that do not meet the criteria for waste generation in Subsection C of this Section; and

2. antifreeze, as described in this Chapter, that is not yet a hazardous waste. Antifreeze is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Antifreeze

1. Used or unused antifreeze becomes a waste on the date it is discarded (e.g., when sent for reclamation).

2. Waste antifreeze is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998).

§3813. Definitions

Antifreeze—an ethylene glycol based mixture that lowers the freezing point of water and is used as an engine coolant.

* * *

[See Prior Text]

Lamp—the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet (UV), visible, and infra-red (IR) regions of the electromagnetic spectrum. Examples of common electric lamps include, but are not limited to, incandescent, fluorescent, high intensity discharge, and neon lamps.

Large Quantity Handler of Universal Waste—a universal waste handler (as defined in this Section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, thermostats, lamps, or antifreeze, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

Mercury-Containing Lamp—an electric lamp in which mercury is purposely introduced by the manufacturer for the operation of the lamp.

* * *

[See Prior Text]

Small Quantity Handler of Universal Waste—a universal waste handler (as defined in this Section) who does not accumulate more than 5,000 kilograms total of universal waste (batteries, pesticides, thermostats, lamps, or antifreeze, calculated collectively) at any time.

* * *

[See Prior Text]

Universal Waste—any of the following hazardous wastes that are subject to the universal waste requirements of this Chapter:

1. batteries as described in LAC 33:V.3803;
2. pesticides as described in LAC 33:V.3805;
3. thermostats as described in LAC 33:V.3807;
4. lamps as described in LAC 33:V.3809; and
5. antifreeze as described in LAC 33:V.3811.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:570 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998).

Subchapter B. Standards for Small Quantity Handlers of Universal Waste

§3821. Waste Management

* * *

[See Prior Text in A-C.3.b]

D. Universal Waste Lamps. A small quantity handler of universal waste must manage universal waste lamps in a way

that prevents releases of any universal wastes or a component of any universal waste to the environment, as follows:

1. a small quantity handler of universal waste must contain unbroken lamps in packaging that will minimize breakage during normal handling conditions; and

2. a small quantity handler of universal waste must contain broken lamps in packaging that will minimize the releases of lamp fragments and residues.

E. Universal Waste Antifreeze. A small quantity handler of universal waste must manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze must be contained in one or more of the following:

1. a container that remains closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Subsection E.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection E.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.1915.C; or

4. a transport vehicle or vessel that is closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:571 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998).

§3823. Labeling/Marking

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

* * *

[See Prior Text in A.1-4]

5. universal waste lamps (i.e., each lamp), or a container in which the lamps are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Lamps," or "Waste Lamps," or "Used Lamps;"

6. universal waste antifreeze, or a container in which the antifreeze is contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Antifreeze," or "Waste Antifreeze," or "Used Antifreeze."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:572 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998).

Subchapter C. Standards for Large Quantity Handlers of Universal Waste

§3841. Notification

* * *

[See Prior Text in A-B.3]

4. a list of all of the types of universal waste managed by the handler (e.g, batteries, pesticides, thermostats, lamps, antifreeze); and

5. a statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g, batteries, pesticides, thermostats, lamps, antifreeze) the handler is accumulating above this quantity.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998).

§3843. Waste Management

* * *

[See Prior Text in A-C.3.b]

D. Universal Waste Lamps. A large quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a large quantity handler of universal waste must contain unbroken lamps in packaging that will minimize breakage during normal handling conditions; and

2. a large quantity handler of universal waste must contain broken lamps in packaging that will minimize the releases of lamp fragments and residues.

E. Universal Waste Antifreeze. A large quantity handler of universal waste must manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze must be contained in one or more of the following:

1. a container that remains closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Subsection E.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection E.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.Chapter 19, except for LAC 33:V.1915.C;

4. a transport vehicle or vessel that is closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998).

§3845. Labeling/Marking

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

* * *

[See Prior Text in A.1-4]

5. Universal waste lamps (i.e., each lamp), or a container in which the lamps are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Lamps," or "Waste Lamps," or "Used lamps."

6. Universal waste antifreeze, or a container in which the antifreeze is contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Antifreeze," or "Waste Antifreeze," or "Used Antifreeze."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:575 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998).

§3855. Tracking Universal Waste Shipments

* * *

[See Prior Text in A-A.1]

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, lamps, antifreeze); and

* * *

[See Prior Text in A.3-B.1]

2. the quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats, lamps, antifreeze); and

* * *

[See Prior Text in B.3-C.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:576 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1762 (September 1998).

Subchapter E. Standards for Destination Facilities

§3877. Tracking Universal Waste Shipments

* * *

[See Prior Text in A-A.1]

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, lamps, antifreeze); and

* * *

[See Prior Text in A.3-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 23:578 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1762 (September 1998).

H. M. Strong
Assistant Secretary

9809#021

RULE

Louisiana Lottery Corporation

On-Line Lottery Games (LAC 42:XV.105)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et

seq., has amended the rules and regulations pertaining to the operations of on-line lottery games, in particular LAC 42:XV.105, to allow the Louisiana Lottery Corporation to offer the following on-line lottery games: "Cash Quest" and "Pick 4."

Title 42

LOUISIANA GAMING

Part XV. Lottery

Chapter 1. On-Line Lottery Games

§105. General Provisions

A. These game rules authorize the corporation to offer the following on-line lottery games.

1. Pick 3 Daily Game. An on-line numbers game permitting a player to choose a three-digit number, the winner being determined by a drawing.

2. Lotto. An on-line lotto game permitting a player a choice of six numbers out of a specified field of numbers, the winner being determined by a drawing.

3. Easy 5. An on-line lotto game permitting a player a choice of five numbers out of a specified field of numbers, the winner being determined by a drawing.

4. Cash Quest. An on-line lotto game providing a player multiple sets of four numbers out of a specified field of numbers, the winner being determined by a drawing.

5. Pick 4 Game. An on-line numbers game permitting a player to choose a four-digit number, the winner being determined by a drawing.

B. Introduction of a new on-line lottery game may only be accomplished by amendment of these game rules to include the game as an authorized game. These game rules shall apply to the on-line lottery games listed in this Section. The detailed information regarding each on-line game will be contained in a game directive promulgated by the president. The game directive must be signed by the president prior to the start of the game. Each game directive will be distributed and posted at every corporation office and will be available for public inspection during the sales period of the particular game.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on October 22, 1992 and promulgated in *The Advocate* November 3, 1992, amended October 21, 1994, promulgated in *The Advocate* October 28, 1994, repromulgated LR 23:63 (January 1997), amended LR 24:1762 (September 1998).

Charles R. Davis
President

9809#077

RULE

**Office of the Governor
Office of Elderly Affairs**

Adult Protective Services for
the Elderly (LAC 4:VII.1239)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) hereby amends §1239, "Adult Protective Services for the Elderly," effective September 20, 1998. The purpose of this rule change is to improve the efficiency of program operations and clarify

existing policy. The rule change will (1) identify Elderly protective Services as the agency statutorily authorized to protect the elderly as opposed to Adult Protective Services; (2) update definitions to conform to current statutory language in related legislation; and (3) create a policy for Complaints against Elderly Protective Services. This rule complies with LA R.S. 14:403.2.

**Title 4
ADMINISTRATION**

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter D. Service Provider Responsibilities

§1239. Adult Protective Services for the Elderly

A. Overview of Elderly Protective Services

1. Purpose. The purpose of Elderly Protective Services (EPS) is to protect adults who cannot physically or mentally protect themselves and who are harmed or threatened with harm through action or inaction by themselves or by the individuals responsible for their care or by other persons.

2. Goal and Objectives

a. The goal of Elderly Protective Services is to assure that adults in need of protection are able to maintain the highest quality of life in the least restrictive environment appropriate to their individual capabilities and life style and wishes.

b. The objectives of Elderly Protective Services are:

i. - v. ...

3. Philosophy

a. The following principles are basic to the delivery of Elderly Protective Services:

i. - ii. ...

iii. a client has the right to make decisions on his/her own behalf unless it is clearly evident to EPS that he/she is unable to do so, or until the court grants that responsibility to another individual;

iv. ...

4. Client Rights

a. The elderly protective services client, if mentally able, has the right to:

i. - iv. ...

v. withdraw from or refuse consent for protective services if the law has not been broken and the elderly client has the capacity to refuse services.

5. Framework for Elderly Protective Services

a. The principles of family based services provide the framework for elderly protective services. Family based services are designed to provide the maximum services to a family at the time of crisis to prevent the breakup of the family unit. This approach to the delivery of social services focuses on families rather than individuals. Services in this context are intended to strengthen and maintain families and prevent family dissolution and out of home placement of the adult.

b. Elderly protective services assist families in regaining or maintaining family autonomy while at the same time assuring the protection of individuals.

c. ...

6. Definitions

Abandonment—the withdrawal of support, care, or responsibility for an elderly adult without intending to return.

Abuse—the infliction of physical or mental injury on an adult by other parties including, but not limited to, such means as sexual abuse, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered.

Adult—any individual eighteen years of age or older or an emancipated minor.

Capacity to Consent—the ability to understand and appreciate the nature and consequences of making decisions concerning one's person, including but not limited to provisions for health or mental health care, food, shelter, clothing, safety, or financial affairs. This determination may be based on assessment or investigative findings, observation, or medical or mental health evaluations.

Caregiver—any person or persons, either temporarily or permanently responsible for the care of an elderly person.

Caregiver Neglect—the inability or unwillingness of the caregiver to provide for basic needs (food, clothing, medicine, etc.) of an elderly person.

Collateral ...

Coordinating Counsel—according to R.S. 14:403.2 EPS is to form regional coordinating counsels to maximize community input into program operations.

Curator (Guardian) ...

Elderly ...

Elderly Protection Agency—the Office of Elderly Affairs in the Office of the Governor (GOEA) for any individual sixty years of age or older in need of elderly protective services as provided in this Section. The Department of Health and Hospitals is the Adult Protection Agency for any individual between the ages of eighteen and fifty-nine years of age in need of adult protective services as provided in this Section.

Exploitation—the illegal or improper use or management of an elderly person's assets, or property, or the use of an elderly person's power of attorney or guardianship for one's own profit or advantage.

Extortion ...

Incompetency ...

Interdict (Ward) ...

Interdiction (Guardianship)—a judicial proceeding which authorizes a court, upon petition, to appoint a curator (guardian) for a person found to be incapable of managing his/her person, estate, or property because of mental deficiency, deviation or physical infirmity. (In accordance with the Civil Code Articles 389-426.)

Neglect ...

Physical Abuse ...

Protective Services—include but are not limited to:

i. conducting investigations and assessments of complaints of possible abuse, neglect, or exploitation to determine if the situation and condition of the adult warrant further action;

- ii. preparing a social services plan utilizing community resources aimed at remedying abuse, neglect, and exploitation;
- iii. case management to assure stabilization of the situation;
- iv. referral for legal assistance to initiate any necessary extrajudicial remedial action.

Provisional Curator—an individual appointed by the court to manage the affairs and/or person of the interdict. The authority of the provisional curator expires thirty days after the date of appointment or when a curator is appointed. (In accordance rev Civil code Articles 389-426.)

Regional Office—one of the seven (7) EPS Region offices located throughout the state. Region 1, New Orleans; Region 2, Baton Rouge; Region 3, Lafayette; Region 4, Lake Charles; Region 5, Alexandria; Region 6, Monroe; Region 7, Shreveport.

Self-Neglect—the failure, either by the adult's action or inaction, to provide the proper or necessary support or medical, surgical or any other care necessary for his/her own well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall for that reason alone be considered to be self-neglected.

Sexual Abuse ...

7. Legal Basis

a. R.S. 14:403.2 provides the statutory authority for elderly protective services. The intent of the law is to authorize the least possible restriction on the exercise of personal and civil rights consistent with the adult's need for services and to require that due process be followed in imposing such restrictions.

b. The major areas covered by R.S. 14:403.2 include:

i. Responsibilities of the Elderly Protection Agency—GOEA is responsible for the provision of elderly protective services to persons age 60 or older. These services shall include a prompt investigation and assessment;

ii. - iii. ...

iv. Consent to Service—Protective services may not be provided in cases of self neglect to any adult who does not consent to such service or who, having consented, withdraws such consent based on the functional capacity of the individual.

B. Confidentiality

1. For purposes of elderly protective services, confidentiality is defined as the protection of social and other information concerning an adult, his/her family and his/her situation which is disclosed to the EPS program/worker by the elder, the reporter and/or collaterals. The intent of confidentiality is to prevent information and/or records concerning an elder from being released to persons who have no legitimate need for or right to such information and/or records.

2. When making a determination regarding release of the elderly case information, the following criteria shall be considered:

a. has the elder, or his/her legally authorized representative consented to the release of the information;

b. ...

c. if the elder lacks the capacity to consent and has no legally authorized representative, will the release of the information directly benefit the adult, facilitate treatment, or prevent or ameliorate the abuse/neglect/exploitation problem?

3. If the answer to any of the questions in Paragraph 2 of this Subsection is yes, the information may be released. If there are any questions regarding whether information should be released, the information shall not be released without supervisory and/or legal consultation with the GOEA staff attorney.

4. ...

C. Intake

1. ...

2. Eligibility for Elderly Protective Services. To be eligible to receive protective services through GOEA the adult must be:

a. - b. ...

c. alleged to be unable to provide for his/her own well being which results in danger to his/her own health and/or safety; and/or

d. alleged to be unable to protect him/herself from abuse/neglect/financial exploitation.

3. Types of Abuse/Neglect Accepted for Investigation

a. - f. ...

g. Abandonment.

4. - 6.a. ...

b. Subsequent. A report of another incident of abuse/neglect involving the same adult while the case is open which alleges a type of abuse/neglect different from the Initial Report. The EPS worker responsible for the case shall investigate all Subsequent Reports as if they were Initial Reports.

6.c. - d. ...

7. Nonacceptance of a Report

a. When a report is not accepted for investigation, the EPS worker shall advise the reporter of the reason for nonacceptance and will provide the following, as appropriate:

i. - ii. ...

ii. referral to a law enforcement agency or to the district attorney;

iii. referral to the appropriate agency for investigation if the client is not within the jurisdiction of the EPS program.

b. ...

D. Investigation Procedures

1. Priorities for Investigation of Cases. Cases accepted for investigation shall be prioritized as high, medium and low according to the severity of factors of abuse/neglect based on information provided by the reporter and other sources. The priority level of the case determines the time frame and agency commitment of staff and resources for the investigation. Investigation of low and medium priority cases may be limited if all EPS workers in a regional office have 35 active cases in any one month period.

2. - 3.c. ...

4. Determination of Appropriate EPS Regional Office to Investigate the Report.

a. The EPS Regional Office responsible for the investigation shall be the one which serves the parish in which the adult normally resides.

b. If the adult's residence changes to another region before completion of the investigation, the original EPS worker will be responsible for the case unless it is determined that distances between offices are too great.

5. - 6. ...

7. Report to the District Attorney. A report shall be sent to the district attorney on all cases where it appears after investigation that an adult has been abused and neglected by a third party or parties and that the problem cannot be remedied by EPS through extrajudicial means. A list of services which are available to ameliorate the abuse and neglect situation shall be provided in the report. Such reports shall be reviewed and approved by the EPS Program Manager or his/her designee prior to referral.

8. Exceptions to EPS Investigation Procedures.

a.i. ...

ii. Licensed and Certified Nursing Facilities (includes all Title XIX Facilities). Allegations of abuse/neglect of an adult who resides in a nursing facility shall not be accepted for investigation except as provided below. Reporters will be referred to the Department of Health and Hospitals, Bureau of Health Standards, Baton Rouge, LA and/or to the State Long Term Care Ombudsman Program. The exception to this rule is in cases where a resident of a nursing facility is alleged to be abused or exploited by someone visiting the facility or while visiting outside the facility.

iii. ...

b. Accepted for investigation:

i. Adult Residential Care Home. Allegations of abuse/neglect of an adult who resides in a board and care home will not be accepted for investigation. Such reports should also be reported to the Department of Social Services, Division of Licensing, and the State Long-Term Care Ombudsman Program.

E.1. ...

2. Service Plan

a. Development. The service plan is the basis for the activities that the EPS worker and service providers will undertake. The focus of the service plan is time limited and it is expected that involvement of the EPS worker in the case will not exceed three months. Therefore, time frames for service delivery which require EPS worker participation should take this limitation into consideration.

b. ...

F. Complaints Against Elderly Protective Services (EPS)

1. For purposes of this policy the following definitions apply:

a. *Complaint*—any allegation of wrongdoing of misconduct by EPS. Complaints may be submitted orally or in writing.

b. *Misconduct*—any action by an Elderly Protective Services Investigator which is considered detrimental to the welfare of an elderly person that is in violation of laws and regulations that govern the EPS Program, including Section

721 of the Older Americans Act, LA R.S. 14:403.2 et seq., and LAC 4:VII.1229.

Any complaint or allegation of misconduct should be referred to the EPS Regional Supervisor who will subsequently investigate these complaints. Following the Regional Supervisor's investigation of said complaint, the information will be forwarded to the EPS Director for review and disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:327 (March 1993), amended LR 20:543 (May 1994), LR 24:1763 (September 1998).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9809#047

RULE

Office of the Governor Office of Elderly Affairs

Long Term Care Assistance
Program (LAC 4:VII.1237)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) hereby amends §1237, "Long Term Care Assistance Program," effective September 20, 1998. The purpose of this rule change is to modify §1237.E to specify how the benefits paid to program participants shall be established. This rule complies with R.S. 40:2802.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter D. Service Provider Responsibilities

§1237. Long Term Care Assistance Program

A. - D.2.d. ...

E. Program Benefits

1. In accordance with R.S. 40:2802(c), the benefits under the program shall be established by the Commissioner of Administration, with an upper limit of \$350 per participant per month. The rate shall be set by the Commissioner with oversight by the Senate and House Committee on Health and Welfare, through rules and regulations.

E.2. - F.2. ...

G. Eligibility Determinations

1. The agency shall provide written notification to each applicant found to be ineligible within thirty (30) days of receipt of application.

2. Those applicants found to be eligible will begin receiving reimbursements within thirty (30) days of receipt of application.

3. Prior to making a final determination, the agency shall return applications which are incomplete or questionable (e.g., expenses reported exceed all income) for additional information.

4. Redetermination of Eligibility

a. If an applicant is determined ineligible for benefits under this program because (s)he does not meet the requirements in §1237.D.1, and the applicant's circumstances change, the applicant may reapply in accordance with §1237.F.

b. A redetermination of eligibility for this program shall be made based upon the current financial status of the applicant.

H.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November 1992), amended LR 19:627 (May 1993), LR 24:1765 (September 1998).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9809#048

RULE

**Office of the Governor
Office of Elderly Affairs**

Senior Community Service
Employment Program (LAC 4:VII.1231)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) hereby amends §1231 of the GOEA Policy Manual effective August 20, 1998. The purposes of this amendment are: to redefine the terms for participation in the Older Americans Act Senior Community Service Employment Program; to redefine enrollment priorities and benefits to participants; and to establish the goal for placement at 20 percent of the number of enrollees. This rule complies with Title V of the Older Americans Act (Sections 501-508).

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter D. Service Provider Responsibilities

§1231. Senior Community Service Employment Program

A. ...

B. Program Administration. This program is funded by the U.S. Department of Labor. The Governor's Office of Elderly Affairs administers the program in the southeastern portion of Louisiana through three subgrantees. The balance of the state is served under the administration of seven national contractors:

1. Green Thumb;
2. the National Council on Aging;
3. the National Council of Senior Citizens;
4. the National Association of Hispanic Elderly;
5. the U.S. Forest Service;
6. the American Association of Retired Persons; and
7. the National Indian Council on Aging.

Slots are distributed by parish according to an equitable distribution formula. All organizations administering the Senior Community Service Employment Program are expected to comply with the distribution formula. The formula was developed by the sponsoring organizations and is reviewed annually by that group.

C. Definitions

* * *

Grantee—an eligible organization which has entered into an agreement with the U.S. Department of Labor.

Host Agency—a public agency or a private non-profit organization, other than a political party or any facility used or to be used as a place for sectarian religious instruction or worship and is exempt under 501(c)(3) of IRS Code, which provides a work site and supervision for an enrollee.

Subgrantee—an eligible organization which has a contractual agreement with the grantee to deliver services on the local level. Potential providers are required to show proof of IRS classification 501(c)(3).

* * *

D. Eligible Applicants for Subgrantee Status

1. - 7. ...

E. Application Procedure. Organizations must submit an application in the form designated by the grantee to be considered for subgrantee status.

F. Program Description

1. Enrollees are selected according to income guidelines, residence and age. Enrollment priorities shall be:

- a. eligible individuals with greatest economic need;
- b. eligible individuals age 60 and older; and
- c. eligible individuals seeking re-enrollment.

2. Enrollees shall be offered a physical examination prior to participation in the program. Physical examinations are furnished at no cost to the enrollees and are offered only as a fringe benefit. When an enrollee objects to a physical examination, a written statement or waiver must be properly documented and signed.

3. As soon as possible after completion of enrollee's orientation and training, the subgrantee, in conjunction with the grantee, shall assign the enrollee to useful part-time community service employment in non-profit host agency. Subgrantees shall continually work toward placing enrollees in unsubsidized employment, thereby creating additional opportunities for persons to enroll. The goal for placement is 20 percent of the number of enrollees.

4. ...

5. Enrollees shall not be required to work more than 20 hours during one week. Shorter hours may be authorized by the subgrantee by means of a written agreement with the enrollee.

6. ...

7. Community service employment of an enrollee shall not result in the displacement of currently employed workers.

G. Monitoring of the Governor's Office of Elderly Affairs Subgrantees

1. Subgrantees funded through the Governor's Office of Elderly Affairs shall submit monthly and/or quarterly program reports to the Governor's Office of Elderly Affairs by the 10th working day of each month. Reports shall reflect current

enrollment, placements, follow-ups and include a narrative description of activities conducted during the month.

2. Monthly financial reports shall be submitted by the subgrantee in the form designated by the Governor's Office of Elderly Affairs.

3. The Governor's Office of Elderly Affairs shall conduct biennial assessments to ensure that its subgrantees are performing in accordance with Senior Community Service Employment Program rules and regulations.

H. Project Termination. The grantee has the authority to terminate any of its contracts with a subgrantee which is not operating in accordance with Senior Community Service Employment Program rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 501, 20 CFR Part 674 and 20 CFR Part 89.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 24:1766 (September 1998).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9809#049

RULE

Department of Health and Hospitals Office of Public Health

Public Water System Capacity Development (LAC 48:V.7707-7719)

Under the authority of the Act to amend and reenact R.S. 40:4(A)(8) and 5.8 relative to the State Sanitary Code, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has adopted the Drinking Water Capacity Development regulations, LAC 48:V.Chapter 77, Subchapter B.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

Subpart 25. Drinking Water

Chapter 77. Drinking Water Program

Subchapter B. Public Water System Capacity Development

§7707. Introduction

A. The Department of Health and Hospitals, Office of Public Health (OPH) is the state agency within Louisiana granted primary enforcement responsibility from the United States Environmental Protection Agency (USEPA) to ensure that Public Water Systems (PWSs) within the state are in compliance with state drinking water regulations which are as stringent or more stringent than federal drinking water regulations adopted in accordance with the Safe Drinking Water Act (SDWA) (42 U.S.C. 300f et seq.). The SDWA Amendments of 1996 authorized the State to develop and implement a Capacity Development strategy for new public water systems, public water systems applying for Drinking

Water State Revolving Fund (SRF) monies, and existing public water systems to assess and ensure that such systems acquire and maintain technical, managerial, and financial capacity to facilitate compliance with and further the health protection objectives of the SDWA.

B. In accordance with the Louisiana Constitution and authorizing legislation, regulations governing Public Water System Capacity Development are promulgated by OPH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1767 (September 1998).

§7709. Authority

Act 814 of the 1997 Regular Session of the Louisiana Legislature amended and reenacted R.S. 40:4(A)(8) and 5.8, relative to the State Sanitary Code; to require the state health officer to provide for a strategy for public water systems to comply with federal and state drinking water regulations; to define types of public water systems; and to provide for related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1767 (September 1998).

§7711. Definitions

The following terms used in these regulations shall have the following meanings:

Business Plan—includes, but not limited to, an explanation of the assets of the system, the service area's basic needs, how these needs are to be addressed, and how the system is going to operate and sustain itself over time.

Committee of Certification—the committee created by LSA-R.S. 40:1141 through 1151, responsible for certification of public water system operators.

Community Water System—a public water system that serves year-round residents within a residential setting.

Department—the Office of Public Health (OPH) of the LA Department of Health and Hospitals (DHH).

Financial Capacity—relates to, but not limited to, revenue sufficiency, credit worthiness, and fiscal management and controls.

Managerial Capacity—relates to, but not limited to, ownership accountability, staffing and organization, and effective external linkages.

Non-Transient Non-Community Water System—a public water system that is not a community system and regularly serves at least 25 of the same persons (non-residents) over six months per year.

Operator—the individual(s), as determined by the State, who is in attendance, onsite at a public water system and whose performance, judgment and direction affects either the safety, sanitary quality or quantity of water treated or delivered.

Public Water System—a system intended to provide potable water to the public, which system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days per year. The term includes:

a. any collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system; and

b. any collection or pre-treatment storage facilities not under such control which are used primarily in connection with the system.

State—the state of Louisiana or any agency or instrumentality thereof.

State Health Officer—the assistant secretary of the Department of Health and Hospitals and/or his authorized representative.

Technical Capacity—relates to, but not limited to, source water adequacy, infrastructure adequacy, and technical knowledge and implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1767 (September 1998).

§7713. New Systems

A. Business Plan. All community and non-transient non-community public water systems wanting to commence operation after January 1, 1999 shall be required to submit a Business Plan to the Department to aid in the Department's determination of technical, managerial and financial capacity. Required information for the Business Plan shall be provided by the Department.

B. Operator Requirements. All such prospective public water systems meeting the population requirements to require a certified operator must have an operator who holds a certificate in the appropriate classes(es) of certification for the population served by the system. The system must have an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Any such prospective public water system not meeting the population requirements at the time of request to commence operation must have an operator who has had at least sixteen (16) hours of operator training which meets the guidelines of the State Committee of Certification, and must have at least sixteen (16) hours of continuing training yearly. The system must provide such an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Such requirement for systems not meeting the population requirements for a certified operator shall remain in effect until such time as the United States Environmental Protection Agency (USEPA) requires that all public water systems have certified operators or the State requires same, whichever occurs first. At such time, the then current requirements would be applied.

C. Management Training. As a part of meeting the managerial capacity requirements, all such new public water systems wanting to commence operation after January 1, 1999, must make arrangements to attend the next scheduled training session provided by the State for Board Members/Council Members/Mayors, Owners, etc. Such arrangements shall be made upon making application to the Department for approval to commence operation.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

E. Approval for Operation. After January 1, 1999, written approval to commence operation for such new public water systems will be given by the Department only after the Department is satisfied that technical, managerial, and financial capacity requirements are being met, in addition to all other applicable regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1768 (September 1998).

§7715. Systems Applying For Drinking Water Revolving Loan Fund (DWRLF) Monies

A. Business Plan. Beginning with Federal Fiscal Year 98 (FFY98) Capitalization Grant Monies (DWRLF Monies), all public water systems applying for such monies must submit a Business Plan with the final application packet to the Department to aid in the Department's determination of technical, managerial, and financial capacity. Required information for the Business Plan shall be provided by the Department.

B. Operator Requirements. All such public water systems meeting the population requirements to require a certified operator must have an operator who holds a certificate in the appropriate classes(es) of certification for the population served by the system. The system must have an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Any such public water system not meeting the population requirements at the time of application for DWRLF monies must have an operator who has had at least sixteen (16) hours of operator training which meets the guidelines of the State Committee of Certification, and must have at least sixteen (16) hours of continuing training yearly. The system must provide such an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Such requirement for systems not meeting the population requirements for a certified operator shall remain in effect until such time as the United States Environmental Protection Agency (USEPA) requires that all public water systems have certified operators or the State requires same, whichever occurs first. At such time, the then current requirements would be applied.

C. Financial Capacity. In addition to any financial information required in the Business Plan, the public water system must meet all financial requirements of the Department of Environmental Quality (DEQ), the financial administrator for the Drinking Water Revolving Loan Fund (DWRLF).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1768 (September 1998).

§7717. Existing Systems

A. Business Plan. All existing public water systems shall be required to submit a Business Plan to the Department to aid in the Department's determination of technical, managerial, and financial capacity. Required information for the Business Plan will be provided by the Department. Such plan must be

submitted to the Department within six (6) months after the initial visit by the designated party of the State who is providing assistance to the public water system in preparation of the business plan.

B. Operator Requirements. All such public water systems meeting the population requirements to require a certified operator must have an operator who holds a certificate in the appropriate classes(es) of certification for the population served by the system. The system must have an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Any such public water system not meeting the population requirements at the time of submission of the business plan must have an operator who has had at least sixteen (16) hours of operator training which meets the guidelines of the State Committee of Certification, and must have at least sixteen (16) hours of continuing training yearly. The system must provide such an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Such requirement for systems not meeting the population requirements for a certified operator shall remain in effect until such time as the United States Environmental Protection Agency (USEPA) requires that all public water systems have certified operators or the State requires same, whichever occurs first. At such time, the then current requirements would be applied.

C. Management Training. As a part of meeting the managerial capacity requirements, all appropriate staff of existing public water systems shall attend a training session provided by the State for Board Members, Council Members/Mayors/Owners, etc. Training sessions shall be provided periodically and appropriate parties as noted above must attend one of the scheduled sessions within six (6) months after the system has been notified that it is being evaluated for technical, managerial, and financial capacity.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1768 (September 1998).

§7719. Miscellaneous

A. Evaluations. Evaluations to determine technical, managerial, and financial capacity will be conducted in accordance with a developed strategy prepared by the Department and for which approval has been given by USEPA.

B. Coordination. Implementation of the strategy will be coordinated between the Department staff and contracting parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1769 (September 1998).

David W. Hood
Secretary

9809#069

RULE

Department of Public Safety and Corrections Board of Private Investigator Examiners

Apprentice Licensing (LAC 46:LVII.512)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505(B)(1), the Department of Public Safety and Corrections, State Board of Private Investigator Examiners, hereby amends LAC 46:LVII.512.B and C.1 pertaining to licensing of apprentice private investigators.

This rule and regulation is an amendment to the initial rules and regulations promulgated by the State Board of Private Investigator Examiners.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LVII. Private Investigator Examiners

Chapter 5. Application, Licensing, Training, Registration and Fees

§512. Licensing of Apprentices

* * *

B. An apprentice license shall be effective for one year only; and the apprentice shall operate as a private investigator only under the immediate direction, control and supervision of the sponsoring agency during that time.

C.1. The sponsoring agency shall be directly responsible for the supervising and training of the apprentice.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(A)(3) and (B)(1); and R.S. 37:3514(A)(4)(a).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 22:459 (June 1996), amended LR 24:1769 (September 1998).

Linda F. Magri
Chairman

9809#011

RULE

Department of Public Safety and Corrections Office of Motor Vehicles

Compulsory Liability Insurance (LAC 55:III.Chapter 17) (Repeal of LAC 37:VII.125 and 127)

The Department of Public Safety and Corrections, Office of Motor Vehicles hereby adopts new rules relating to notification of the initiation, termination, or modification of liability security pursuant to R.S. 32:863.2, and hereby repeals the existing rules contained in LAC 37:VII.125 and 127. These rules implement the significant change in the reporting period for liability insurance information from 45 days to 15 working days. These rules also contain the only acceptable reporting method for compliance in accordance with R.S. 32:861-866.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

Chapter 17. Compulsory Insurance

Subchapter B. Reporting of Initiation and any Subsequent Change in Insurance Coverage

§1751. Definitions

As used in this subchapter, the following terms have the meanings described below.

Business Days—Monday through Friday, between 8:00 a.m. and 4:30 p.m. central time. Business days do not include Saturdays, Sundays, or state holidays, or any additional holidays which may be declared by the governor.

Change in Coverage—shall be considered either an initiation of coverage or a termination of coverage based on the nature of the change. The addition of a vehicle shall be considered an initiation of coverage. The deletion of a vehicle shall be considered a termination of coverage. The replacement of a covered vehicle with another vehicle shall be considered both a termination of coverage for the replaced vehicle and an initiation of coverage for the replacement vehicle. Changes in coverage not related to the vehicle should not be reported.

Department—Department of Public Safety and Corrections, Office of Motor Vehicles.

Edit Error—a record submitted by an insurance company or servicing agent unacceptable for filing purposes due to the absence of information in a required field or the presence of invalid information in the key data fields identified and detailed in the technical filing specifications given to the security provider by the department pursuant to LAC 55:III.Chapter 17, Subchapter B. Any record which is returned to an insurance company or servicing agent as an edit error is not a filing and counts against the overall match rate. The filing must be corrected and re-reported within 15 days. (Disposition code is "E.")

Filing Report—a report prepared by the department for an insurance company or servicing agent following completion of processing (record matching) containing the disposition of each record. It is the responsibility of the insurance company or servicing agent to review and take the necessary corrective action as required by these regulations. This return report is written on the same medium submitted by the insurance company, i.e., tape or cartridge.

Fleet Policy—a policy insuring a business with a fleet of five or more vehicles registered in Louisiana, issued on a fleet basis, by any insurance company, either admitted or non-admitted, writing motor vehicle liability insurance.

Hit—a record submitted by an insurance company or servicing agent which matches the department vehicle registration record. (Disposition code is "H.")

Initiation of Coverage—the issuing or making of a liability policy, liability bond, deposit or other security.

Insurance Company Code—a unique number assigned to each insurance company. National Association of Insurance Commissioners Code (NAIC code) will be used or a temporary identification number assigned by the department to an insurance company for the purpose of R.S. 32:863.2 of the Compulsory Motor Vehicle Liability Security Law.

Insured Owner—the name of the lessee or owner of the listed motor vehicle as obtained by the security provider.

Magnetic Tape—a magnetically encoded computer tape or cartridge which is machine readable by the installed

computer system of the department and which conforms with the technical filing specifications given to the security provider by the department.

Match Rate—the percentage of hits relative to the total number of filings reported.

Nonrenewal—

a. a nonrenewal of a motor vehicle liability insurance policy shall include:

i. a refusal by the insurer to issue a superseding policy or a renewal of such policy;

ii. a request by the insured that a superseding policy not be issued or such policy not be renewed; or

iii. a failure of the insured to make the first premium payment due upon a superseding policy or a renewal of such policy offered by the insurer;

b. nonrenewals are to be reported in the same manner as cancellations or terminations.

Notification—the furnishing of information by a security provider to the department concerning liability security or lack of liability security on a motor vehicle, or a change or correction of data concerning the item of security, the vehicle or the lessee or owner, as required by R.S. 32:863.2 of the Motor Vehicle Liability Security Law and these regulations.

Owner—every person who holds the legal title to a motor vehicle or in the event a motor vehicle is the subject of an agreement for the conditional sale, lease or transfer of the possession, however, thereof, with the right of purchase upon performance of the condition stated in the agreement and with an immediate right of possession vested in the conditional vendee, lessee, possessor or in the event such or similar transaction is had by means of a mortgage, and the mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee, possessor or mortgagor shall be deemed the owner for the purpose of this Chapter.

Owner ID Number—driver's license number for an individual lessee or owner (the leftmost nine characters of driver's license number) or federal tax identification number for the lessee or owner if the lessee or owner is not a natural person.

Recall of Notification—a notice submitted to the department by a security provider or servicing agent, which rescinds a notification previously submitted to the department in error.

Record—insurance information pertaining to the items required by law and these regulations for an individual vehicle or fleet coverage.

Resolved No-Hit Exception—a no-hit exception which is resolved during the department's exception matching process and results in a match to the department's vehicle registration record. Effective October 1, 1998, the department will no longer attempt to resolve no-hits. (Disposition code is "R.")

Return Date—the department will provide a return date in its filing report. The date, in year, month, date (YYMMDD) format, will be placed in character positions 237-242 of the returned filing record. The return date will be the date the department writes the filing report to tape and will equal the date in the DATE-PROCESSED field of the trailer record.

Security Provider—a liability insurance company or other provider of liability security required under the Compulsory Motor Vehicle Liability Security Law (R.S. 32:861 et seq.).

Servicing Agent—any person or organization duly designated by a security provider to prepare, transmit or deliver records on behalf of such insurance company.

Tape Receipt—a two-part document furnished and prepared by an insurance company or servicing agent containing information prescribed in the technical filing specifications. Such receipt, along with a self-addressed return envelope, must accompany each magnetic tape or cartridge transmitted to the department, one copy of which, when duly endorsed and dated upon delivery and returned to the insurance company, shall constitute proof that such magnetic tape or cartridge was received by the department.

Termination/Cancellation of Liability Security—any cancellation or termination of liability security on a motor vehicle (whether caused by the insurer or insured).

Unresolved No-Hit Exception—a no-hit exception which is not resolved during the department's exception matching process. Insurance company must respond with corrected information within 15 business days from department's returned filing report. (Disposition code is "U.") (See §1761.B.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1770 (September 1998).

§1753. Introduction

A. Effective July 1, 1998, security providers shall report to the Department of Public Safety and Corrections, Office of Motor Vehicles, certain information, on a vehicle-by-vehicle basis, with certain exceptions, in accordance with the Compulsory Motor Vehicle Liability Security Law (R.S. 32:861 et seq.), the Compulsory Security Law, and with these regulations regarding the initiation of liability coverage.

B. Effective July 9, 1998, security providers shall report to the Department of Public Safety and Corrections, Office of Motor Vehicles, certain information, on a vehicle by vehicle basis, with certain exceptions, in accordance with the Compulsory Motor Vehicle Liability Security Law (R.S. 32:861 et seq.), the Compulsory Security Law, and with these regulations regarding the termination, withdrawal, cancellation, lapsing, or otherwise rendering ineffective of liability coverage.

C. As required by law and LAC 55:III.Chapter 17, Subchapter B, reports shall be made to the department whenever a liability policy on a motor vehicle is issued, procured, recalled, reinstated, terminated, canceled, or to change binder status to active policy number. Such information must be transmitted to the department in an efficient and timely manner in accordance with these regulations. Security providers shall not provide information to the department except as required by law or LAC 55:III.Chapter 17, Subchapter B. Examples of information which shall not be submitted to the department by security providers include, but are not limited to, the following:

1. information on non-liability coverage such as collision and comprehensive policies;
2. information on liability policies not in compliance with the Compulsory Security Law such as umbrella policies with excess coverage and non-ownership policies;
3. addition or deletion of other drivers.

D. The notification required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B, shall be made in the

manner and form required by the department as set forth in these regulations. A separate notice shall be submitted for each vehicle. The failure of a security provider to properly notify the department may result in the imposition of the fee authorized in R.S. 32:863.2(B).

E. The purpose of the required information is to enforce the Motor Vehicle Safety Responsibility Law, R.S. 32:851 et seq., and particularly the Compulsory Security Law, R.S. 32:861 et seq. Consistently with this purpose, the information maintained by the department shall only be provided to a person making proper written request under R.S. 32:863.2(C) and R.S. 32:871 only after an accident is reported in accordance with R.S. 32:871. The information will be provided on a single individual or vehicle basis only. In order to preserve the proprietary information of security providers, insurance coverage information compiled by company, by zip code, or by other classifications shall not be made available to inquirers. Additionally, the department will not develop or maintain any composite list by insurance company or insurance company identifier except for unresolved no-hits and edit errors. The department will cooperate fully with the insurance industry in preserving the security of customer lists and related data.

F. *Louisiana Administrative Code* 55:III.Chapter 17, Subchapter B provides for adjustments to technical specifications of reporting requirements. The security providers will be advised by mail of any changes in the technical specifications of the reporting requirements. The department will always attempt to give 90 days notice of these adjustments so that security providers may have enough time to implement the changes, however, legislative changes or other circumstances may result in notice of less than 90 days. Such mailings may be called "Advisory Bulletins" or "Memorandums" from the assistant secretary, Office of Motor Vehicles. These bulletins or memorandums may also contain clarifications, helpful hints, and such additional information as may be deemed applicable to compliance with the Compulsory Security Law. Moreover, in the event that an unusual situation is not covered by these regulations, a reasonable procedure consistent with the Compulsory Security Law will be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1771 (September 1998).

§1755. Failure to Comply with Reporting Requirements

A. In cases where, after written notice, a security provider fails to supply the information required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B in the manner approved by the department for the security provider, or fails to provide the information required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B within the 15 business day period established in R.S. 32:863.2, the fees as provided by R.S. 32:863.2(B) may be imposed. A security provider will not be charged a fee for providing data based on a reasonable assumption, such as assuming in good faith that the owner's address is the same as the named insured's address. Special consideration shall be given to unusual problems in compliance, proved in writing.

B. The security provider shall have 30 days from the date of the notice imposing a fee to make a written request for an administrative hearing to review the imposition of the fee. The security provider may also make a written request for an informal review of the imposition of the fee described in §1755.A. A request for an informal review shall suspend the running of the 30-day period contained in this Subsection. Upon completion of the informal review and the issuance of a written determination by the Office of Motor Vehicles, the remaining balance of the 30-day period within which to request an administrative hearing shall resume running.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1771 (September 1998).

§1757. Questions Regarding Procedures and Technical/Data Issues

A. Procedural questions concerning LAC 55:III.Chapter 17, Subchapter B, or the official policies of the department shall be referred to the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles, Box 64886, Baton Rouge, LA 70896, Attention: Cancellation Unit, telephone (504) 925-7285, (504) 925-6983, or FAX (504) 922-0158.

B. Technical/data questions concerning the official policies of the department should be referred to the Louisiana Department of Public Safety and Corrections, Data Processing Center, 8001 Independence Boulevard, Baton Rouge, LA 70806, DMB Project Leader, telephone (504) 925-6246, or FAX (504) 925-4019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1772 (September 1998).

§1759. Match Rate and Reporting Period

A. The department shall enforce a 92 percent match rate insofar as reporting liability insurance information in accordance with R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B. The 92 percent match rate is one of the criteria used to evaluate compliance with reporting requirements.

B. The match rate is evaluated on any given one year reporting period. The match rate will not be evaluated for a period to exceed one year. This reporting period will be used in determining any possible fee assessments for failure to report or successfully report information in accordance with LAC 55:III.Chapter 17, Subchapter B. The department will send to the security provider at least once a year a report of said company's current match rate. The notice provided for in this Section may be combined with any notice issued pursuant to §1755.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1772 (September 1998).

§1761. Credit for Correcting Unresolved No-Hits

A. A direct "match" or "hit" is based on the Vehicle Identification Number (VIN). When the vehicle identification number does not match with Louisiana motor vehicle records

and fails the vehicle identification number edit check, the record is coded "Unresolved." In accordance with LAC 55:III.Chapter 17, Subchapter B, the security provider has 15 business days from receipt of the return filing to correct the vehicle identification number and resubmit the report. The failure to resubmit the report or the failure to submit corrected vehicle identification number data results in a "no-hit" filing which goes against the match rate.

B. A credit is given when an identified "Unresolved" is resubmitted with the correct vehicle identification number and matches with the Department's motor vehicle files. The program will "+1" in Hits and "-1" in the Unresolved category. Any vehicle data resubmitted with corrected vehicle identification number information will be coded as transaction "C" or "1" and will not count against the match rate a second time if the corrected information is unmatched and it will also not apply as a credit to the original error. In cases of resubmitted information, the original "unresolved" will be counted against the match rate only once.

C. If a security provider submits a vehicle identification number (VIN) for a 1981 or newer vehicle, and the Department's VIN check determines that the VIN is valid, but the VIN is not matched to a VIN in the department's records, the company is returned a disposition "R," resolved. In these records, the insurance company VIN and the VIN returned as the "Matched" VIN are identical. Effective October 1, 1998, the disposition code will change to "H," Hit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1772 (September 1998).

§1763. Reporting an Initiation of Coverage and Cancellation of Coverage at the Same Time

All records must be submitted in chronological order. The last record received from a security provider for a vehicle is considered to reflect the status of the vehicle with the company. Multiple filings for a single vehicle having the same company code and owner-ID will result in the last record received being maintained by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1772 (September 1998).

§1765. Recalling Notification by Security Provider

When a security provider discovers that a cancellation or initiation of coverage was reported by mistake, the security provider shall submit to the department a notice of recall of notification. All the data but the transaction type must be the same as originally submitted in order to match the recall with the notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1772 (September 1998).

§1767. Warning on Notice of Acknowledgment of Termination to Insured

The Notice of Acknowledgment of Termination sent to an insured shall contain the following warning notice:

"If you do not keep your liability insurance in force during the entire registration period, your registering privileges will be subject to revocation. By law your insurance carrier is required to report specific termination information to the Secretary of the Department of Public Safety and Corrections."

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1772 (September 1998).

§1769. Timely Insurance Filings

A. In accordance with LAC 55:III.Chapter 17, Subchapter B, the security provider shall notify the department after motor vehicle liability security is initiated, terminated, or modified. Such notification shall be made within 15 business days from the date such policy, liability bond, deposit, or other security was issued or made. In the case of such policy, bond, deposit or other security being terminated, withdrawn, canceled, lapsed or otherwise made ineffective, such notification shall be made within 15 business days of the date such policy, bond, deposit or other security becomes ineffective. The security provider has 15 days from receipt of the department's returned filings to correct the "Unresolved No-Hit Exception" and resubmit the report.

B. A report of initiation of coverage received prior to the issue date shall result in an edit error. A report of termination of coverage received prior to the effective date shall also result in an edit error. An edit error shall not be considered a filing, but shall be corrected by the security provider and resubmitted to the Department as provided in Chapter 17, Subchapter B.

C. A security provider who violates §1769 may be subject to possible fee assessments pursuant to R.S. 32:863.2(B) even though a 92 percent match rate is maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1773 (September 1998).

§1771. Manual Filings

A. Eligibility. The department may authorize a security provider to use manual filing of reports of initiation, termination and other reportable information changes by a security provider insuring less than 250 motor vehicles registered in this state on a calendar year basis.

B. Authorization. All requests for manual filing shall be in writing. Authorizations for manual filing shall be made by the Department on a company by company basis. A request for authorization should be mailed to the Department of Public Safety and Corrections, Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, LA 70896, Attention: Cancellation Unit. If approval is granted, these filings shall to be mailed to the Cancellation Unit.

C. Conditions of Filing. A security provider must notify the department after motor vehicle liability security is initiated, terminated, or in certain ways modified. Such notification shall be made within 15 business days from the date such policy, liability bond, deposit, or other security was issued or made. In the case of such policy, bond, deposit or other security being terminated, withdrawn, canceled, lapsed

or otherwise made ineffective, such notification shall be made within 15 business days of the date such policy, bond, deposit or other security becomes ineffective.

D. Format and Content. Each notification must be transmitted by an official of the company on the company's letterhead in a typewritten or typeset format. Multiple notices may be reported under a single submission. However, notices so submitted shall be numbered in a sequential order beginning with the designation "Notice 1:". Information items shall be inset, and single spaced separated by a double space. Notices must be submitted as specified in the manual filing data field requirements using the formats provided in LAC 55:III.Chapter 17, Subchapter B.

E. Alternative Format. A security provider may, at its option, develop its own form based upon the sample below, provided that the same formatting and display of information are utilized. Any alternative format is subject to prior approval by the department.

F. Frequency of Filing. Security providers shall not submit written notices more frequently than weekly.

G. Confirmation of Receipt. The department shall provide a filing report to the security provider. If the notice information provided by an insurance company is not in accordance with format and reporting requirements, or does not match a corresponding registration record, or if there are discrepancies in informational content, the company will be so advised. All filings will contain a disposition code indicating the disposition of each notice.

H. Recalling Notification. When a security provider discovers that a cancellation or initiation of coverage was reported by mistake, the security provider shall submit to the department a notice of recall of notification. All the data but the transaction type must be the same as originally submitted in order to match the recall with the notification. (See Record Format and Field Descriptions.)

I. Field Requirements. The following fields are required for reporting new business, termination or modification of liability security. (See Record Format and Field Descriptions):

1. vehicle identification number (VIN);
2. year of vehicle;
3. make or model of vehicle;
4. insurance company code;
5. type of transaction;
6. lessee or owner's address(to be reported only for termination);
7. lessee or owner's city(to be reported only for termination);
8. lessee or owner's state(to be reported only for termination);
9. lessee or owner's zip code;
10. policy number (or "binder");
11. termination, change date, or effective date (terminations and initiations);
12. issue date (initiations only);
13. lessee or owner's name;
14. lessee or owner's name indicator;
15. lessee or owner's identification number;

J. Sample Manual Filing

INSURANCE COMPANY LETTERHEAD (RESERVED)
(FOR)
(DPS&C USE)

DATE: _____

TO: Louisiana Department of Public Safety & Corrections

Pursuant to R.S. 32:863.2 of the Louisiana Compulsory Motor Vehicle Liability Security Law and the Rules and Regulations of the Department, the following information is hereby submitted for filing with your office.

MANUAL REPORTING
OF
LIABILITY SECURITY

NOTICE 1:

VIN: 12345678901234567
YEAR: 85
MAKE/MODEL: FORD
INS. CO. CODE: 11000
TYPE OF TRANSACTION: 0
LESSEE OR OWNER ADDRESS: 100 South Swan Street
LESSEE OR OWNER CITY: New Orleans
LESSEE OR OWNER STATE: Louisiana
LESSEE OR OWNER ZIP CODE: 70110
POLICY NUMBER (OR "BINDER"): 0013081883
TERMINATION, CHANGE DATE OR EFFECTIVE DATE: 880115
LESSEE OR OWNER NAME: Motorist Michael A
LESSEE OR OWNER NAME: 2
LESSEE OR OWNER IDENTIFICATION NUMBER: 1234567

NOTICE 2:

VIN: 2314567890232224567
YEAR: 85
etc .

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1773 (September 1998).

§1773. Guidelines for Fleet Filings

A. Eligibility. Any insurance company writing motor vehicle liability insurance in Louisiana and insuring a fleet of five or more vehicles registered in Louisiana for which vehicle identification number (VIN) information is not maintained on each vehicle must manually report said fleet coverage as specified in LAC 55:III.Chapter 17, Subchapter B. If the insurance company maintains the VIN number of each vehicle within the fleet, the filing shall be reported on a vehicle-by-vehicle basis.

B. Conditions of Filing. A security provider must notify the department after motor vehicle liability security has begun, ended, or in certain ways modified. Such notification shall be made within 15 business days from the date such policy, liability bond, deposit, or other security was issued or made. In the case of such policy, bond, deposit or other security being terminated, withdrawn, canceled, lapsed, or otherwise made ineffective, such notification shall be made within 15 business days of the date such policy, bond, deposit or other security becomes ineffective. After the initiation has

been reported, the cancellation is not to be reported until the entire fleet policy has been canceled. (Do not report the addition or deletion of individual vehicles.)

C. Format and Content. Each notification must be transmitted by an official of the company on the company's letterhead in a typewritten or typeset format. Multiple notices may be reported under a single submission. However, notices so submitted shall be numbered in a sequential order beginning with the designation "Notice 1:." Information items shall be inset, and single spaced separated by a double space. Notices must be submitted as specified in the manual filing data field requirements using the formats provided in these rules and regulations.

D. No Special Forms Required. A company may, at its option, develop its own form based upon our sample, provided that the same formatting and display of information are utilized, and the form has received prior approval of the department.

E. Frequency of Filing. Insurance companies may submit written notices daily.

F. Confirmation of Receipt. The department shall provide a filing report to the insurance company. If the notice information provided by an insurance company is not in accordance with format and reporting requirements or if there are discrepancies in informational content, the company will be so advised. All filings will contain a disposition code indicating disposition of such notice.

G. Number of Vehicles. The estimated number of vehicles in a fleet is reported in lieu of vehicle identification number information on a vehicle-by-vehicle basis.

H. Recalling Notification. When a security provider discovers that a cancellation or initiation of coverage was reported by mistake, the security provider must submit to the department a notice of recall of notification. All the data but the transaction type must be the same as originally submitted in order to match the recall with the notification. (See Record Format and Field Descriptions.)

I. Fields. The following fields are required for reporting new business, termination, or modification of liability security (See Record Format and Field Descriptions.):

- 1. insurance company code;
2. type of transaction;
3. lessee or owner's address (to be reported only for termination);
4. lessee or owner's city (to be reported only for termination);
5. lessee or owner's state (to be reported only for termination);
6. lessee or owner's zip code;
7. policy number (or "binder");
8. termination, change date, or effective date (terminations and initiations);
9. issue date (initiations only);
10. lessee or owner's name;
11. lessee or owner's name indicator;
12. lessee or owner's federal tax identification number driver's license number for individual;
13. estimated number of vehicles in fleet.

J. Sample Fleet Filing

INSURANCE COMPANY LETTERHEAD (RESERVED)
(FOR)
(DPS&C USE)

DATE: _____

To: Louisiana Department of Public Safety & Corrections

Pursuant to R.S. 32:863.2 of the Louisiana Compulsory Motor Vehicle Liability Security Law and the Rules and Regulations of the Department, the following information is hereby submitted for filing with your office:

MANUAL REPORTING
OF
LIABILITY SECURITY

NOTICE 1:

INS. CO. CODE: 11000
TYPE OF TRANSACTION: 0
LESSEE OR OWNER ADDRESS: 321 Tulane Avenue
LESSEE OR OWNER CITY: New Orleans
LESSEE OR OWNER STATE: Louisiana
LESSEE OR OWNER ZIP CODE: 70734
POLICY NUMBER (OR BINDER): 0013081883
TERMINATION, CHANGE DATE, OR EFFECTIVE DATE: 880201
LESSEE OR OWNER NAME: JRS TOOL CO.
LESSEE OR OWNER NAME INDICATOR: 4
LESSEE OR OWNER IDENTIFICATION NUMBER: 721234567
ESTIMATED NUMBER OF VEHICLES: 25

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1774 (September 1998).

§1775. Fee Assessments

A. The failure by a security provider to report the required information, failure to timely report the required information and/or failure to maintain at least a 92 percent match rate may result in the insurance company being assessed a \$50 fee per vehicle coverage in accordance with R.S. 32:863.2(B).

B. The department's motor vehicle records will be checked against liability insurance filings on an ongoing basis. Fees will continue to be assessed to those companies in noncompliance with the statute and LAC 55:III.Chapter 17, Subchapter B. Further, in cooperation with the insurance commissioner's office, continuous violations and noncompliance could result in additional administrative or judicial action.

C. Fees will not be assessed to those security providers who continue to report all insured vehicles, report on a timely basis, and maintain at least a 92 percent match rate during any given one-year reporting period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1775 (September 1998).

§1777. Transaction Types and How the Transaction Types are Used

A. Described below are the transaction types and how each may be used for cancellations.

1. 0 = Termination. A termination or cancellation notice is submitted whenever liability security is canceled or terminated.

2. 1 = Recall. The recall is used whenever a cancellation notice is submitted in error. A cancellation notice was incorrectly reported. The cancellation date was reported as February 2 instead of February 13. A recall of the February 2 cancellation notice is submitted followed by a cancellation notice of having a canceled date of February 13.

3. 2 = Re-reporting. A re-reporting is used whenever the department returns a cancellation notice with a disposition of "U." A cancellation notice was returned with a disposition of "U." Corrected information is available and the cancellation notice is resubmitted.

4. 4 = Back-dated. Back-dating is used whenever a company back-dates a cancellation at the request of the insured, and where it would be impossible to submit a cancellation notice within 15 business days of the date of cancellation. As an example, an individual notifies his insurance company that he sold one of his vehicles two months ago. He requests a credit for two months of coverage. A back-dated cancellation notice is submitted with the cancellation date equaling the date the vehicle was sold.

5. 6 = Termination for NSF Check. A termination or cancellation notice pursuant to this code is submitted whenever a security provider backdates the effective date of a cancellation because the insured submitted an NSF check as payment in response to a notice of cancellation, and the check was returned by the bank more than fifteen days after the effective date contained in the notice of cancellation sent to the insured.

B. Described below are the transaction types and how each may be used for initiations of coverage.

1. A = Initiation. An initiation notice is submitted whenever liability security is initiated (new business).

2. B = Recall. The recall is used whenever an initiation notice is submitted in error. As an example, an initiation notice was incorrectly reported with a starting date reported as February 2 instead of February 13. A recall of the February 2 initiation notice is submitted followed by an initiation notice having a starting date of February 13.

3. C = Re-reporting. A re-reporting is used whenever the department returns an initiation notice with a disposition of "U." As an example, an initiation notice was returned with a disposition of "U." Corrected information is available and the initiation notice is resubmitted.

4. E = Back-dated. Back-dating is used whenever a company back-dates new business at the request of the insured, and where it would be impossible to submit an initiation notice within 15 business days of the issue date of the policy. As an example, an individual notifies his insurance company that he purchased a vehicle two months ago. The insured's company back-dates the coverage to the date the vehicle was purchased. A back-dated initiation notice is submitted with the starting date equal to the date the vehicle was purchased.

5. F = Change. A change notice is submitted only for changing the policy number from a binder to an active policy

number. As an example, an initiation notice was submitted with a policy number of "Binder." A change notice is submitted with an active policy number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1775 (September 1998).

§1779. Contact Person Information

A. Certain updated information is periodically needed by the department in order for the department to implement and enforce the provisions of R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B. Each security provider shall give the department the name of a contact person within the insurance company to provide the most updated information or to correct problems as they arise.

B. The contact information sheet shall be completed and returned to this department. The contact sheet shall be submitted during January of each year and whenever there is a change in any of a security provider's contact personnel. A contact information sheet shall be submitted for each insurance company.

C. The security provider shall furnish the name of the company representative responsible for compliance with each of the following areas:

1. administrative reporting requirements
2. data processing;
3. commercial lines;
4. personal lines;
5. manual/fleet filings;
6. other personnel responsible for filings or fee assessments.

CONTACT PERSON INFORMATION SHEET
LA. OFFICE OF MOTOR VEHICLES
CANCELLATION UNIT
P.O. BOX 64886
BATON ROUGE, LA 70896

Certain updated information is needed periodically by this agency in order for us to contact the correct person within your insurance company to provide the most updated information or to correct problem areas. The contact information sheet is to be completed and returned to this department. The contact sheet must be submitted during the month of January each year and whenever there is a change in any of your company's contact personnel. A contact information sheet must be submitted for each insurance company. Please furnish the name of the representative responsible for compliance with administrative reporting requirements, data processing, commercial lines, personal lines, manual/fleet filings, and other personnel responsible for filings or fee assessments. This information will assist us in contacting your company's representative(s) in regard to specific compliance regulations.

NAIC# _____ NAME OF INSURANCE COMPANY _____

ADMINISTRATIVE COMPLIANCE	DATA PROCESSING
NAME: _____	NAME: _____
ADDRESS: _____ _____	ADDRESS: _____ _____
PHONE: () _____	PHONE: () _____

FAX: () _____	FAX: () _____
E-MAIL ADDRESS: _____	E-MAIL ADDRESS: _____

AREA OF RESPONSIBILITY: _____	AREA OF RESPONSIBILITY: _____
NAME: _____	NAME: _____
ADDRESS: _____ _____	ADDRESS: _____ _____
PHONE: () _____	PHONE: () _____
FAX: () _____	FAX: () _____
E-MAIL ADDRESS: _____	E-MAIL ADDRESS: _____

CONTACT PERSON INFORMATION SHEET
LA. OFFICE OF MOTOR VEHICLES
CANCELLATION UNIT
P.O. BOX 64886
BATON ROUGE, LA 70896

NAIC# _____ NAME OF INSURANCE COMPANY _____

AREA OF RESPONSIBILITY: _____	AREA OF RESPONSIBILITY: _____
NAME: _____	NAME: _____
ADDRESS: _____ _____	ADDRESS: _____ _____
PHONE: () _____	PHONE: () _____
FAX: () _____	FAX: () _____
E-MAIL ADDRESS: _____	E-MAIL ADDRESS: _____

AREA OF RESPONSIBILITY: _____	AREA OF RESPONSIBILITY: _____
NAME: _____	NAME: _____
ADDRESS: _____ _____	ADDRESS: _____ _____
PHONE: () _____	PHONE: () _____
FAX: () _____	FAX: () _____
E-MAIL ADDRESS: _____	E-MAIL ADDRESS: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1776 (September 1998).

§1781. Reporting Methods

A. Reporting via Magnetic Tape

1. The magnetic tape/cartridge sent by a security provider or servicing agent shall be received during business hours only, 8 a.m. to 4:30 p.m., Monday through Friday, excluding state holidays, by the Louisiana Department

of Public Safety and Corrections, Data Control, 8001 Independence Boulevard, Baton Rouge, LA 70806.

2. Each magnetic tape containing required notices shall be accompanied by, and uniquely identified with, a duly prepared tape receipt in accordance with the technical filing specifications. Such magnetic tape may contain all types of notification. Insurance groups may report multiple companies on the same tape provided the servicing agent code is the same for all records on the tape.

3. When the department receives a magnetic tape from a security provider or servicing agent, an employee of the department shall endorse a copy of the tape receipt with the date of delivery and return such copy to the insurance company or servicing agent.

4. Each record accepted as a filing shall be deemed received by the department on the date the magnetic tape containing said record was delivered to the department as evidenced in the tape receipt.

B. First Time Filing. First time filings should be coordinated by contacting the department prior to the filing. All contact information must be provided and a test tape/cartridge processed and checked before live data will be processed on a routine basis.

C. Reporting via File Transfer Protocol. Effective October 1, 1998, security providers which currently file via magnetic tape may begin filing using the file transfer protocol method. Effective January 1, 1999 security providers shall only make filings using the file transfer protocol method. The only acceptable procedures for contacting the Department's computer shall be via the IBM Global Services "Information Exchange." The security provider shall have connectivity to the IBM Global Network, either through Insurance Value Added Network Services (IVAN) or directly. All record formats shall be as described in Chapter 17, Subchapter B. The Department will provide, upon request, all technical specifications to accomplish this connectivity. All security providers requiring additional assistance may contact the Information Services Deputy Director of the Data Processing Center at (225) 925-6226. Section 1781.C shall not apply to security providers authorized to file reports manually or fleet coverage reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1776 (September 1998).

§1783. Technical Specifications

A. The technical specifications for magnetic tape and cartridges are contained in Office of Motor Vehicles policies, and shall be made available to a security provider upon the security provider notifying the department that the security provider will be submitting the reports required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B. The technical specifications are not contained in LAC 55:III.Chapter 17, Subchapter B, so as to allow for flexibility as technology changes.

B. The technical specifications for reporting via file transfer protocol are contained in Office of Motor Vehicles policies, and shall be made available to a security provider

upon the security provider notifying the department that the security provider will be submitting the reports required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B. The technical specifications are not contained in LAC 55:III.Chapter 17, Subchapter B, so as to allow for flexibility as technology changes.

C. The department shall provide the security provider with the appropriate technical specifications, and the security provider shall acknowledge receipt of the technical specifications in writing, on company letterhead, dated, and signed by a company officer, director, or other person authorized to sign on behalf of the company.

D. The failure of a security provider to submit a report pursuant to the technical specifications provided by the department pursuant to §1785.C shall be deemed a failure to provide the information required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B in the manner approved by the department for the security provider as provided in §1755 for purposes of assessing the fee authorized in R.S. 32:863.2(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1777 (September 1998).

§1785. Editing Vehicle Identification Numbers for Improved Match Rates

A. In order to insure high match rates, security providers should check the vehicle identification numbers (VIN) for a valid check digit as 1981 and newer motor vehicles have a 17-digit vehicle identification number in which the check digit is the ninth character of the VIN.

B. A worksheet with instructions for computing the check digit follows §1787. A security provider may write a computer program from the information on the worksheet. A security provider may also obtain copies of the department's COBOL program to compute the check digit upon receipt of a written request. Such a program used at the insurance agent, or policy initiation level would greatly increase the likelihood that the VINs on 1981 and newer motor vehicles are correct when they enter the insurance company's database.

C. Security providers needing assistance may contact the DMB Project Leader of the Data Processing Center at (504) 925-6246.

COMPUTING THE VIN CHECK DIGIT
(9TH CHARACTER OF THE 17-DIGIT VIN)

CHECK DIGIT COMPUTATION WORKSHEET

Nth VIN Digit	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17		
LINE A																			
LINE B																			
LINE C																			
LINE D	8	7	6	5	4	3	2	10	0	9	8	7	6	5	4	3	2	=	Final Sum

1. On LINE A, enter 17-digit VIN.
2. On LINE B, enter "Assigned Value" of each VIN character using the ASSIGNED VALUE TABLE below.

b. on the front or back of the identification card: the insurance agent's name, address and telephone number.

5. The identification card shall be provided to each liability policy holder at least annually or at each renewal, at the discretion of the security provider.

6. Other items may be included on the reverse side of the card, at the discretion of the security provider, including but not limited to the company logo or trademark, or any other message including claim locations, what actions to take in the event of an accident or other claim.

C. Example of Louisiana Identification Card

LOUISIANA AUTO INSURANCE IDENTIFICATION CARD		
An insurer authorized to transact business in Louisiana has issued the Motor Vehicle Policy identified hereon. The coverage provided by this policy meets the minimum liability insurance limits prescribed by law.		
NAIC NUMBER	COMPANY	
POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
VEHICLE DESCRIPTION		
YEAR	MAKE/MODEL	VEHICLE IDENTIFICATION NUMBER
INSURED		
THIS CARD MUST BE IN THE VEHICLE AT ALL TIMES AS EVIDENCE OF INSURANCE		

IMPORTANT NOTICE	
La. R.S. 32:863.1 requires that an operator of a motor vehicle produce upon demand by a law enforcement officer documentation of motor vehicle security which is required to be maintained within the vehicle at all times.	
Failure to comply may result in fines, revocation of registration privileges and block against the renewal or issuance of a driver's license.	
INSURANCE AGENT:	
EXCLUDED DRIVERS:	

1. Sample with Vehicle Identification Number

LOUISIANA AUTO INSURANCE IDENTIFICATION CARD		
An insurer authorized to transact business in Louisiana has issued the Motor Vehicle Policy identified hereon. The coverage provided by this policy meets the minimum liability insurance limits prescribed by law.		
NAIC NUMBER	COMPANY	
POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
VEHICLE DESCRIPTION		
YEAR	MAKE/MODEL	VEHICLE IDENTIFICATION NUMBER
INSURED		
THIS CARD MUST BE IN THE VEHICLE AT ALL TIMES AS EVIDENCE OF INSURANCE		

IMPORTANT NOTICE	
La. R.S. 32:863.1 requires that an operator of a motor vehicle produce upon demand by a law enforcement officer documentation of motor vehicle security which is required to be maintained within the vehicle at all times.	
Failure to comply may result in fines, revocation of registration privileges and block against the renewal or issuance of a driver's license.	
INSURANCE AGENT:	
EXCLUDED DRIVERS: Johnny Doe DOB 10/01/75 DL# 1234567	

2. Sample with Fleet Information

LOUISIANA AUTO INSURANCE IDENTIFICATION CARD			
An insurer authorized to transact business in Louisiana has issued the Motor Vehicle Policy identified hereon. The coverage provided by this policy meets the minimum liability insurance limits prescribed by law.			
NAIC NUMBER 12345	COMPANY Compulsory Insurance Company 1234 Liability Lane Security, LA 10000		
POLICY NUMBER ABC 12345	EFFECTIVE DATE 01/01/95	EXPIRATION DATE 01/01/96	
VEHICLE DESCRIPTION YEAR MAKE/MODEL VEHICLE IDENTIFICATION NUMBER FLEET - FEDERAL TAX ID# 720000000			
INSURED John Doe Trucking, Inc. 203 Doe Street Baton Rouge, LA 70895			
THIS CARD MUST BE IN THE VEHICLE AT ALL TIMES AS EVIDENCE OF INSURANCE			

IMPORTANT NOTICE	
La. R.S. 32:863.1 requires that an operator of a motor vehicle produce upon demand by a law enforcement officer documentation of motor vehicle security which is required to be maintained within the vehicle at all times.	
Failure to comply may result in fines, revocation of registration privileges and block against the renewal or issuance of a driver's license.	
INSURANCE AGENT: All Day Insurance Agency 1000 Anywhere Street Baton Rouge, LA 70806 Phone # (504) 123-4567	
EXCLUDED DRIVERS: N/A	

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1778 (September 1998).

§1789. Declaratory Orders and Rulings

A. Any person desiring a ruling on the applicability of R.S. 32:863.2, or any other statute, or the applicability or validity of any rule, to the reporting of initiation and any subsequent change in insurance coverage shall submit a written petition to the assistant secretary for the Office of Motor Vehicles. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition seeks an order or ruling on a report submitted to the Office of Motor Vehicles by a security provider, the person submitting the petition shall notify the security provider who submitted the report, if the person submitting the petition is not the security provider. Such notice shall be sent by certified mail, return receipt requested. In such case, the petition shall not be considered until proof of such notice has been submitted to the assistant secretary, or until the person petitioning for the order or ruling establishes that the security provider cannot be notified after a due and diligent effort. The notice shall include a copy of the petition submitted to the assistant secretary.

C. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as the security provider receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2 and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1780 (September 1998).

Title 37 INSURANCE

Part VII. Motor Vehicles

Chapter 1. Insurance

Subchapter B. Compulsory Motor Vehicle Liability Security

§125. Termination of Liability Insurance Coverage, Motor Vehicle Liability Bonds and Deposits of Security with State Treasurer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicle, LR 11:874 (September 1985), amended LR 13:667 (November 1987), repealed LR 24:1780 (September 1998).

§127. Record Format and Field Descriptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 11:874 (September 1985), amended LR 13:667 (November 1987), repealed LR 24:1780 (September 1998).

Lt. Col. Ronnie Jones
Acting Undersecretary

9809#042

RULE

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

Family Independence Temporary Assistance Program
(FITAP)—Disqualifications (LAC 67:III.1118)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to Public Law 105-33, the Balanced Budget Act of 1997, a change in the eligibility of a recipient convicted of a drug-related felony offense is required, since the governing date of the federal statute now applies to the date of the offense rather than the date of conviction.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1118. Individuals Convicted of a Felony Involving a Controlled Substance

Effective May 7, 1998, an individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C.802[6]) shall be disqualified from receiving cash assistance for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:233.1. and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:449 (April 1997), amended LR 23:1708 (December 1997), LR 24:1781 (September 1998).

Madlyn B. Bagneris
Secretary

9809#070

RULE

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

Family Independence Work Program (FIND Work)
Participation Requirements (LAC 67:III.2907)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.Subpart 5, Family Independence Work Program, known in Louisiana as "FIND Work."

Public Law 104-193, as amended by Public Law 105-33, the Balanced Budget Act of 1997 mandated certain changes in the Individual Participation Requirements for each fiscal year from 1997 to the year 2003. This rule is necessary to affect those changes.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 5. Family Independence Work Program
(FIND Work)**

Chapter 29. Organization

Subchapter B. Participation Requirements

§2907. Individual Participation Requirements

A.1. ...

2. A parent/caretaker not included in the cash assistance certification, for any reason other than a FIND Work sanction, is exempt.

B. ...

1. A single parent/caretaker eligible for cash assistance is required to participate at least 25 hours per week, with not fewer than 20 hours per week attributable to an activity described in §2911.A.1,2,3,4,5,9 or 10.

2. In any two-parent family eligible for cash assistance, the parent/caretaker and the other parent/caretaker in the family must participate a combined total of at least 35 hours per week, with not fewer than 30 hours per week attributable to an activity described in §2911.A.1,2,3,4,5,9 or 10. If child care is provided, the parent/caretaker and the other parent/caretaker in the family must participate a combined total of at least 55 hours per week, with not fewer than 50 hours per week attributable to an activity described in §2911.A.1,2,3,4,5,9 or 10.

3. All participation in activities described in §2911.A.6 and 7 may be counted for heads of household who have not attained 20 years of age. For all other participants, participation in activities described in §2911.A.6, 7 and 8 may be counted if the parent/caretaker meets the requirements described in §2907.B.1 or 2 for the first 20 hours of participation in all families and the first 30 hours of participation in two-parent families.

4. Not more than 30 percent of individuals in all families and in two-parent families, respectively, who meet countable participation requirements in a month, may consist of individuals who meet countable participation requirements in the vocational education activity described in §2911.A.5.

C. A parent or caretaker who has received cash assistance for 24 months (whether or not consecutive) since January 1, 1997 is required to engage in work, unless determined exempt as described in §2907.A. Engaged in work is defined as:

1. satisfactorily participating in a countable FIND Work activity as described in Subchapter C, §2911; or

2. satisfactorily participating in an alternate FIND Work activity approved by the Office of Family Support.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April

1993), LR 19:1177 (September 1993), LR 23:450 (April 1997), LR 24:1781 (September 1998).

Madlyn B. Bagneris
Secretary

9809#068

RULE

Department of Social Services Office of Family Support

Food Stamps—Drug-Related Disqualification (LAC 67:III.1707 and Chapter 19)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.Subpart 3, Food Stamps.

In 1996 Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act, provided that recipients who had been convicted after the date of enactment for certain drug-related offenses would be disqualified from participation in the Food Stamp Program. Public Law 105-33, the Balanced Budget Act of 1997, amended the law to provide that the offense had to have occurred after that date.

Also, since Louisiana now issues food stamp benefits electronically, additional sections citing the actual food coupons and the Authorization-to-Participate (ATP) cards will be repealed or amended to remove such references. Section 1917 includes updating of regulations affecting meal providers pursuant to USDA, FNS Waiver Number 970311 granted to the OFS Electronic Benefits Transfer section (see Notice of Intent, LR 24:816). In §1935 reference to an obsolete policy manual is being deleted with no essential change in the regulation.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 17. Administration

Subchapter B. General Administrative Requirements

§1707. Elimination of Food Stamp Purchase

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 43:47846 et seq. and R.S. 49:954.1(C), 7 CFR 274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 4:511 (December 1978), repealed by the Department of Social Services, Office of Family Support, LR 24:1782 (September 1998).

Chapter 19. Certification of Eligible Households

Subchapter B. Application Processing

§1913. Determination of Eligibility of Migrant or Seasonal Farmworkers

A. ...

1. Proration of Initial Month's Benefits. The first provision affects the proration of benefits after a break in participation in the Food Stamp Program. This provision requires that migrant and seasonal farmworkers receive the full allotment for a month of application when the household has participated in the program within 30 days prior to the date of

application. Thus, unless the household's break in participation exceeds 30 days, the migrant or seasonal farm worker household is eligible for a full month's allotment, rather than a prorated allotment, in the month of application.

A.2. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 14:602 (September 1988), LR 14:871 (December 1988), amended by the Department of Social Services, Office of Family Support, LR 24:1782 (September 1998).

§1917. Homeless Meal Provider

A. A *homeless meal provider* is a public or private nonprofit establishment (e.g., soup kitchen, temporary shelter) approved by the Office of Family Support that feeds homeless food stamp households. To be eligible to accept food stamp benefits, a meal provider must also be authorized by Food and Nutrition Service (FNS) after the Office of Family Support approves it.

B. The provider must serve meals that include food purchased by the establishment. A meal provider serving only meals which consist wholly of donated foods is not eligible for authorization.

C. Only those food stamp households determined to be homeless shall be permitted to use food stamp benefits to purchase prepared meals served by authorized homeless meal providers. To ensure that the use of food stamp benefits for prepared meals is restricted to homeless persons, homeless meal providers shall establish that person's right to use food stamp benefits to purchase meals.

D. Applicant meal providers must apply for approval at the Office of Family Support in their parish. An approval review at the provider's establishment will be conducted by the regional program specialist. After approval has been granted by OFS, the provider must then make application to an FNS field office to receive authorization to accept food stamp benefits. The FNS office is located at 777 Florida Street, Room 174, Baton Rouge, Louisiana 70801, telephone number 504-389-0491.

E. Homeless meal providers may accept food stamp benefits as authorized retail redemption points after authorization from the Office of Family Support and FNS. The provider will receive settlement from the Federal Treasury as an electronic deposit directly to the provider's account at a financial institution. Homeless meal providers that redeem food stamp benefits in excess of \$100 per month will be provided equipment that will allow acceptance, redemption and settlement of program funds electronically. Others may participate by using manual vouchers.

F. The use of food stamp benefits to purchase meals from homeless meal providers is voluntary on the part of food stamp recipients. Food stamp recipients must continue to be given the option of using cash if payment for a meal is required. In addition, if others have the option of eating free or making a monetary donation, homeless food stamp recipients must be given the same option (eat free, or donate money or food stamp benefits). The amount requested from homeless food stamp recipients using food stamp benefits to purchase meals may not exceed the average cost to the homeless meal provider of the

food contained in a meal served to the patrons of the meal provider. If a homeless recipient voluntarily pays more than the average cost of food contained in a meal served, such payment may be accepted by the meal provider.

G. Homeless meal providers will not be permitted to serve as "authorized representative" for homeless food stamp households.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:7554 et seq., 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:437 (August 1987), LR 3:287 (May 1987), amended by the Department of Social Services, Office of Family Support, LR 24:1782 (September 1998).

Subchapter E. Students

§1935. Dependent Care for Students

Eligible students with dependents must be responsible for a dependent household member under the age of six; or be responsible for the care of dependent household member who has reached the age of six but is under age 12 where the Office of Family Support has determined that adequate child care is not available; or be receiving benefits from the Family Independence Temporary Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:1783 (September 1998).

Subchapter J. Determining Household Eligibility and Benefit Levels

§1985. Determining Eligibility

A.1. - 4. ...

5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:53309 et seq., 7 CFR 271, 272, 273.10, 274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services, Office of Family Support, LR 24:1783 (September 1998).

§1987. Categorical Eligibility for Certain Recipients

A.1. - 2. ...

3. "Recipient" includes a person determined eligible to receive zero benefits, e.g., a person whose benefits are being recouped or a FITAP recipient whose benefits are less than \$10 and therefore does not receive any cash benefits.

4. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended LR 12:755 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 24:1783 (September 1998).

§1988. Eligibility Disqualification of Certain Recipients

* * *

B. Effective May 7, 1998, an individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as

an element the possession, use or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving food stamp benefits for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:233.1, P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 23:590 (May 1997), LR 23:1710 (December 1997), LR 24:1783 (September 1998).

§1992. Issuing Benefits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 274.2(c)(1).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:1268 (November 1992), LR 19:783 (June 1993), repealed LR 24:1783 (September 1998).

§1993. Replacement of Benefits

A. Replacement issuances shall be provided only if a household timely reports a loss (food purchased with food stamp benefits has been destroyed in a household misfortune) and executes the proper affidavit. Replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

B. If the signed statement or affidavit is not received by the agency within 10 days of the date of report, no replacement shall be made. If the 10th day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the agency shall consider the statement timely received. Replacement issuances shall be provided to households within 10 days after report of loss or within two working days of receiving the signed affidavit, whichever date is later.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:6989 et seq., 7 CFR 273.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), amended by the Department of Social Services, Office of Family Support, LR 19:783 (June 1993), LR 24:1783 (September 1998).

Madlyn B. Bagneris
Secretary

9809#076

RULE

Department of the Treasury Louisiana Housing Finance Agency

HOME Affordable Rental
Housing (LAC 16:II.105)

In accordance with R.S. 49:950 et seq., the Louisiana Housing Finance Agency has adopted the following rule

amending the regulations governing the criteria used to award HOME Funds to Affordable Rental Housing Projects.

The purpose of the amendment is to increase the categories in which the projects may be awarded points toward selection for the award of HOME Funds.

Title 16

COMMUNITY AFFAIRS

Part II. Housing Finance Agency

Chapter 1. HOME Investment Partnership Program

§105. Selection Criteria to Award HOME Funds for Affordable Rental Housing

Applications for HOME Funds will be rated in accordance with the selection criteria (Appendix IX) for which the applicant must initially indicate that the project qualifies.

APPENDIX IX

Selection Criteria to Award Home Funds to Affordable Rental Housing Projects

The Applicant hereby requests priority consideration based upon the Project satisfying one or more of the following conditions (minimum threshold of 115 points required):

	POINTS
A. <i>Project Provides Amenities</i> (attach description of amenities to be provided)	20 _____
B. <i>Project Provides Community Facilities</i>	20 _____
C. <i>Ratio of Project's Intermediary Cost to Development Costs</i> (See Page 5 for formula to calculate ratio)	
(i) Less than or equal to 10 percent	20 _____
(ii) More than 10 percent but less than or equal to 15 percent	15 _____
(iii) More than 15 percent but less than or equal to 20 percent	10 _____
(iv) More than 20 percent	0 _____
D. <i>As indicated in Section V on Page 8, thirty percent or more of project units serve households whose incomes are at the following percentages of median income</i>	
(i) 20 percent or less	25 _____
(ii) more than 20 percent but less than 30 percent	20 _____
(iii) more than 30 percent but less than 40 percent	15 _____
(iv) more than 40 percent but less than 45 percent	10 _____
E. <i>Project will enter Extended Low Income Use Agreement years of compliance period agreement to continue low income restrictions</i>	
(i) 20 years or more	10 _____
(ii) 25 years or more	15 _____
(iii) 30 years or more	20 _____
F. <i>Project Located in Qualified Census Tract/ Difficult Development Area / RD Target Area</i>	25 _____
G. <i>Project Serves Special Needs Groups</i> [Check one or more]	
(i) Elderly _____	
(ii) Homeless _____	
(iii) Handicapped _____	
(a) 100 Percent of units or 50 units serve special needs group	20 _____
(b) 50 Percent or 25 units serve special needs group	15 _____
(c) 25 Percent or 15 units serve special needs group	10 _____
H. <i>Project contains Handicapped Equipped Units</i>	
(i) 5 percent but less than 10 percent	5 _____
(ii) 10 percent but less than 15 percent	10 _____
(iii) 15 percent or more	15 _____
I. <i>Project Serves Large Families</i>	
<i>Percentage of Units having Four or more Bedrooms</i>	
(i) 5 percent but less than 10 percent	5 _____
(ii) 10 percent but less than 15 percent	10 _____
(iii) 15 percent but less than 20 percent	15 _____
J. <i>Project to Provide Supportive Services</i> (attach description of Supportive Services to be provided, the costs thereof and the source of funding such services)	25 _____
K. <i>Project is Single Room Occupancy</i>	10 _____

L. <i>Project is Scattered Site</i>	30 _____	
M. <i>Developer submitted an executed Referral Agreement with Local PHA pursuant to which Developer agrees to rent low income units to households at the top of PHA's waiting list</i>	10 _____	
N. <i>Project has RD Financing Commitment Letter</i>	10 _____	
O. <i>Project involves New Construction in Areas with 95 percent or more residential rental occupancy</i>	10 _____	
P. <i>Local Nonprofit Sponsor of Project</i>	10 _____	
Q. <i>Distressed Properties</i> (written certification from HUD or RD that property is distressed must be included in application)	20 _____	
R. <i>Project Receives Historic Tax Credits or involves Substantial Rehabilitation</i>	25 _____	
	or	
<i>Project located in historic district but does not qualify for historic credits</i> (Certification by local jurisdiction is required)	15 _____	
S. <i>Project is an Abandoned Project</i>	15 _____	
T. <i>Vacant Units in Project as Percentage of Total Units</i>		
(i) Minimum of 25 percent and less than 50 percent	10 _____	
(ii) Minimum of 51 percent and less than 75 percent	20 _____	
(iii) Minimum of 76 percent and less than 100 percent	30 _____	
U. <i>Project involves Low Income Units which do not exceed:</i>		
(i) 60 percent of the Total Project units	10 _____	
(ii) 50 percent of the Total Project units	15 _____	
(iii) 40 percent of the Total Project Units	20 _____	
V. <i>Leverage Ratio</i> (Divide Total Dollars from Sources other than HOME Funds by HOME Funds and round to nearest whole multiple)		
	1	0 _____
	2	5 _____
	3	10 _____
	4	15 _____
	5	20 _____
	6	25 _____
	7	30 _____
	8	35 _____
W. <i>Project Involves Lease-to-Own of one unit buildings with Title Transfer to Occupant within 20 years of Placed in Service</i>	25 _____	
X. <i>Contact Person who Attended Agency sponsored Workshop</i> Specify Name of Contact Person: _____	10 _____	
Y. <i>Developer Fees</i> (including Builder Profit and Builder Overhead when there exists Identity of Interest between Builder and Developer) are 10 percent or less of Developer Fee Base	15 _____	
Z. <i>Penalty Points</i>		
(i) Net Syndication Proceeds \leq 110 percent Developer Fee	15 _____	
(ii) Incomplete or Missing Exhibits, Appendices or Documents (5 - Points to be deducted per item)		
Item 1. _____	5 _____	
Item 2. _____	5 _____	
Item 3. _____	5 _____	
Item 4. _____	5 _____	
5 or more Items: Application will be deemed incomplete	5 _____	
AA. <i>Match Certification</i> Matching Certification exceeds \$50,000	50 _____	
AB. <i>LDED - Economic Development</i> Project located in a geographic area certified by the Louisiana Department of Economic Development are eligible for points as follows:		
Areas with an Empowerment Zone/Empowerment Community (EZ/EC) designation	20 _____	
Areas showing growth of 50 percent or more in economic indicators determined by LDED	15 _____	
Areas with an EZ/EC Champion Community Designation	10 _____	
AC. <i>Phase I Environmental Site Assessment</i> prepared by qualified environmental specialist provided with application	10 _____	
Formula to Calculate Ratio of Project's Intermediary Cost to Development Costs:		

Step 1: Add following amounts from Appendix II.
 Line II.B (Land Improvements) \$ _____
 Line II.C(ii) (Demolition) \$ _____
 Line II.C(iii) (Rehab or New Construction) \$ _____
 TOTAL: \$ _____

Step 2: Add Following Amounts from Appendix II.
 Line II.D (Subtotal) \$ _____
 Line II.F (Subtotal) \$ _____
 Line II.G (Subtotal) \$ _____
 TOTAL: \$ _____

Step 3: Divide Total of Step II by Total of Step I and specify percentage:

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 19:908 (July 1993), amended LR 21:959 (August 1996), LR 22:717 (August 1996), LR 23:749 (June 1997), LR 24:1784 (September 1998).

V. Jean Butler
 President

9809#058

RULE

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

**Commercial Fisherman's Assistance Program
 (LAC 76:XVII.101)**

The Wildlife and Fisheries Commission does hereby amend the rule on proof of income for the Commercial Fisherman's Assistance Program, in accordance with R.S. 56:13.1(D).

Title 76

WILDLIFE AND FISHERIES

Part XVII. Commercial Fisherman's Assistance Program

Chapter 1. Proof of Income

§101. Criteria for Establishing Proof of Income and Procedures

A. The eligibility of applicants for economic assistance under R.S. 56:13.1, Commercial Fisherman's Assistance Program, shall be determined in accordance with the following criteria:

1. the applicant shall have purchased a saltwater gill net license in at least two of the years 1993, 1994 and 1995; and
2. the applicant shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the years 1993, 1994 and 1995; and
3. the applicant shall have suffered a loss of income due to the enactment of the Louisiana Marine Resources Conservation Act of 1995; and
4. applicant must have been a bona fide resident of Louisiana on June 30, 1995 and must provide proof of such as defined under R.S. 56:8(12)(a); and
5. the applicant must have submitted his/her application not later than October 1, 1998.

B. Proof of such income for any of the years 1993, 1994 and 1995 shall be provided by applicant using any of the methods listed below.

1. Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e., Schedule C of federal form 1040, form W-2, etc.), which has been certified by the Internal Revenue Service (IRS).

2. Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e., Schedule C of federal form 1040, form W-2, etc.), which has been filed and stamped "received" at a local IRS office accompanied with a signed cover letter acknowledging receipt by the IRS.

3. Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (i.e., Schedule C of federal form 1040, form W-2, etc.), along with IRS stamped transcripts and IRS signed cover letter. Transcripts are available at local IRS offices.

C. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance will review the submitted tax return information and determine applicants income eligibility as defined by R.S. 56:13.1(B)(1). Proof of loss of income by the applicant shall be provided in the form of federal tax returns as specified in §101.B and determined by using the method below.

1. Proof of income loss will be determined by comparing the applicants average earned income from the legal capture and sale of seafood species for two of the years 1993, 1994 and 1995 and the earned income for tax years 1996 or 1997 as reported on their federal income tax returns. Proof of such income shall be provided by the applicant using any of the methods listed in §101.B.

2. The criteria for providing economic assistance shall be determined by the Department of Wildlife and Fisheries, and shall be based on an individuals loss of income due to the enactment of the Louisiana Marine Resources Conservation Act of 1995.

D. Applicants who receive economic assistance under the Commercial Fisherman's Assistance Program (R.S. 56:13.1) shall be disqualified from receiving any mullet license permit pursuant to R.S. 56:333.

E. The Department of Labor will provide to the Department of Wildlife and Fisheries Licensing Section a quarterly status report containing the name, address, social security number, type of training with beginning date and estimated ending date, the anticipated cost and actual cost as incurred, for each fisherman receiving economic assistance under the Commercial Fisherman's Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1(D).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:235 (March 1996), amended LR 24:1785 (September 1998).

James H. Jenkins, Jr.
 Secretary

9809#035

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Records and Reports; Filing
(LAC 52:I.1301, 1311, 1604, and 1801-1805)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to promulgate amendments and changes to the Rules for the Board of Ethics to permit the electronic filing of reports with the Board of Ethics Data Management System as mandated by Louisiana Revised Statute 42:1158A(2)(b).

Title 52 ETHICS

Part I. Board of Ethics

Chapter 13. Records and Reports

§1301. Custodian

The executive secretary shall be the custodian of all records, reports, and files, including electronic reports and files of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 25:

§1311. Records and Reports; Accepting and Filing

Any record or report submitted pursuant to this Chapter shall be accepted and filed upon receipt by the staff or upon acknowledgment of receipt by the board's electronic filing system, unless the record or report is not in compliance with the requirements established by this Chapter or by law. The names of the persons submitting records and reports which are accepted and filed shall be listed on the board's agenda. The records and reports which are not in compliance with the requirements established by this Chapter or by law shall be placed upon the board's agenda for further action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:100 (October 1997), amended LR 25:

Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act

§1604. Registration and Reporting; Forms

A. The staff shall prepare and provide upon request, forms for the registration and reporting by political committees and reporting by candidates. The forms may be provided on paper or in electronic format.

* * *

C. The method of signature for reports electronically filed shall be as provided in §1803.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997), amended LR 25:

Chapter 18. Electronic Filing

§1801. In General

The board recognizes the importance of immediate public access to publicly disclosed information. Accordingly, the board has implemented a system to allow ethics, lobbyist, and campaign finance disclosure reports to be electronically filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

§1802. Methods of Filing

The board may allow reports to be electronically filed via modem, diskette, or through Internet access.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

§1803. Validation of Reports

A. Upon receipt of an electronically filed report, the staff of the board shall cause a validation of receipt to be sent to the filer via facsimile, electronic mail, or United States mail.

B. Electronically filed reports shall include a digital signature created according to the methodology included in the board's electronic filing system.

C. Reports required to be filed under oath may be submitted electronically, with the original notarized report hand delivered or mailed, by United States mail, no later than the next working day following the due date of the required report.

D. Reports required to be accompanied by a filing fee may be submitted electronically, with the filing fee hand delivered or mailed, by United States mail no later than the next working day following the due date of the required report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

§1804. Time of Filing

A report electronically filed shall be deemed timely if received electronically by midnight on the filing deadline. The system time of the board's system shall control in the event of a dispute as to the time of receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

§1805. Refusal of Electronic Reports

The staff of the board may refuse to accept for filing an electronic report that contains a computer virus which could compromise the computer system of the board. The filer shall be immediately notified of the refusal so that an alternative method of delivery may be attempted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

No preamble to the proposed rule changes has been prepared. Interested persons may direct their comments to R. Gray Sexton, Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, telephone (504) 922-1400, until October 10, 1998.

If necessary, a public hearing will be held by the Board of Ethics at 8401 United Plaza Boulevard, Baton Rouge, Louisiana, 70809-7017 between October 26, 1998 and October 30, 1998.

R. Gary Sexton
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Records and Reports; Filing**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of the amendments to the rules for the Board of Ethics will increase expenditures by \$340 for publishing the rules in the *Louisiana Register*. The Board of Ethics is merely publishing new rules for the electronic filing system that was funded in FY 1997-98.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The amendments to the rules for the Board of Ethics are not expected to have any fiscal impact on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs nor economic benefits 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.

R. Gary Sexton
Administrator
9809#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Culture, Recreation and Tourism
Office of the State Library**

Grants to Public Libraries
(LAC 25:VII.3101, 3103, 3107-3113)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Office of the State Library intends to revise the following rules and regulations. The changes will have no economic impact on the budget of the State, nor are fees involved.

**Title 25
CULTURAL RESOURCES**

Part VII. State Library

Subpart 4. Grants to Public Libraries

Chapter 31. Disbursement of Grants

§3101. Definitions

* * *

District Library—a library established by state law, for a defined district within a parish, to serve residents of the district.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 13:392 (July 1987), LR 24:

§3103. Submission of Applications

A. The state librarian shall establish a program of supplemental grants to libraries for the purchase of technology enhancement, technological information resources, books, audiovisual materials, newspapers, and periodicals in accordance with the provisions of this Part. The state librarian may establish rules and regulations for implementation of this program in accordance with the Administrative Procedure Act. Grants may be made from funds appropriated to the state library for allocation to libraries as provided herein.

B. Any parish library which serves all residents of the parish, any municipal library which serves all residents of a parish which does not have a parish library, any consolidated library system, and any district library shall be entitled to apply annually to the state librarian to receive supplemental grants in accordance with the provisions of this Part.

C. ...

D. Grants shall be made by the state librarian on the basis of annual applications for grants submitted to him. Applications for state fiscal year must be made by November 1 of the same state fiscal year.

E. ...

F. Funds granted under the provisions of this Part shall be expended only for the purchase of technology enhancement, technological information resources, books, audiovisual materials, newspapers, and periodicals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 24:

§3107. Maintenance of Local Effort

Grant funds cannot be used for personnel or regularly budgeted items. Nothing in these rules and regulations shall be construed to effect a substitution of state funds for library service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 7:408 (August 1981), LR 8:591, (November 1982), LR 13:392 (July 1987), LR 24:

§3109. Distribution of Supplemental Grants

The state library shall grant funds under the provisions of this Part to any library, consolidated library system, or district library which makes application therefor and which is eligible for such funds as provided herein. Grants shall be made on an annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 7:407 (August 1981), LR 23:392 (July 1987), LR 24:

§3111. Annual Reports to the State Library

Each library, consolidated library system, or district library applying annually to the state librarian for and receiving supplemental funding grants shall furnish to the state librarian, an annual report of such information concerning library technology and/or materials purchased as the state librarian may require, specifically including a description and financial accounting of all library technology and/or materials purchased from funds received under the provisions of this Part. The legislative auditor for the state of Louisiana shall have the option of auditing all accounts pertaining to grants made to public libraries, or consolidated library systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), LR 24:

§3113. Appeal Process

If a public library, consolidated library system, or district library is denied the grant for technology materials and/or library materials, the avenue to appeal this decision will be first the state librarian, next, to the secretary of the Department of Culture, Creation and Tourism, and finally, to the lieutenant governor of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 13:392 (July 1987), LR 24:

Persons interested may submit written comments on the proposed changes by October 31, 1998 to Thomas F. Jaques, State Librarian, State Library of Louisiana, P.O. Box 131, Baton Rouge, LA 70821-0131.

Phillip Jones
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Grants to Public Libraries**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units. The proposed rules update procedures for the distribution of state grants to local libraries. The changes are expected to streamline and improve the grant process. The Office of State Library will not incur additional costs from these proposed rule changes. Grants are distributed

to local public libraries with only minor administrative duties required within the Department of Culture, Recreation and Tourism.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units. State funding for local public libraries is contingent upon annual appropriations by the Legislature. These rules clarify procedures for the distribution of funds to public libraries and do not affect the amount of state funds distributed to each public library.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups from implementation of the proposed rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the proposed rule changes will not affect competition or employment.

Thomas F. Jaques
Assistant Secretary
9809#014

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Auctioneers Licensing Board**

Miscellaneous Rule Revisions
(LAC 46:III.Chapters 1, 3, 5, 7, 9, 11, 13,
15, 17, 19, 21, 23, and 25)

In accordance with La. R.S. 37:3101, notice is hereby given that the Department of Economic Development, Auctioneers Licensing Board proposes to amend the rules and regulations for the Auctioneers Licensing Board. The intent is to repeal and reenact the rules in light of the revisions to the statutory authority of the Auctioneers Licensing Board.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part III. Auctioneers**

**Chapter 1. Description of Organization
§101. Organization of the Board**

The Louisiana Auctioneers Licensing Board (hereafter referred to as board) is created by virtue of R.S. 37:3111 and is created as an agency of the state government in the Department of Economic Development. No member of the board shall be held liable as an individual in any suit against the board. Statutes relating thereto are found in R.S. 37:3111 et seq., of the Louisiana Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:781 (November 1988), repealed and promulgated, LR 25:

§103. Number, Qualifications of Members

The board shall be composed of seven persons, consisting of the chairman and vice-chairman, and five of whom shall be auctioneers, one selected from each public service commission district, and two of whom shall be consumers from the public-at-large, all appointed by the governor. Each appointee shall be a citizen of the United States of America and a resident of Louisiana and at least thirty (30) years of age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

§105. Election and Term of Office

The board shall elect a chairman and vice-chairman annually by majority vote of the total membership of the board. Each appointed member shall serve at the pleasure of the governor for a term concurrent to the term of office of the governor appointing him except that each member shall serve until his successor has been appointed and being serving. Each appointment by the governor shall be submitted to the Senate for confirmation. In the event of the death, resignation, or disability of a member of the board, the governor shall fill the vacancy by appointing a qualified person for the remainder of the unexpired term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112 as amended by Acts 1997, Number 923 §1).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

§107. Oath

Each member of the board shall received a certificate of appointment from the governor, and before beginning his term of office, shall file with the secretary of state his written oath or affirmation for faithful discharge of his official duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

§109. Salaries

Members of the board may receive a *per diem* or compensation when actually attending a meeting of the board or any of its committees and for time spent on behalf of the board on official business. Additionally, members may be reimbursed for actual and necessary travel, incidental, and clerical expenses incurred in carrying out the provisions of Chapter 1 when and if funds are available from the board's funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers

Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

Chapter 3. General Course and Method of Operations

§301. Domicile

The board shall be domiciled in Baton Rouge, Louisiana, but shall be authorized to meet elsewhere in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111(c).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department to Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

§303. Chairman and Vice-Chairman of the Board

The chairman, or in his absence, the vice-chairman, or in the absence of both of them, the chairman chosen by the members present shall preside at all meetings of the board. The chairman shall be the chief executive officer of the board, and subject to the direction and under the supervision of the board, shall have general charge of the business affairs and property of the board and control of its officers. The chairman shall preside at all meetings of the members, shall appoint the members of all committees created by the bylaws or by resolution of the board. He shall be an ex-officio member of all standing committees and other committees created by the bylaws or by resolution of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

§305. Meetings of the Board

The board shall conduct regular meetings bimonthly. A special meeting may be held at such time and place as specified by the executive secretary on call of the chairman or four members. The executive secretary shall give written notice of all meetings to the members of the board and the interested public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112 as amended by Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

§307. Special Meetings

A. Special meetings of the board may be called by the chairman or at the request of any four members. The persons authorized to call such a special meeting may fix any place within the state of Louisiana.

B. Notice of any special meeting shall be given by mail posted at least five days prior to such a meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985),

amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

§309. Quorum of the Board

Four members of the board constitute a quorum for all purposes including the granting or issuance of licenses and the rule making and adjudicative functions of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988), repealed and promulgated, LR 25:

§311. Majority Action

The act of the majority of the board members present at a meeting at which a quorum is present shall be the act of the board, except as specified by the statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988), repealed and promulgated, LR 25:

§315. Bylaws

Bylaws of the board may be adopted, amended or repealed by the members of the board at a regular meeting or a special meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:339 (April 1985), repealed and promulgated, LR 25:

Chapter 5. Order of Business; Rules of Order

§501. Board Meeting; Order of Business

The order of business at all meetings of board members shall be:

1. call to order;
2. reading of the minutes of the previous meeting;
3. reports of members;
4. consideration of financial statements and reports;
5. consideration of unfinished business;
6. consideration of new and miscellaneous business;
7. adjournment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988), repealed and promulgated, LR 25:

§503. Rules of Order

Except as otherwise provided in the statute or the Administrative Procedure Act, the latest edition of *Robert's Rules of Order*, as revised from time to time, shall determine procedure in all meetings of the members and the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers

Licensing Board, LR 14:783 (November 1988), repealed and promulgated, LR 25:

Chapter 7. General Scope of Responsibilities

§701. Duties

A. The business and affairs of the board shall be managed by its board members.

B. The board shall perform the following duties:

1. examine each applicant desiring to be licensed as an auctioneer in the state of Louisiana;
2. administer a written examination for licensing at least four times each year in the city of Baton Rouge;
3. adopt rules and regulations to govern auctioneers in the state of Louisiana;
4. issue, suspend, modify or revoke licenses to do business in the state of Louisiana;
5. report to the attorney general of the State of Louisiana all persons violating the provisions of this chapter;
6. adopt its official seal;
7. furnish, upon request, a copy of Louisiana auction laws, and also an accurate list of those states having reciprocity with Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 as amended Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988), repealed and promulgated, LR 25:

§703. Authorities

A. The board is authorized to and shall do the following:

1. adopt and enforce rules and regulations, bylaws and rules of professional conduct as the board may deem necessarily proper to regulate auctions under its jurisdiction in the state of Louisiana, to provide for the efficient operation of the board, and otherwise to discharge its duties and power under the statute and rules;
2. prescribe and adopt regulations, standards, procedures and policies governing the manner and conditions under which credit shall be given by the board for participation in a program of continuing education, as the board may consider necessary and appropriate to maintain the highest standards of proficiency as an auctioneer in the state of Louisiana;
3. authorize any member of the board to make any affidavit necessary to the issuance of any injunction or other legal process authorized under the statute or rules of the board;
4. authorize and issue subpoenas to require attendance and testimony and the production of documents for the purpose of enforcing the laws relative to auctions and security evidence of violations thereof;
5. maintain a current list of licensed auctioneers;
6. select its officers annually.

B. The board is authorized and may do the following:

1. appoint a qualified executive secretary;
2. employ clerical assistance necessary to carry out the administrative work of the board;
3. employ legal counsel to carry out the provisions of the statute and rules, provided that the fees of such counsel

and the costs of all proceedings, except criminal prosecutions, are paid by the board from its own funds;

4. incur all necessary and proper expenses;

5. select and appoint investigators to assist the board in investigating complaints filed against any licensed auctioneer. Such investigators may service subpoenas, gather data, and investigate complaints in the scope and manner and within the authority prescribed by the board.

C. The legal counsel of the board or in his absence, any other member of the board, may administer oaths in the taking of testimony upon any matter appertaining to the duties and powers of the board.

D. The board shall meet bimonthly at regular meetings each year. A special meeting may be held at such time and place as specified by the executive secretary on call of the chairman of four members. The executive secretary shall give written notice of all meetings to the members of the board and the interested public.

E. Four members of the board constitute a quorum for all purposes including the granting or issuance of licenses and the rulemaking and adjudicative functions of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 as amended by Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988), repealed and promulgated, LR 25:

Chapter 9. Official Seal

§901. Official Seal

A. The official seal of the Louisiana Auctioneers Licensing Board shall be as follows:

The board shall have a seal which shall be in the form of a circle with the words "State of Louisiana" together with the words "Louisiana Auctioneers Licensing Board" inscribed thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

Chapter 11. License of Auctioneer

§1101. Qualifications for Applicant

A. The board shall base determination of satisfactory minimum qualifications for licensing as follows:

1. be of good moral character;

2. be a citizen of the United States and a resident of the state of Louisiana;

3. be at least 18 years of age;

4. has completed one of the following:

a. completed a series of studies at a school of auctioneering licensed or approved by the board;

b. completed an apprenticeship of one year working with and under an auctioneer duly licensed in the state of Louisiana.

B. An owner or operator of an auction business for one year or more in any state of the United States may be appointed as a deputy or agent to a Louisiana licensed auctioneer prior to taking the auctioneer's test.

C. An applicant for licensing shall fill out and file with the board an application form provided by the board. The form shall require relevant information about the applicant's character, knowledge and experience in application of that knowledge. Among the data required on the application form, the applicant shall submit the following information:

1. education background;

2. previous occupational experience in the auction business;

3. three references, including their business addresses, who attest to the applicant's reputation and adherence to ethical standards.

D. If, in the opinion of the board, the applicant provides inadequate information to allow the board to ascertain whether the applicant satisfies the qualifications for licensing, the applicant shall be required to provide additional information for purposes of the application or may be required to present himself for an interview for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3113 as amended by Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

§1103. Licensing Procedure

A. Applications for the license to be obtained under provision of the board's enabling act shall be verified by the oath or affirmation of the applicant and shall be on the forms prescribed by the board and furnished to such applicants. The applications shall contain such information as the board deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license applied for.

B. The board shall require the following in an application:

1. applicant's residential address;

2. applicant's business address;

3. applicant's telephone number;

4. state and parish in which applicant is a qualified voter, with a notarized copy of the applicant's voter registration attached;

5. cashier's check, money order or cash - no checks will be accepted - in the sum of \$300 for all fees covered in the initial licensing procedure;

6. oath of office as a Louisiana auctioneer;

7. irrevocable consent (if applicable).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

§1105. Availability of Applications and Apprentices License

Applications and all other pertinent forms are available at the Department of Economic Development, Louisiana Auctioneers Licensing Board, 8017 Jefferson Highway, Suite B-3, Baton Rouge, Louisiana 70809, or will be mailed upon

request of the person seeking to be licensed as an auctioneer or as an apprentice auctioneer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

§1107. Change of Address

All licensees shall notify the board in writing of each change of address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

§1109. Examination Procedure

A. The board shall determine the scope, form, and content of the examinations for licensure which shall be written and shall include questions on Louisiana auction law and sound business practices.

B. The board shall issue a numbered license to an applicant who meets the requirements of this statute and rules, passes satisfactorily the examination administered by the board and pays the fee to be a licensed auctioneer.

C. The board shall give examinations for licensure on the following dates: fourth Thursday in January, April, July, and October of each year. Individual examinations are not permitted.

D. An applicant failing in an examination may be examined again upon filing a new application and the payment of the re-examination fee of \$50.00 fixed by the statute.

E. The board, within ten (10) days and in writing, shall notify any applicant who is denied licensing of the reason therefor. Within thirty (30) days after receipt of notice, such applicant may make written request to the board that his or her reexamination be regraded and reviewed by the board. Upon regrading and review of the examinee's examination, the examinee will be advised, in writing, of the decision of the board. If it is determined by the board that the examination remains in the failure status, the examinee may, at his or her discretion, request a formal hearing with regard to the failing status of his or her examination grade. A formal hearing shall then be conducted under the Administrative Procedure Act.

F. An individual who fails to pass two successive examinations is not eligible to take another examination until the expiration of one year from the date of his most recent failure, at which time he shall complete and file a new application, bond and fee with the board.

G. All auctioneer license examinations are confidential tests. They are designed and administered under conditions established to protect the security of the tests. Neither the current forms nor the previous forms of the tests are available for purchase or inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113 as amended by Acts 1997 Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

§1111. License Renewal and Penalty

A. A license shall expire annually on December 31. Each renewal license shall be valid throughout this date from January 1 of each year to December 31 of each year. All applications for renewal of auctioneers' license shall be submitted to the board by November 1 of each year, and licenses shall be issued by January 10 of each year. If application of renewal of the license has not been made, the license shall expire on December 31 and it shall be illegal for any person to represent himself and act as an auctioneer thereafter. Any auctioneer who submits a renewal application after January 1 shall be subject to a late penalty of \$75.00, which shall be paid to the Louisiana Auctioneers Licensing Board. Any auctioneer having a previous annual license shall be presumed to be a renewal applicant unless the auctioneer has allowed the license to lapse for more than one year from the date of renewal. If such license has lapsed for one year or more, then the auctioneer shall be charged a license restoration fee of \$100.00, in addition to all other applicable fees, and the auctioneer must appear before the Louisiana Auctioneers Licensing Board to apply for such restoration at one of the board's regularly scheduled meetings.

B. The board shall notify the auctioneer of the need for renewal at the last known address at least sixty (60) days in advance of the expiration and send such forms for renewal as required by law.

C. The board shall issue the same number for the renewed license as that number issued for the original license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3115 as amended by Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:785 (November 1988), repealed and promulgated, LR 25:

§1113. Fees

A. The board shall assess the following schedule of fees, which shall not be refundable:

1. application fee	\$75
2. examination fee	\$75
3. re-examination fee	\$50
4. initial license fee	\$150
5. annual renewal license fee	\$150
6. restoration fee of a license	\$100
7. replacement fee of a lost, destroyed, or mutilated license	\$25
8. delinquency for renewal	\$75
9. apprentice fee	\$100
10. annual certification of a licensed auctioneer school or a school offering auctioneering courses	\$150

B. All fees shall be paid by certified check or money order made payable to the board.

C. Concurrent with the filing of a complaint against an auctioneer licensed and/or regulated by the Auctioneers Licensing Board, the complaining party shall deposit the sum of \$300.00 in the form of a check or money order payable to the Auctioneers Licensing Board. Said deposit shall be returned to the complainant at the time the board issues a ruling on the complaint unless there is a specific finding by the board that the complaint was frivolous. The board may waive the requirement of the payment of a deposit in the event it is determined by the board that payment of the deposit by the complainant will create an undue hardship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3116 and R.S. 37:3121.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

§1115. Reciprocity and Licensure without Examination

A. A person holding a license to engage in auctions issued to him by a proper authority of a state, territory or possession of the United States of America or the District of Columbia having licensing requirements comparable to Louisiana and who in the opinion of the board otherwise meets the requirements of the statute and rules may upon application be licensed without further examination. The nonresident auctioneer must comply with all other provisions of the statutes and rules relating to licensing of auctioneers.

B. A nonresident who does not hold a license in a reciprocal state must pass the examination and must comply with all other requirements of the statute and rules to be licensed in this state including, but not limited to, La. R.S. 37:3118(C).

C. Notwithstanding any other provision of law to the contrary, no person duly licensed as an auctioneer in any other state and temporarily present in this state shall conduct an auction in this state unless he acts in association with an auctioneer duly licensed in this state if the state in which the nonresident auctioneer is licensed requires such an association with an auctioneer licensed in this state before an auctioneer duly licensed in Louisiana may conduct an auction in that state.

D. Every nonresident applicant for a license under the statute and rules shall file with the board as part of the application for a license a written irrevocable consent that any cause of action growing out of any transaction subject to the statute and rules may be commenced against the licensee in the proper court of any parish of this state in which the cause of action may arise or in which the plaintiff may reside by a service of process upon the board as the licensee's agent and stipulating and agreeing that such service has been made upon the person according to the laws of this or any other state. Such instrument shall be in such form and supported by such additional information as the board may by rule require.

E. All individuals making application for an auctioneer license per reciprocal agreement shall submit with their application a letter of certification from the state board or commission of their state of domicile, certifying that they are

duly licensed in said state, stating their residence, date of issuance, expiration date and license number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3117 as amended Acts 1997, Act 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:785 (November 1988), repealed and promulgated, LR 25:

§1117. Qualifications for Licensing as an Apprentice Auctioneer

A. Must be at least 18 years of age;

B. Must submit the following:

1. application for licensing;

2. oath of office;

3. irrevocable consent form (out of state applicants only);

4. copy of voter registration;

5. a certified check, money order or cash in the sum of \$100.00;

6. a form signed by the supervising Louisiana licensed auctioneer stating that the apprentice will be serving under him for the term of one year;

7. a copy of the rules and regulations signed by both the apprentice and the supervising Louisiana licensed auctioneer (see §1117.D).

C. In-state and out-of-state persons can be considered for licensing as apprentices. However, the apprentice must work under a Louisiana licensed auctioneer during his one-year training period.

D. All apprentice applicants must be approved by the Louisiana Auctioneers Licensing Board prior to licensing. Apprentice licenses will only be issued at those meetings held in January, April, July and October.

E. The prospective apprentice and his supervising Louisiana licensed auctioneer must appear together before the board at a regularly scheduled meeting and must both sign three copies of the rules and regulations governing issuance of apprentice licenses, which will be witnessed by two board members. This must be done before an apprentice license can be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3118.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), repealed and promulgated, LR 25:

§1119. Apprentice Auctioneer Licensing

A. The licensed Louisiana auctioneer acting as the supervisor for the apprentice auctioneer must hold the apprentice auctioneer's license. Under no circumstances is the apprentice auctioneer to have, display, or carry his license at any time.

B. When an apprentice auctioneer's employment with the supervising auctioneer is terminated for any reason, the supervising auctioneer shall immediately deliver or send by registered mail the apprentice auctioneer's license to the board. He must sign the back and indicate the termination date. Such apprentice auctioneer shall not engage in any auctioneer activity until he receives a new license (for the

expired term) bearing the name, address, and current license number of his new employer. No more than one license shall be issued to any apprentice auctioneer for the same period of time.

C. There will be just one licensed auctioneer supervisor at a time for an apprentice auctioneer. Should the apprentice auctioneer practice under another licensed auctioneer without a release from the first, his license shall be suspended.

D. There will be an additional charge of \$25.00 for the new license.

E. Any person acting as an apprentice auctioneer within the meaning of these rules and regulations without a license and any person who violates these rules and regulations shall be subject to revocation of his license. The Louisiana auctioneer serving as sponsoring supervisor is also subject to revocation of his license should his apprentice auctioneer violate these rules and regulations.

F. The license of an apprentice auctioneer shall be automatically suspended upon the revocation or suspension of the license of the Louisiana auctioneer who is his sponsoring supervisor; however, the apprentice auctioneer may retain his license by transferring to the employment of another Louisiana licensed auctioneer within 21 days of the effective date of such revocation or suspension. If the apprentice auctioneer does not transfer to another Louisiana licensed auctioneer within the 21 days, he must start his one-year apprentice program over.

G. This Subsection of the rules and regulations specifically prohibits the apprentice auctioneer from calling an auction unless the licensed auctioneer serving as his supervisor is on the premises at all times. If he does call an auction, his license will be suspended.

H. Upon completion of the one-year apprentice program, the apprentice auctioneer may apply to take the Louisiana auctioneer's examination and become licensed in the state of Louisiana. He must submit the following in order to be considered for administration of the test:

1. application for license as an auctioneer;
2. oath of office;
3. irrevocable consent form (out-of-state applicants only);
4. certified copy of voter registration showing present residence;
5. certified check, money order, or cash in the amount of \$300.00 (this includes the \$150.00 license fee, the \$75.00 application fee, and the \$75.00 fee);
6. a form signed by the supervising Louisiana licensed auctioneer stating that the apprentice did serve under him for the term of one (1) year.

I. Upon successful completion of the auctioneer's licensing examination and the submission of all required materials, a Louisiana auctioneer's license will be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), repealed and promulgated, LR 25:

§1121. Causes for Nonissuance, Suspension, Revocation or Restriction; Fine, Reinstatement

A. The board may refuse to issue or may suspend, revoke or impose probationary or other restrictions of any license issued under this statute and rules for any of the following causes:

1. conviction of a felony or entry of a plea of guilty or nolo contendere to a felony charge under the laws of the United States of America or of any state;
2. deceit or perjury in obtaining any certificate or license issued under this statute and rules;
3. providing false testimony before the board;
4. efforts to deceive or defraud the public;
5. incompetency or gross negligence;
6. rendering, submitting, subscribing, or verifying false, deceptive, misleading or unfounded opinions or reports;
7. the refusal of another state to issue or renew a license, permit or certificate in that state or the revocation or suspension of or other restriction imposed on a license, permit or certificate issued by such licensing authority;
8. aiding or abetting a person to evade the provisions of this statute and rules or knowingly combining or conspiring with an unlicensed person or acting as an agent, partner, associate or otherwise, of an unlicensed person with intent to evade the provision of this statute and rules;
9. violation of any provision of this statute and rules or any rules or regulations of the board or rules of conduct promulgated by the board;
10. indebtedness to the state or to any municipal corporation for any tax as an auctioneer or for any license or commission that he has neglected to pay after final judgment has been rendered against him for it;
11. selling goods at an auction before the auctioneer or auction house has first entered into a written contract with the owner or consignor of the goods when the minimum price for such goods has been set or requested at a value above five hundred dollars;
12. failing for a period of seven calendar days after notice is given to make good a check which has been returned for insufficient funds (NSF check) or bank draft remitted to the owner or consignor of auctioned goods in settlement pursuant to R.S. 37:3125.

B. The board may, as a probationary condition or as a condition of the reinstatement of any license suspended or revoked hereunder, require the holder to pay all costs of the board proceedings, including investigator's, stenographers' and attorney's fees.

C. The board may, as a probationary condition or as a condition of the reinstatement request the deposit of the sum of \$10,000 in cash or a good and sufficient surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Louisiana as surety in the amount of \$10,000.

D. Four concurring votes of the board shall be required for revocation of any license. Four concurring votes shall be required for suspension of any license or the imposition of costs or fines in excess of \$500.

E. Any certificate or license suspended, revoked or otherwise restricted by the board may be reinstated by majority vote of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3121 as amended by Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), repealed and promulgated, LR 25:

Chapter 13. Cease and Desist; Injunctions

§1301. Cease and Desist, Injunctions

A. In addition to or in lieu of the criminal penalties and administrative sanctions provided in the statute and rules, the board is employed to issue an order to any person or firm engaged in any activities, conduct, or practice constituting a violation of any provision of the statute or rules directing such person or firm to cease and desist from such activity, conduct or practice. Such order shall be issued in the name of the state of Louisiana under the official seal of the board.

B. Upon a proper showing by the board that such person or firm has engaged in any activity, conduct or practice prescribed by the statute and rules, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct or practices pending the hearing on a preliminary injunction and in due course a permanent injunction shall issue after the hearing commanding the cessation of the unlawful activity, conduct or practices complained of, all without the necessity of the board having to give bond as usually required in such cases. A temporary restraining order, preliminary injunction or permanent injunction issued hereunder shall not be subject to being released upon bond.

C. If the person or firm to whom the board directs a cease and desist order does not cease and desist the prescribed activity conduct or practice within 10 days from service of such cease and desist order by certified mail, the board may cause to issue in any court of competent jurisdiction and proper venue a writ of injunction enjoining such person or firm from engaging in any activity, conduct or practice by the statute and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3122.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), repealed and promulgated, LR 25:

Chapter 15. Violations and Penalties

§1501. Violations and Penalties

A. Any person who engages in auctions without a valid license violates that statute and rules.

B. Any person who willfully violates any provision of this statute and rules or any rules and regulations adopted under its authority shall be fined for each offense not more than \$500 or imprisoned not more than six months, or both. Each individual sale or act in connection with the conduct of any auction in violation of any provision of this statute and rules shall constitute a separate offense and violation of this statute and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3123.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), repealed and promulgated, LR 25:

§1503. Fines for Advertising Violations

Violations of Chapter 17 requiring that the licensee place his name and license number in all advertising will result in a money fine to be levied against him. The amount of the fine will be \$50 for the first offense and \$100 for the second. A third or subsequent offense may result in a fine or other disciplinary action within the discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 20:1367 (December 1994), repealed and promulgated, LR 25:

Chapter 17. Responsibilities of Licensed Auctioneer

§1701. Advertising and Management of Sale

A. The auctioneer shall be responsible for the advertising and management of the sale and account for all proceeds therefore and shall, over his signature, issue a closing statement to the sellers.

B. All advertising of an auction sale must be made in the name of the licensee who shall bear responsibility of the sale to the seller, general public and auctioneer board. The current license number must be published.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), repealed and promulgated, LR 25:

§1703. Conduct in Professional Manner

A. A licensee shall conduct his professional activities in a professional manner that will reflect credit upon himself, the auction profession and auctioneers.

B. Unprofessional conduct includes, but is not limited to, the following:

1. failure of a licensee to deposit in one or more identifiable bank accounts maintained in the state in which the auctioneer is situated all funds derived from an auction sale paid to the licensee or to a person, corporation, firm or combination thereof which conducted the sale. No funds belonging to the auctioneer shall be deposited therein except as follows:

a. funds reasonably sufficient to pay bank charges may be deposited therein;

b. Funds belonging in part to the person who employs the auctioneer and in part to the auctioneer must be deposited therein, but if the portion belonging to the auctioneer to receive it is disputed by the person who employs the auctioneer, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

2. Failure of licensee to account to and pay over all monies and tangible personal property coming into his possession which belong to others including buyers at auction

as well as consignors no later than thirty days from the date that the obligation arises to remit or deliver the said monies or tangible personal property.

3. A licensee's payment of compensation in money or other valuable things to any person other than a licensee for the rendering of any service or the doing of any of the acts by this act forbidden to be rendered or performed by other than licensees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), repealed and promulgated, LR 25:

Chapter 19. Fund of the Board

§1901. Auctioneers Licensing Board Fund

There is hereby created a special fund designated as the Louisiana Auctioneers Licensing Board Fund. The fund shall be audited by a firm of certified public accountants and maintained and controlled by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119 as amended by Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:339 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:788 (November 1988), repealed and promulgated, LR 25:

Chapter 21. Rule Making Process

§2101. Adoption of Rules

A. The adoption of any rule or regulation, guideline, substantive procedure or code of conduct shall be subject to the provisions of the Administrative Procedure act.

B. Fiscal Year. The fiscal year of the board shall end on June 30 of each year hereafter.

C. Bylaws. Bylaws of the board may be adopted, amended or repealed by the members of the board at a regular meeting or a special meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3120.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:339 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:788 (November 1988), repealed and promulgated, LR 25:

Chapter 23. Transfer of Boards, Commissions, Departments and Agencies to the Department of Commerce

§2301. Transferred as Provided in R.S. 36:803

The following agencies, as defined by R.S. 36:3, are transferred to and shall be within the Department of Commerce, as provided in R.S. 36:803:

1. Louisiana Auctioneers Licensing Board (R.S. 37:3101-37:3105 and R.S. 37:3111-37:3123). Section 6, Chapter 7 of Title of the Louisiana Revised Statutes of 1950, comprised of R.S. 5:361 through 5:368, inclusive, is hereby repealed in its entirety. Section 3, R.S. 5:4 and R.S. 37:3114 (E) are hereby specifically repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:339 (April 1985), repealed and promulgated, LR 25:

Chapter 25. Auctioneer Business

§2501. Licensing of Auction Business

A. Preamble. Louisiana Auctioneers Licensing Board herein promulgates rules for the licensing and regulation of auction businesses in the state of Louisiana, pursuant to the authority granted to it in R.S. 37:3101(A).

B. Application of Rules

1. For purposes of these rules and regulations:

Auction Business— shall mean the same and may be used interchangeable with the term *Auction House* and *Auction Company* as articulated in R.S. 37:3103(A)(11).

2. Definitions:

Auction Business—as used in R.S. 37:3103(A)(11) shall be further defined as any place of business including, but not limited to, an auction barn, sale barn, antique gallery, sale pavilion, and contiguous surrounding, where two or more auctions are held within any 12-month period and where representations are regularly made that goods are sold at auction. Each day when goods or real estate are being offered for sale at auctions shall constitute one auction. A sale barn or livestock auction business that is used exclusively for the auctioning of livestock is not an auction business as defined herein.

Board—the Louisiana Auctioneers Licensing Board.

Licensee—any person licensed under these rules, and in the case of an auction business, includes the person required to obtain a license for such auction house or auction company.

C. Scope of Regulation. Every applicant seeking to operate an auction house shall filed with the board a completed application (on a form provided by the board) for a license for each auction business to be operated by that person. Although an auction business may operate in more than one location, at all times, it may only operate under the name licensed with the Louisiana Auctioneers Licensing board.

D. Licensing Fee. Each application for licensing shall be accompanied by a license fee in the amount of \$300. Any applicant whose application is denied shall be refunded the entire application/license fee within thirty (30) days of such denial. Renewal of each auction business license shall be on an annual basis, no later than February 1 of each calendar year. An auction business license renewal fee shall be \$300.

E. Application Information. Each applicant shall submit the following information on the designated application form:

1. names of owners and length of time of ownership of the business;
2. all business addresses of the applicant;
3. all auctioneers licensed by this date and employed by the business on a regular basis. (Regular shall mean more than any single auction in the previous calendar year);
4. the nature of the business and product sought to be sold;

5. two references who are currently licensed Louisiana auctioneers in good standing with the Louisiana Auctioneers Licensing Board.

F. Board of Right of Investigation

1. Upon receipt of a completed application of an initial or renewal license, the board shall examine the application and may verify the information contained therein.

2. A license to operate as an auction business may be denied, revoked or suspend for the same reasons as those pertaining to auctioneers, articulated at R.S. 37:3121. All provisions of this statute and rules relating to the nonissuance, suspension, revocation, or restriction of license granted to individual auctioneers will apply to the regulation of an auction business. All provisions of this statute and rules relating to the reinstatement of licenses shall also apply.

G. The qualifications of an applicant applying for an auction business license shall be the same as those articulated at R.S.37:3113(a)1 through 37:3113(b)4, pertaining to the licensing of auctioneers.

H. An auction business licensee shall be able to operate the licensed auction business in any parish of the state of Louisiana. Should the licensee desire to operate the business at more than one location or change the location, the licensee shall give the Louisiana Auctioneers Licensing Board written notice of the change at least five days prior to the change of address or establishment of new location, as well as provide a physical and mailing address of the new or additional location of the business. Failure by licensee to give notice to the Louisiana Auctioneers Licensing Board after such change of location (or establishment of an additional location) shall be grounds for revocation of the auction business license by the board.

I. A licensee's auction business license shall automatically be suspended if no licensed auctioneer is engaged in conducting the auctions for the licensee. Such license may be reinstated by the board for the unexpired term upon proof that a duly licensed auctioneer has been affiliated with the auction business.

J. The provision of R.S. 37:3115 relative to renewal of license, certificate and penalties for failure to renew the license of auctioneers, shall also apply to an auction business license.

K. No auction business license shall be issued or renewed unless the applicant presents a bond in the amount of \$10,000 in a form approved by the board.

L. A resident Louisiana licensed auctioneer may operate an auction business without a fee, and without posting of an additional surety bond if a surety bond guaranteeing his performance as an auctioneer has previously been posted.

M. An auction business must display in its office or offices its current license to do business as an auction business at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 20:1367 (December 1994), repealed and promulgated, LR 25:

Mary Norton
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Miscellaneous Rule Revisions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the implementation costs for this rule will total \$2,500.00. This cost consists of the attorney's fees and costs associated with the completion of this fiscal and economic impact statement as well as the preparation and submission of the proposed rules to the Division of Administration. The rules are being updated, especially as it concerns the 1997 revision to the statutory authority of the Auctioneers Licensing Board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Auctioneers Licensing Board operates on self-generated revenue and as a result the revenue collection of state and local government units will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Auctioneers Licensing Board believes that the revision will have a positive impact as outlined in IV. However, an economic impact is difficult to quantify. The proposed rules are intended to conform to the requirements of Acts 1997, Number 923. The usual changes would include: expanded authority of the Auctioneers Licensing Board to assess costs relative to hearings on complaints, deleting the annual report to the Department of Economic Development, changing the meetings to bimonthly, and amending the grounds for disciplining auctioneers.

The following rules would also be implemented:

1. changing the apprenticeship from 160 hours to a year of apprenticeship;

2. requiring complainants to make an initial deposit of \$300 at the time a complaint is lodged which is returned to the complainant unless it is determined that the complaint is frivolous. Additionally, the deposit can be waived in the event it is determined that the payment of a deposit will create an undue hardship.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule revision will ensure that the promulgated rules are in conformity with the statutory authority of the Auctioneers Licensing Board. As a result, the auctioneers and consumers will have available a more concise and simpler resource to determine the rules applicable to auctions and auctioneers.

Bobby Green
Chairman
9809#051

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

Small Loans—Fees and Charges
(LAC 10:XI.901)

In accordance with the authority granted by the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and specifically R.S. 9:3554 A(5) of the Louisiana Consumer Credit Law, the Department of Economic Development, Office of Financial Institutions hereby gives notice of its intent to adopt the following rule, which provides for the clarification of the Louisiana Small Loan Act, R.S. 9:3577.1-3577.8, relating to the allowable fees and charges a lender may contract for with a borrower for loans subject to its provisions.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XI. Consumer Credit

Chapter 9. Small Loans

§901. Allowable Fees and Charges

A. Policy. This rule is intended to clarify which fees and charges a lender may assess a borrower for a loan subject to the provisions of the Louisiana Small Loan Act, R.S. 9:3577.1-3577.8 (LSLA). In addition, this rule will serve to effectuate the legislative intent behind the passage of the LSLA to limit the allowable fees and charges lenders may assess borrowers for small loans in order to prevent consumer abuse.

B. Definitions. For the purposes of this rule, the meanings of the terms *lenders* and *small loans* are as set forth in R.S. 9:3577.3.

C. Origination Fee. A lender may only charge a customer an origination fee in the amount set forth in R.S. 9:3577.4. For the purposes of this rule, the term *origination fee* is deemed to include all fees and charges associated with the documenting, processing and underwriting of the small loan.

D. Maximum Contract Rate of Interest. In addition to §901.C, a lender may charge a stated rate of interest on a small loan contract at a rate not to exceed 36 percent on an annualized basis.

E. Maximum Finance Charge. In lieu of §901.D, but in addition to §901.C, a lender may assess a finance charge of \$15 for small loans not exceeding \$200 or \$25 for loan amounts greater than \$200 and up to \$500.

F. Credit Insurance and Other Products. A lender is prohibited from selling to a borrower any insurance or product relating to the extension of credit.

G. Structuring Transactions. The Office of Financial Institutions will investigate any attempt by a licensed lender originating loans to evade or circumvent the provisions of the LSLA or this rule by any method and will take all appropriate and proper action to ensure compliance therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3554 A(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 24:

All interested persons are invited to submit written comments on this proposed rule. All comments must be submitted no later than October 23, 1998 to Gary L. Newport, Chief Attorney, Office of Financial Institutions, Box 94095, Baton Rouge, LA, 70804-9095 or by hand, before 5 p.m., to 8660 United Plaza Boulevard, 2nd Floor, Baton Rouge, LA 70809.

Larry L. Murray
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Small Loan Fees and Charges

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs will not be incurred for the proposed rule. It is anticipated that this agency will continue to utilize existing personnel and equipment in the implementation process, and the agency estimates that there will be no additional requirements for new equipment, employee costs, or professional services. Review for compliance with the proposed rule will be conducted by the agency during the normal regulatory examination process, in accordance with R.S. 9:3554.L.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of either state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are approximately 300 licensed small loan lender locations. No additional cost of operations is anticipated. A location may have a temporary decrease in income derived from their existing customer base, however, the income should be recovered from new customers coming from other lenders who are not allowed to roll over these loans. There is not expected to be a financial impact on the lenders as a group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will cause lenders to be more competitive since it is presumed that borrowers using these services who would not be allowed to borrow money on the same day his loan is repaid would be required to use other lenders and determine the cost of other lenders' products.

Larry L. Murray
Commissioner
9809#040

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

Small Loans—Rollovers and Renewals
(LAC 10:XI.903)

In accordance with the authority granted by the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and specifically R.S. 9:3554 A(5) of the Louisiana Consumer

Credit Law, the Department of Economic Development, Office of Financial Institutions hereby gives notice of its intent to adopt the following rule, which provides for the clarification of R.S. 9:3577.6 of the Louisiana Small Loan Act, R.S. 9:3577.1-3577.8, by defining loan rollovers or renewals in order for this Office to ensure compliance with the provisions of this Part.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES, AND UCC**

Part XI. Consumer Credit

Chapter 9. Small Loans

§903. Loan Rollovers and Renewals

A. *Affiliated Lender*—lender which extends credit subject to the provisions of the Louisiana Consumer Credit Law (LCCL) and who, directly or indirectly, possesses or otherwise exercises common control, management or ownership of 25 percent or more of another LCCL-supervised lender.

B. For the purpose of determining a lender's compliance with the prohibitions contained within R.S. 9:3577.6 of the Louisiana Small Loan Act, the Office of Financial Institutions will cite as a violation any loan to a consumer, regardless of the amount, made by a lender, or an affiliated lender thereof, on the same day the consumer pays off a previously extended loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3554 A(5) and 9:3577.6.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 24:

All interested persons are invited to submit written comments on this proposed rule. All comments must be submitted no later than October 23, 1998 to Gary L. Newport, Chief Attorney, Office of Financial Institutions, Box 94095, Baton Rouge, LA, 70804-9095 or by hand, before 5 p.m., to 8660 United Plaza Boulevard, 2nd Floor, Baton Rouge, LA, 70809.

Larry L. Murray
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Small Loan—Rollovers and Renewals

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation costs will not be incurred for the proposed rule. It is anticipated that this agency will continue to utilize existing personnel and equipment in the implementation process, and the agency estimates that there will be no additional requirements for new equipment, employee costs, or professional services. Review for compliance with the proposed rule will be conducted by the agency during the normal regulatory examination process, in accordance with R.S. 9:3554.L.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no effect on revenue collections of either state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There are approximately 300 licensed small loan lender locations in Louisiana. At present the estimated costs for small loan borrowers is between \$5 and \$10 per loan. These reductions will be a benefit to borrowers.

Small loan lenders at present assess additional fees to small loan borrowers which average \$7.50 per small loan. Assuming these fees will be eliminated, each small loan lender making at least 100 loans per week may suffer an economic detriment of approximately \$40,000 annually.

The rule will authorize a small loan act lender to charge a minimum finance charge as provided for in R.S. 9:3519(E).

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The proposed rule would have no effect on competition but may cause lenders to lay off personnel due to the potential lost revenue.

Larry L. Murray
Commissioner
9809#038

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Budgets and Minimum Foundation Program
(LAC 28:I.1709 and 1712)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement, the following revision to the Minimum Foundation Program Student Membership Definition.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 17. Finance and Property

§1709. Budgets

A. - G. ...

H. - I. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:398, 541 (September, December 1975), amended LR 23:55 (January 1997), LR 25:

§1712. Minimum Foundation Program

A. MFP: General Provisions

1. Board Adoption

a. The State Superintendent of Education shall prepare and recommend to the Board for adoption a minimum foundation formula for the equitable allocation of funds to local school systems for the operation of their educational programs. In considering this recommendation, the State Superintendent shall comply with all appropriate state laws and regulations regarding elementary and secondary education.

b. The Board shall adopt a minimum foundation formula for the equitable allocation of funds to local school

systems. Once adopted, the Board shall transmit the formula to the Joint Legislative Committee on the Budget and all other appropriate entities and offices of the executive and legislative branches of government.

2. Local Responsibility. It shall be the responsibility of local school systems to submit to the State Department of Education in a timely manner all necessary and required information for the computation of an individual school system's allocation from the minimum foundation formula. This information shall be submitted to the Department in the form required by the Department. It shall also be the responsibility of all local school systems to follow all circulars issued by the Department providing instructions for the preparation of the required data and other instructions regarding the computation of a local school system's allotment from the formula.

B. MFP: Payments. Each parish and city school system shall receive an allocation from the annual Minimum Foundation Program in 12 payments. These payments shall be incorporated into monthly amounts received from the state for implementation of the Minimum Foundation Program.

C. MFP: Student Membership Definition

1. Definition. For state reporting for public education for the purpose of establishing the base student count for state funding, each parish and city school system shall adhere to the following.

a. All students included for membership in school shall be identified with the following minimum required identification elements: state identification number, full legal name, date of birth, sex, race, district and school code, entry date, and grade placement.

b. For establishing the base student membership count for state funding the following guidelines will be adhered to.

i. No student will be counted more than one time. Students attending more than one school will be counted in membership only one time.

ii. All students, including special education students and students in ungraded class settings, will be included in the base student membership count who meet the following criteria:

(a). have registered or pre-registered on or before October 1*;

(b). are actively attending school (All current state laws and BESE policies concerning attendance should be carefully followed. Appropriate documentation [either written or computer documents] such as dates of absences, letters to parents, notification to Child Welfare and Attendance Officers should be placed in individual permanent records for any students who may have absences which raise questions about the student's active attendance.);

(c). and/or have not officially exited from school (Students are considered to have officially exited if a notification of transfer has been provided by the student's parent/legal guardian or received from another school.).

iii. Students who are in BESE and parish/city school system approved alternative programs (schools), will be included in the base student count for membership.

iv. Students who reside in Louisiana, attend school in another state, and are supported by Louisiana funding will be included in the base student count for membership.

v. All special education preschool (ages 3-5) students will be included in the base student count for membership.

vi. All special education infant (ages birth-2) students for whom the district provides one or more of the sixteen identified services shall be included in the base student count for membership.

vii. Regular pre-kindergarten (four-year-old program) students will not be included in the base student count for membership.

viii. Private school students receiving services through the public school system will not be included in the base student membership.

ix. Students will be included in the base student count for membership until the chronological age of twenty-one years. A student whose twenty-second birthday occurs during the course of the regular school year, will be counted in the base student count for membership for that school year.

*If October 1 falls on a Saturday, report membership on September 30. If October 1 falls on a Sunday, report membership on October 2.

D. MFP: Add-on Students/Units

1. Required Data: For purposes of establishing the data sets used in determining the add-on students/units, the following will be adhered to.

a. At-Risk Student Count shall be determined by the number of students whose family income is at or below income eligibility guidelines or other guidelines as provided by BESE. The current guidelines include those students who have approved applications to participate in the federal free and reduced price breakfast and lunch program. The count is determined by the number of approved applications for the free and reduced price lunch program during the month of October as reported in the Student Information System (SIS).

b. Vocational Education Unit Count shall be determined by the number of Secondary Vocational Education courses per student as reported by the school districts through the Annual School Report for the prior year.

c. Special Education. Other Exceptionalities Student Count shall be determined by the number of Special Education students identified as having "other exceptionalities" in the LANSER database as of October 1 including:

i. infants and toddlers ages 0-2, who are currently receiving services; and

ii. both public and nonpublic, special education students ages 3-21 identified as having a disability as defined by R.S. 17:1943 who are receiving services from the local school district only (students serviced by SSD Number 1 and certain correctional facilities are excluded).

d. Special Education. Gifted and Talented Student Count shall be determined by the number of Special Education students identified in the LANSER database as of October 1 which includes both public and nonpublic special

education students ages 3-21 identified as gifted and talented as defined by R.S. 17:1943 who are receiving services from the local public school district only.

e. Economy of Scale Student Count shall be determined by the number of students in the base student count as defined in LAC 28:I.1712.C.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Interested persons may submit comments on the proposed policy until 4:30 p.m. November 9, 1998 to: Jeannie Stokes, State 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: Budgets and Minimum Foundation Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no cost of implementation of this change to either the local school districts or the Department.

BESE estimated cost for printing this policy change and the first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$80. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no net effect on revenue collections of any 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 and/or economic benefits to directly affect persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9809#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 904—Charter School Start-Up Loan Program (LAC 28:I.904)

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 adopted Guidelines for the Charter School Start-Up Loan Program. In accordance with Act 477, the Guidelines provide a source for funding no-interest loans to assist new Type 1 or Type 2 Charter Schools with initial start-up funding and for funding the administrative

costs associated with the loan program. The Guidelines are an amendment to Bulletin 904 and LAC 28:I.904 is amended as follows.

**Title 28
EDUCATION**

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

Subchapter A. Bulletins and Regulations

§904. Charter Schools

A. ...

B. Charter School Start-Up Loan Program

1. Act 477 of the 1997 Legislative Session allows for the operation of up to 20 charter schools statewide in 1998-99 and increases that number to 42 in subsequent years. It also created the Louisiana Charter School Start-Up Loan Fund within the State Treasury for the purpose of providing a source for funding no-interest loans to assist new Type 1 or Type 2 Charter Schools with initial start-up funding and for funding the administrative costs associated with the loan program.

AUTHORITY NOTE: Promulgated in accordance with RS. 17:3971-3973, 3981-3983, 3991-3993, 3995-3999, and 4001; and R.S. 39:75(C)(1)(b).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

**Guidelines for the Louisiana Charter
School Start-Up Loan Fund**

Under the authority of H.B. 2065, Part V, the LA Charter School Start-Up Loan Fund was created within the state treasury for the purposes of providing a source for funding no-interest loans to assist type 1 and type 2 Charter Schools with initial start-up funding and for funding the administrative costs associated with the loan program. The Act further provided for the SBESE to administer the monies appropriated from the fund and to adopt rules governing the loan application and approval process.

In accordance with the Act, the SBESE hereby adopts the following rules to govern approval of loan requests of Charter Schools for initial start-up funding.

A. Organization. The SBESE will establish a Loan committee consisting of three (3) members, and contract a third party financial analyst to review loan requests and make recommendations to the committee for approval or rejection. The Board will also designate a contact person and a collection person. The contact person will be available to discuss and address complaints or problems of the borrowers and present to the committee for approval any requests for minor restructure of the original terms of loans. The collections person will be responsible for coordinating collection efforts on troubled loans, including major restructure requests and retaining legal support for advice, foreclosure, and/or suit.

B. Credit Quality. The financial analyst will review credit requests to determine repayment ability, adequacy of collateral, and character of persons principally involved in the forming of the charter school. The complete loan request will at minimum include the following executed documents:

- 1. fully completed SBESE Loan Application Form;

2. interim financial statements for the current year (if applicable);

3. copy of Charter School Application containing detailed budget and projections for the succeeding five years;

4. narrative business plan covering the succeeding three years;

5. personal financial statements and resumes on each of the Officers, Directors and others principally involved in the forming of the charter school; and

6. Authorization to Release Information. The financial analyst will obtain a credit report on each of the natural persons involved to determine credit history and outstanding liens, claims and bankruptcy proceedings.

C. Collateral. Collateral acceptable to SBESE is described as follows:

1. mortgages on real estate and other tangible assets owned by the Charter School;

2. tangible assets purchased with loan proceeds;

3. assets of individuals principally involved in the forming of the Charter School, its officers and directors;

4. guarantees of credit worthy individuals, including but not limited to those involved in the forming of the Charter School, its officers and directors.

Collateral not acceptable to SBESE includes, but is not limited to:

1. assets on which the title is clouded or a lien cannot be perfected;

2. assets titled in undivided interests;

3. stock in closely-held corporations, or with no determinable or ready market value;

4. assets which are inappropriate, are potential environmental hazards, or the value of which is indeterminable.

Third party appraisers acceptable to SBESE will be retained at the applicants cost to determine the market value of the assets offered. Tangible assets purchased with loan proceeds and pledged as collateral may be valued at costs with appropriate invoices. Fire, casualty and other appropriate insurance, to cover assets pledged, will be obtained and maintained by the Charter School, through underwriters acceptable to SBESE in amounts to provide adequate protection, and naming SBESE as loss payee.

D. Closings. Loans will be closed by attorney(s) acceptable to SBESE, at the cost of the borrower, and in accordance with closing instructions from SBESE. Perfection and rank of liens will be outlined and assured by means of a title opinion letter signed by the closing attorney.

E. Repayment. Loans approved will provide for a maximum repayment term of three years, payable in equal monthly installments. The SBESE may approve repayment on a quarterly, semi-annual or annual basis, but, in any case, 1/3 of the debt must be retired each year. If 1/3 is not retired each year, the loan is accelerated and the whole amount becomes due. Prepayment is encouraged.

F. Default. Default occurs on the first day after a payment is due and not paid. In the event that a loan becomes delinquent or cannot perform as agreed, the designated collection person will immediately counsel with the officers of the charter school to determine the nature, extent and severity

of the problems. Minor or temporary difficulties may be solved by a restructure of repayment terms, with loan committee approval. In more serious situations in which repayment is doubtful, the following actions will be taken: The loan will be recalled; a demand for payment will be sent to the borrower, allowing twenty days for repayment; and, the account will be placed with the Attorney General's Office for collection if payment is not made. In the event of a default, the borrower will be responsible for 33 1/3 percent attorney's fees plus legal interest on the principal amount from the date of default until paid, as well as all costs of collection.

G. Loan Committee. Loan Applications approved for funding must be recommended by the financial analyst and approved unanimously by the committee. Also, no loan may be restructured in any way without unanimous committee approval.

All actions taken by the loan committees will be reported monthly to the SBESE Board.

H. Acceptable Loans. The following describes loan applications which are acceptable to SBESE.

1. The proceeds of the credit are to be used to purchase equipment and other tangible assets appropriate to school operations which are then pledged as collateral on the note.

2. The proceeds of the credit are to be used to provide working capital, and other appropriate and adequate collateral is pledged to secure the loan.

3. Analysis of loan applications, financial statements and collateral reveals good credit quality and repayment ability.

I. Unacceptable Loans. The following describes loan applications which are not acceptable to SBESE.

1. Repayment is based solely on liquidation of collateral.

2. Financial analysis of the loan applications, financial statements and collateral offered indicate the repayment ability is weak and/or the collateral is inadequate or inappropriate.

3. The proceeds of the credit are used to pay prior debts of school or principal charterers or any former or current business of any principal charterer or pay members of the immediate family of any principal charterer or to make investments.

4. The applicant, any principal charterers, or any former business or nonprofit venture of any such charterer has outstanding or presently pending in any court any claim of liability relating to failure or inability to pay promissory notes or other evidence of indebtedness, or any bankruptcy proceeding, or if any such corporation, business or person has pending any court proceeding concerning denial or revocation of a necessary license or permit to operate a charter school.

J. Non-discriminatory Policy. Legal department to submit.

K. Complaints. All written complaints received will be handed to the contact person for review, analysis and investigation to determine the facts and to recommend resolution. Upon completion of the internal review, the complainant will be notified in writing of the results of the review. Each complaint will be handled in a fair and

consistent manner and responded to within 15 working days of receipt.

L. No departure from these guidelines is allowed without unanimous consent from SBESE.

Interested persons may submit written comments until 4:30 p.m., November 9, 1998 to Jeannie Stokes, 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 904—Charter School Start-Up
Loan Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$200. Funds are available.

The implementation of the Charter School Start-Up Loan Fund will increase costs to the state as loans are made from the fund and as administrative costs are incurred to run the program. In Fiscal Year 1998-99 the Legislature has appropriated \$1.3 million from the Charter School Loan Fund and another \$105,000 State General Fund to the State Board of Elementary and Secondary Education (BESE). The \$1.3 million will be used solely to provide loans to charter schools. This amount could fund up to 13 loans if each loan is \$100,000 which is the maximum amount allowed by law. The actual amount expended will depend on the number of loans approved and the amounts per loan. All administrative costs associated with administration of the Loan Fund will be expended from \$105,000 appropriation to BESE. While the language in HB2065 of 1997 allows for the funding of administrative costs associated with the loan program from the Start-Up Loan Fund, BESE has no intention to use these funds for this purpose in the current fiscal year. However, BESE reserves the right to do so in the future should budgetary constraints necessitate the use of these funds for this purpose.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This action will 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)**

The Loan Fund will provide the necessary start-up funding of eligible groups with new Charter Schools.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

This action will ultimately have the effect of creating additional employment opportunities for teachers and other school personnel in Charter Schools. This may create a competitive situation for schools in that particular area.

Weegie Peabody
Executive Director
9809#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1525—Guidelines for Personnel Evaluation
Standards for School Principals in Louisiana
(LAC 28:I.917)

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 1525, Guidelines for Personnel Evaluation. The Bulletin has been revised to incorporate the approved Standards for School Principals, as Appendix C. The Principal Standards are the criteria by which public school principals will be evaluated under the Local Personnel Evaluation Program beginning with the 1999-2000 school year. Bulletin 1525 is referenced in LAC 28:I.917. A complete text of Bulletin 1525 may be viewed in the Office of the State Register, 1051 North Third Street, Baton Rouge; the Office of the State Board of Elementary and Secondary Education; or the Office of Quality Educators, Professional Accountability, State Department of Education.

Appendix C, to be included in Bulletin 1525, is printed below in its entirety.

**Title 28
EDUCATION**

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

Subchapter A. Bulletins and Regulations

§917. Personnel Evaluation Standards and Regulations

A. Bulletin 1525

* * *

4. Bulletin 1525 also includes the Standards for School Principals in Louisiana as Appendix C, addendum 1998.

* * *

AUTHORITY NOTE: Mandated by the Act 1 of the 1994 Louisiana Legislature, Third Extraordinary Session under the authority of R.S. 17:3881-3884, R.S. 17:3901-3904, and R.S. 16:3765.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 5:168 (July 1979), amended LR 25:

APPENDIX C

Standards for Principals

Vision: The principal engages the school community in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

Teaching and Learning: The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

School Management: The principal promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

School Improvement: The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

School-Community Relations: The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

Professional Development: The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

Professional Ethics: The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner.

Elaborated Standard: Vision

Vision: The principal engages the school community in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- a "preferred" future regarding the success of all students;
- group process strategies for melding the diverse values and expectations of the school community into a shared understanding of desired student outcomes;
- theories of child and human development, the teaching-learning process, and models of and processes for on-going school improvement;
- relevant research findings and strategies for using data to develop and maintain the school vision.

Dispositions

The principal believes in, values, and is committed to:

- the centrality of students to the school vision and goals;
- involving the school community in establishing the school vision and goals;
- respecting the existing school and community cultures while working for changes that improve outcomes for all students;
- stewardship of the school vision, and sponsorship of school goals;
- enabling students to think critically about complex issues.

Performances

The principal demonstrates the ability to:

- work collaboratively with the school community to develop and maintain a shared school vision;
- bring the school vision to life by using it to guide decision making about students and the instructional programs;
- maintain faculty focus on developing learning experiences that will enable students to prosper in subsequent grades and as adults;
- maintain open communication with the school community, and effectively convey high expectations for student learning to the community;

-provide opportunities and support for collaboration, the exchange of ideas, experimentation with innovative teaching strategies, and ongoing school improvement;

-monitor, assess, and revise the school vision and goals as needed;

-foster the integration of students into mainstream society while valuing diversity.

Elaborated Standard: Teaching and Learning

Teaching and Learning:

The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- research and theories related to teaching, learning, curriculum development and integration, and motivation;
- methods for effectively communicating high standards and high expectations for student achievement;
- strategies for creating an empowering environment that supports innovative teaching and powerful learning;
- supervisory and observational techniques that promote effective teaching and learning in a growth oriented environment;
- authentic, psychometrically sound, methods for assessing student learning;
- emerging technologies and their use in enhancing student learning.

Dispositions

The principal believes in, values, and is committed to:

- all children's learning at high levels;
- excellence and life-long learning;
- collaborative development of teaching strategies and curricular modifications that ground student learning in real-world situations and promote critical thinking;
- developing a caring environment that nurtures teaching and learning.

Performances

The principal demonstrates the ability to:

- recognize, model, and promote effective teaching strategies that enable students to apply what they learn to real world experiences;
- encourage and support both the use of innovative, research-based teaching strategies to engage students actively in solving complex problems and methods of student assessment which will enhance learning for all students;
- conduct frequent classroom visits and periodic observations, provide constructive feedback to faculty and staff, and suggest models of effective teaching techniques when needed;
- foster a caring, growth-oriented environment for faculty and students where high expectations and high standards for student achievement are emphasized;
- promote collaboration and team building among faculty.

Elaborated Standard: School Management

School Management: The principal promotes the success of all students by ensuring management of the organization,

operations, and resources for a safe and orderly learning environment.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- organizational theory and principles of organizational development;
- human resources management and development, including related/support/ancillary services;
- local, state, and federal laws, policies, regulations, and procedures;
- sound fiscal procedures and practices;
- time management to maximize the effectiveness of the organization;
- current technologies that support management functions.

Dispositions

The principal believes in, values, and is committed to:

- building a safe, orderly environment;
- upholding local, state, and federal laws, policies, regulations, and procedures, including being fiscally responsible and ensuring quality support services;
- upholding high standards in the day-to-day operations of the school and using current technology;
- making management decisions to enhance learning and teaching;
- involving members of the school community in shared decision-making processes.

Performances

The principal demonstrates the ability to:

- maintain a safe, secure, clean, and aesthetically pleasing physical school plant;
- establish and/or implement laws, policies, regulations, and procedures that promote effective school operations;
- maintain a positive school environment where good student discipline is the norm;
- manage fiscal resources responsibly, efficiently, and effectively and monitor whether others do so as well;
- manage human resources responsibly by selecting and inducting new personnel appropriately, assigning and evaluating all staff effectively, and taking other appropriate steps to build an effective school staff;
- monitor support services such as transportation, food, health, and extended care responsibly;
- provide and coordinate appropriate co-curricular and extra-curricular activities;
- use shared decision making effectively in the management of the school;
- manage time and delegate appropriate administrative tasks to maximize attainment of the school goals;
- use available technology effectively to manage school operations;
- monitor and evaluate school operations and use feedback appropriately to enhance effectiveness.

Elaborated Standard: School Improvement

School Improvement: The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

-methods by which information from various sources can be used to establish challenging standards for self, faculty, students, and the school;

- strategies for monitoring progress toward reaching the standards established;
- professional literature related to teaching, learning, curriculum, organizational and staff development, and change processes;
- the school culture, community expectations, and the strengths and weaknesses of self, faculty, students, and community;
- methods of data collection, analysis, interpretation, and program evaluation.

Dispositions

The principal believes in, values, and is committed to:

- empowering others by engaging in collaborative problem solving and decision making, building capacity through staff development, and encouraging divergent perspectives from the school community;
- working toward consensus and compromise among members of the school community, guided by the school vision and goals;
- examining one's own assumptions, practices, and beliefs in the light of new knowledge;
- accepting limitations and mistakes from self and others while maintaining commitment to the standards established;
- encouraging faculty experimentation in order to maximize opportunities for all students to learn well;
- promoting a school culture that values and promotes individual and collaborative reflection and learning.

Performances

The principal demonstrates the ability to:

- provide ongoing opportunities for staff to reflect on their roles and practices in light of student standards and school goals;
- grow professionally by engaging in professional development activities and making such activities available to others;
- facilitate school-based research and use these and other research findings to plan school improvement initiatives, pace the implementation of these changes, and evaluate their impact on teaching and learning;
- foster the genuine continuous involvement and commitment of the school community in promoting the progress of all students toward attaining high standards;
- enhance school effectiveness by appropriately integrating the processes of teacher selection/evaluation and professional development with school improvement.

Elaborated Standard: Professional Development

Professional Development: The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- theories related to motivation, adult learning, and staff development;
- sound pedagogical practices and emerging technologies;

- current trends in terms of social, political and cultural influences on education;
- research, measurement, and assessment strategies;
- organizational learning for school cultures, goal setting, change processes, and group dynamics;
- resource management.

Dispositions

The principal believes in, values, and is committed to:

- life long learning for self and others;
- ongoing change processes;
- faculty expertise and collaborative work strategies;
- fostering creativity and establishing high expectations in self and others.

Performances

The principal demonstrates the ability to:

- communicate a focused vision for both school and individual professional growth;
- use research and data from multiple sources to design and implement professional development activities;
- secure the necessary resources for meaningful professional growth, including the time for planning and the use of emerging technologies;
- provide opportunities for individual and collaborative professional development;
- provide incentives for learning and growth and encourage participation in professional development activities at the national, state, and parish levels;
- assess the overall impact of professional development activities on the improvement of teaching and student learning.

Elaborated Standard: School-Community Relations

School-Community Relations: The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- the composition of the school community including relevant demographic statistics and trends, competing issues and values, and available resources;
- successful strategies for establishing positive school-community relations and fostering parental and community participation;
- techniques for promoting the positive aspects of the school and communicating with the media effectively;
- effective interpersonal communication skills.

Dispositions

The principal believes in, values, and is committed to:

- establishing a partnership with the school's community for mutually supportive relationships;
- promoting the school as an integral part of the community;
- diversity as a strength;
- promoting the positive aspects of the school, celebrating successes, acknowledging the school's shortcomings, and involving the community in overcoming problems within the school.

Performances

The principal demonstrates the ability to:

- be visible and involved in the community and treat members of the school community equitably;
- involve the school in the community while keeping the school community informed;
- use school-community resources to enhance the quality of school programs, including those resources available through business and industry;
- publicly recognize and celebrate school successes;
- communicate effectively both interpersonally and through the media.

Elaborated Standard: Professional Ethics

Professional Ethics: The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner.

Knowledge and Skills:

The principal has knowledge, skills, and understanding of:

- various perspectives on ethics;
- his/her own principled convictions about what is best for students and the ethical implications of those convictions;
- relevant laws, policies, regulations, and procedures and the relationship of these to protecting the rights of individuals;
- ethical means for improving school programs.

Dispositions

The Principal believes in, values, and is committed to:

- being accurate in providing information while respecting the rights of others;
- caring for the feelings of others;
- principled action in upholding the substance of laws, policies, regulations, and procedures;
- using the influence of the principalship constructively and productively in the service of all students.

Performances

The principal demonstrates the ability to:

- model ethical behavior at both the school and community levels;
- communicate to others expectations of ethical behavior;
- respect the rights and dignity of others;
- provide accurate information without distortion or violating the rights of others;
- develop a caring school environment in collaboration with the faculty and staff;
- apply laws, policies, regulations, and procedures fairly, consistently, wisely, and with compassion;
- minimize bias in self and others and accept responsibility for one's own decisions and actions;
- address unethical behavior in self and others.

Interested persons may submit comments until 4:30 p.m., November 9, 1998 to Jeannie Stokes, State 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:

**Guidelines for Personnel Evaluation Standards
for School Principals in Louisiana**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Contingent on revisions being made to Bulletin 1525, the estimate for printing and mailing the revisions in FY 1999-2000 is \$2,895.00.
- 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 is no cost and/or economic benefit to directly affect persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The printing of the Guidelines for Personnel Evaluation, Bulletin 1525 does not affect competition or employment.

Marlyn Langley
Deputy Superintendent
9809#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 1934—Starting Points Preschool Program
(LAC 28:I.906)**

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 a revision to Bulletin 1934, Starting Points Preschool Program. The revision amends the Section under Length of School Day and School Year. The school days that systems operate shall be a full day with a minimum of 360 minutes instructional time per day.

Title 28

EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§906. Early Childhood Programs**

* * *

B. Bulletin 1934, Starting Points Preschool Regulations is adopted, revised June 1998.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:1549 (December 1993), amended LR 21:1221 (November 1995), LR 24:295 (February 1998), LR 25:

Starting Points Preschool Program, Bulletin 1934

* * *

Length of the School Day and School Year

The length of the school day and the school year shall follow the provisions established in R.S. 17:154.1. The school day that systems operate shall be a full day with a minimum of 360 minutes instructional time per day. Instructional days will be based upon the school calendar of each local nonpublic school/school system with a minimum of 175 days of instruction.

* * *

Interested persons may submit written comments until 4:30 p.m., November 9, 1998 to Jeannie Stokes, 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 1934—Starting Points
Preschool Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$60.
There will also be a state cost increase of an unknown amount to increase salaries and benefits of Starting Points Preschool teachers. This change mirrors a change in state law which increased the minimum instructional time. The state funded this increase in instructional time at a total cost of \$70 million in fiscal year 1998-99. The cost attributed to Starting Points teachers alone cannot be determined because there is no way to know the portion of the \$70 million salary increase that will be paid to Starting Points teachers.
- 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 Langley
Deputy Superintendent
Management and Finance
9809#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1978—Public Education Accountability System
(LAC 28:I.930)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education has approved for advertisement, Bulletin 1978, the *Louisiana Public Education Accountability System*. Bulletin 1978 will be referenced in LAC 28:I. 930 as follows:

Title 28

Education

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§930. State Content Standards

A. - F. ...

G. Bulletin 1978, Louisiana Public Education Accountability System

1. Bulletin 1978, Louisiana Public Education Accountability System is adopted.

2. The Bulletin contains a strategy designed to encourage and support school improvement by establishing the state's goals for schools and students, communicating a school's performance to the public, recognizing school effectiveness in achievement, focusing attention, energy, and resources to schools needing improvement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Bulletin 1978: Louisiana Public Education Accountability System

I. Preface

A. The Louisiana Public Education Accountability System is intended to drive fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The system is designed to encourage and support school improvement by:

1. clearly establishing the state's goals for schools and students;
2. creating an easy way to communicate to schools and the public how well a school is performing;
3. recognizing schools for their effectiveness in demonstrating growth in student achievement; and
4. focusing attention, energy, and resources on those schools that need help improving student achievement.

B. The accountability system is based on the concept of continuous growth. Every school can improve. Every school is expected to show academic growth. Every school is compared to itself.

1. The underlying beliefs of the accountability system are:

- a. all students can and must learn at significantly higher levels;
- b. the need to improve student achievement is urgent;

c. continuous growth in student achievement must occur in all schools;

d. the focus must be on measurable student achievement results;

e. poverty impacts student learning; however, it does not prevent students from achieving;

f. low-performing schools must receive technical assistance and necessary resources to improve;

g. rewards and corrective actions can motivate educators, communities, and students to improve student learning;

h. parents, educators, and community members should be involved in the ongoing development and revision of school and district improvement plans;

i. districts and school sites must have the flexibility to improve learning in schools;

j. the general public must be kept involved in and informed about the accountability process;

k. it is essential that all stakeholders (i.e., students, parents, educators, and community) work together to reach the state education goals;

l. the accountability system must be kept simple; and

m. the State must provide adequate funding to support the accountability system and not back down on funding or standards once instituted.

C. 10/20-Year Goals

1. The Board of Elementary and Secondary Education shall determine the ten- and twenty-year goals based on the four indicators of student achievement: Criterion Referenced Tests, Norm Referenced Tests, Student Attendance, and Dropout Rates (grades 7 - 12 only).

D. Measures of Student Achievement

1. A school's performance shall be measured using four indicators of student achievement: Criterion Referenced Tests, Norm Referenced Tests, Student Attendance, and Dropout Rates (grades 7 - 12 only). Measurement of academic achievement for special education students shall be determined by the Board of Elementary and Secondary Education.

2. A School Performance Score shall be calculated for each school. These scores shall range from 0 to beyond 100, with a score of 100 indicating a school has reached the Ten-Year Goal and a score beyond 100 indicating a school is striving to reach the Twenty-Year Goal.

3. Each indicator shall be given a weight as follows:

a. Criterion Referenced Tests: 60 percent Grades K-12;

b. Norm Referenced Tests: 30 percent Grades K-12;

c. Student Attendance: 10 percent Grades K-6; 5 percent Grades 7-12; and

d. Dropout Rate: 5 percent Grades 7-12.

4. School Performance Scores shall be calculated in Spring, 1999 for Grades K-8 and in Spring, 2001 for Grades 9-12. K-8 schools determined to be Academically Unacceptable shall begin Level I Corrective Actions during Fall, 1999. The first time Monetary Rewards may be given is Spring, 2001 for K-8 and Spring, 2003 for Grades 9-12.

E. Growth Targets

1. A school's Growth Target shall be calculated by subtracting its School Performance Score from 100 (i.e., the Ten-Year Goal) and dividing this difference by the number of two-year intervals remaining in the ten-year cycle. Growth Targets shall be recalculated every two years using a school's newest School Performance Score.

2. All schools shall receive a label based upon the school's success in reaching its Growth Target.

Growth Labels	Descriptions
Exemplary Academic Growth	A school exceeding its Growth Target by a percentage determined by BESE
Recognized Academic Growth	A school meeting its Growth Target or exceeding it by a percentage determined by BESE
Minimal Academic Growth	A school improving, but not meeting its Growth Target
School in Decline	A school with flat or declining School Performance Scores

3. When the Ten-Year Goal is reached, schools shall begin working toward the state's Twenty-Year Goal. These schools shall be designated as Academically Distinguished Schools. Academically Distinguished Schools shall not receive Corrective Actions as long as their School Performance Scores are above 100 (i.e., the Ten-Year Goal), but they shall be required to show growth each cycle to receive rewards.

4. BESE shall set a minimum level of performance for schools called the Minimum Score. Schools with a School Performance Score below the Minimum Score shall be identified as Academically Unacceptable Schools. These schools immediately receive Level I Corrective Actions (See Table I). Academically Unacceptable Schools shall receive Level I Corrective Actions in 1999-2000 for K-8 and 2001-2002 for Grades 9-12. BESE shall determine the appropriate score for the Minimum Score once pilot data is collected. The Minimum Score shall be "fixed" and not raised over time.

F. Rewards

1. Schools shall receive rewards when they meet or surpass their Growth Targets and show growth in the performance of students who are classified as high poverty.

2. The rewards shall be granted to the school, and school personnel shall decide how monies will be spent; however, monetary rewards shall not be used for salary stipends.

3. Other forms of recognition shall also be provided for schools that meet or exceed their Growth Targets.

G. Corrective Actions

1. A school that does not meet its Growth Target shall receive Corrective Actions. A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions. (See Figure I.)

H. Enter Corrective Actions

1. A school shall enter Corrective Actions:
 a. if it has a School Performance Score below the Minimum Score (Academically Unacceptable School); or
 b. if it fails to attain its Growth Target in any two-year interval, unless it is a school of Academic Distinction.

2. Schools shall move into more intensive levels of Corrective Actions if they fail to demonstrate adequate growth during each two-year cycle.

a. An Academically Unacceptable School shall move to the next level of Corrective Action if its two-year growth does not place it above the Minimum Score and it does not meet its Growth Target.

b. An Academically Distinguished School shall not receive Corrective Actions.

3. All other schools have School Performance Scores in the mid-range. These schools shall be addressed in the following manner:

a. if a school in the mid-performance range attains its Growth Target, it shall exit Corrective Actions;

b. if it attains a score less than 25 percent of its Growth Target, it shall move to the next level of Corrective Actions;

c. if it fails to attain more than 25 percent of its Growth Target, it shall stay in Level I for two cycles;

d. if it has already been in Level I for two cycles, it shall move to Level II. It shall stay in Level II until it either:

i. reaches its Growth Target and exits Corrective Actions; or

ii. attains 25 percent of its Growth Target in any cycle. If it fails to attain this Growth Target, it shall move to Level III.

4. Districts shall develop and submit a Reconstitution Plan to BESE for any school in Level III. A Reconstitution Plan indicates how the district shall remedy the school's inadequate growth in student achievement. The plan shall specify how and what reorganization shall occur. BESE shall monitor the implementation of the Reconstitution Plan.

I. Exit Corrective Actions

1. A school shall exit Corrective Actions in the following manner:

a. if an Academically Unacceptable Schools moves above the Minimum Score and achieves its Growth Target;

b. if any other school in the mid-range achieves its Growth Target.

J. Transfer Policy

1. Parents shall have the right to transfer their child to another public school when:

a. an Academically Unacceptable School begins Level II Corrective Actions; or

b. any other school begins Level III Corrective Actions.

2. Transfers shall not be made to Academically Unacceptable Schools or schools undergoing Level I, Level II, or Level III Corrective Actions.

3. Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student count. Parents may move their child to another school if the parents provide the transportation to the school.

4. If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide transportation to the school. State dollars shall follow the child when such a transfer occurs.

5. Schools and districts may refuse to accept a student if there is insufficient space, a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

K. State's Role in the Accountability Process

1. The State shall provide support through the creation of District Assistance Teams, Distinguished Educators, a School Improvement Fund, and a Best Practices Resource Guide.

a. District Assistance Teams

i. District and other personnel, as appropriate, shall be trained to become members of District Assistance Teams.

b. Distinguished Educators

i. Distinguished Educators shall be highly effective educators (teachers, administrators, principals, university

personnel, retired teachers, and so forth) selected and trained by the State to take two or more years of leaves-of-absence to help schools in Level II and Level III Corrective Actions. General roles/responsibilities of the Distinguished Educators may include assisting schools in the development of improvement plans, facilitating the development of a school curriculum that aligns with state tests, working with the school to involve parents and community members, and assisting with the professional development of school personnel.

ii. The selection of outstanding teachers, principals, and administrators from local districts to serve as Distinguished Educators shall be based upon two assumptions:

(a.) specially selected and trained Distinguished Educators shall possess a more authentic understanding of problems being faced by the schools; and

(b.) distinguished Educators shall be allowed to return to their districts/universities with special capabilities that would be of value to their schools and districts.

**Figure I
Corrective Actions**

	Level I Corrective Actions	Level II Corrective Actions	Level III Corrective Actions	Reconstitution or No State Approval / Funding
School	1. Shall utilize state diagnostic process to identify needs 2. Shall Develop and implement consolidated improvement plan including an integrate budget; process must include: (a) Opportunities for significant parent and community involvement (b) Public hearings--At least 2/3rds teacher approval	1. Shall work with advisory Distinguished Educators, teachers, parents, and others to implement revised School Improvement Plan 2. Distinguished Educators shall help principals develop capacity to change	Distinguished Educator shall continue to assist with improvement efforts and with design of reconstitution plan	If Reconstitution approved by BESE: School shall implement Reconstitution Plan utilizing data from the end of the previous year to recalculate school performance goals and growth targets If Reconstitution Plan not approved, BESE shall deny state funding
District	1. Shall utilize District Assistance Teams to assist schools 2. Shall publicly identify existing and additional assistance being provided by districts (e.g., funding, policy changes, greater flexibility) 3. As currently allowed by law local boards shall reassign or remove school personnel as necessary 4. For Academically Unacceptable Schools Only - BESE shall ensure school receive at least their proportional share of applicable state, local, and federal funding and have school - level control over the funds.	1. District Assistance Teams shall continue to assist schools 2. Shall hold public hearings and respond to Distinguished Educators' written recommendations 3. As currently allowed by law, local boards shall reassign or remove personnel as necessary 4. For Academically Unacceptable Schools only - district shall authorize parents to send their children to other public schools	1. District Assistance Teams shall continue to assist schools 2. Shall authorize parents to send their children to other public schools 3. At end of Year 1: One of the following occurs: a) school makes adequate growth b) reconstitution plan approved by BESE; or c) school receives non-school approval status from BESE	If Reconstitution Plan approved by BESE: District shall provide implementation support If Reconstitution Plan not approved, BESE shall deny state funding

State	1. Shall provide diagnostic process for schools 2. Shall provide training for District Assistance Teams 3. For Academically Unacceptable Schools only- BESE shall assign advisory Distinguished Educators to schools	1. Shall assign advisory Distinguished Educators to schools 2. Shall provide additional state resources and/or redirect existing state resources to help schools implement their improvement plans	1. Shall assign advisory Distinguished Education schools for one additional year 2. Shall provide additional state improvement funds 3. At end of Year 1: BESE shall approve or disapproval Reconstitution plans	If Reconstitution Plan Approved by BESE: State shall monitor implementation of reconstitution plan and shall provide additional state improvement funds If Reconstitution Plan not approved, BESE shall deny state funding
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c. School Improvement Fund
i. The state shall provide monies for a School Improvement Fund to help low-performing schools.

d. Effective Practices Resource Guide
i. The Department of Education shall identify best school improvement practices and disseminate the information to schools and districts through a published report.

ii. BESE shall report annually on the state's progress in reaching its Ten-Year Goal. The Department of Education shall publish individual School Report Cards to provide information on every school's performance. The School Report Cards shall include the following information: School Performance Scores, school progress in reaching Growth Targets; school performance when compared to similar (like) schools; and subgroup performances (e.g., high-poverty versus non-poverty, race, and gender).

L. Appeals Procedures

1. An appeals process shall be established that shall enable schools and districts to appeal various issues to BESE.

M. Data Collection

1. Student Absences During Testing

a. A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test (including those who are absent), a score of "0" shall be entered. To assist schools in dealing with absent students, the State shall provide an extended testing period for test administration. Schools may appeal their School Performance Scores if students were sick on a long-term basis and their absences result in a school's receiving a lower score.

2. Highly Mobile Students

a. Only those students enrolled in schools as of October 1 shall be used in the calculation of a school's School Performance Score. However, the scores of all students shall be included when calculating a district's score.

b. Special Schools with No Test Data (K, K-1, and K-2)

c. Schools that serve only students in K-2 shall be paired with schools in the district that receive their students. Schools with only K-2 students shall then be judged based upon the performance of paired schools. Local school boards shall determine how schools will be paired.

d. Special Purpose Schools (e.g., Alternative Schools, Schools in Correctional Facilities, Adult Education Facilities, etc.)

e. These schools shall have an alternative accountability system to be implemented no later than 2001. The establishment of new alternative schools shall be closely monitored by the Department of Education to ensure that students are not placed within alternative schools to avoid testing in regular school environments.

N. District Accountability

1. The District Accountability System shall be determined by the Board of Elementary and Secondary Education.

O. Monitoring Procedures

1. The accountability system shall be monitored and refined as necessary. However, major changes shall not be made to the system until Year 2009 (Grades K-8) and 2011 (Grades 9-12).

2. The accountability system shall be reviewed by the Louisiana LEARN Commission or its successor, and recommendations for changes shall be made to BESE.

Interested persons may submit written comments until 4:30 p.m., November 9, 1998 to Jeannie Stokes, 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: Public Education Accountability System**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation costs to state governmental units will be \$10,590,682 (see Department of Education Budget Spread). Local school systems may also incur additional costs for the following items: costs not funded by the state for teacher staff development and in service training; collection and analysis of data for the state's diagnostic process; personnel assigned to the District Assistance Teams; development and implementation of consolidated improvement plans, and

transportation costs for students that chose to attend another school within the district as part of Level II or Level III corrective action. The state may fund some or all of these local costs. To the extent the state funds such costs, local costs will be reduced accordingly.

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)

School and District Accountability Plan is based on the concept of continuous growth; every school can improve and is expected to show academic growth. Economic benefits may be realized by K-12 students by acquisition of knowledge and skills to become more productive citizens in the workforce. Parents who choose to send their children to a school in another district as part of Level II or III corrective actions may incur additional transportation costs for such students since the rule specifies that such transportation costs are the responsibility of parents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

More rigorous academic standards and higher student performance may improve school districts ability to recruit and retain qualified teachers. School districts may have to improve compensation and/or working conditions to recruit qualified teachers if the diagnostic process concludes that poor teaching quality is negatively affecting student performance. School districts will need to find qualified replacements for personnel who take temporary positions as Distinguished Educators. Schools in corrective actions may find it more difficult to recruit and retain teachers. As such, school districts may have to improve teacher compensation and/or working conditions to recruit and retain qualified teachers for such schools.

Marlyn Langley
Deputy Superintendent
Management and Finance
9809#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Required Services (LAC 28:I.1713)

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, a revision to LAC 28:I.1713 A.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 17. Finance and Property

§1713. Nonpublic Sector

A. Mandated Costs

1. The Required Services Program is intended to reimburse nonpublic schools for the actual cost of performing

selected activities. Pursuant to the provisions of La. R.S. 17:361, annual reimbursement of each approved nonpublic school shall be for the actual mandated service, administrative, and clerical costs incurred by such school during the preceding school year in preparing, maintaining, and filing reports, forms and records, and in providing such other administrative and clerical services that are not an integral part of the teaching process as may be required by the state law or regulation or requirement of the state department, state agency, or local school board.

B. Required Services Act: Guidelines

1. - 3.a. - d. ...

4. The original form, signed by the school administrator (e.g., principal, headmaster, etc.) shall be submitted to the Superintendent of Education by September 30 each year.

5. Three supplemental categories are added to the required services:

- a. asbestos testing and abatement;
- b. auditory and visual testing; and
- c. criminal history and finger printing of school employees.

6. Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S.6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:

Interested persons may submit written comments on the proposed revision until 4:30 p.m. November 9, 1998 to: Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Required Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no cost of implementation of this change to either the local school districts or the Department. BESE estimated cost for printing this policy change and the first page of fiscal and economic impact statement in the Louisiana Register is approximately \$80. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no net effect on revenue collections of any 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 and/or economic benefits to directly affect persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
9809#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Special Education Advisory Council
(LAC 28:I.105)

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, a revision to LAC 28:I.105.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 1. Organization

§105. Board Advisory Councils

- A. - B.1. ...
2. Special Education Advisory Council
- a. ...
- b. Membership. The State advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including:
- i. parents of children with disabilities;
 - ii. individuals with disabilities;
 - iii. teachers;
 - iv. representatives of institutions of higher education that prepare special education and related services personnel;
 - v. state and local education officials;
 - vi. administrators of programs for children with disabilities;
 - vii. representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;
 - viii. representatives of private schools and public charter schools;
 - ix. at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and
 - x. representatives from the State juvenile and adult corrections agencies.
- c. Appointments. As provided in R.S. 17:1954(A), the advisory council shall be appointed by the State Department of Education with the approval of the State Board. Each Board member shall recommend to the Superintendent of Education one name to serve on the advisory body from one of the membership categories to be chosen on the basis of lots drawn by Board members as vacancies occur. A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities.
- d. ...
- e. Functions
- i. As stated in federal regulations, the functions of the advisory council shall be to:

(a). advise the State educational agency of unmet needs within the State in the education of children with disabilities;

(b). comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

(c). advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;

(d). advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and

(e). advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:427 (November 1978), amended LR 19:1310 (October 1993), LR 21:550 (June 1995), LR 22:99 (February 1996), LR 23:1303 (October 1997), LR 24:1093 (June 1998), LR 25:

Interested persons may submit written comments on the proposed revision until 4:30 p.m. November 9, 1998 to: Jeannie Stokes, 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: Special Education Advisory Council

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
- BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available. Depending on the domicile of the additional members of the State Advisory Panel, this action may result in a minor increase in travel expenses.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
- There will be no effect on revenue collections as a result of this action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
- This action will not have any fiscal effect on the aforementioned groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
- There will be no effect on competition and employment as a result of this action.

Weegie Peabody
Executive Director
9809#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Student Tuition and Revenue Trust (START Saving)
Program—Qualified Higher Education Expenses
(LAC 28:VI.309)

The Tuition Trust Authority advertises its intention to revise the Student Tuition Assistance and Revenue Trust (START Saving) Program [R.S. 17:3091 et seq.] rules as follows.

Title 28

EDUCATION

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

Chapter 3. Education Savings Account

**§309. Disbursement of Account Funds for Payment of
Qualified Higher Education Expenses of a
Beneficiary**

* * *

E. Expenditure of Principal and Earnings

1. The balance of principal and earned interest in an education savings account may be expended as authorized by the beneficiary to pay his qualified higher education expenses.

* * *

F. Payments to Eligible Educational Institutions

* * *

4. Upon receipt of funds from an education savings account, the educational institution shall first apply funds against those qualified higher education expenses billed by the institution and then disburse any remaining balance of funds to the beneficiary for qualified higher education expenses not billed by the institution.

5. If a beneficiary withdraws from the educational institution or if there is otherwise a change in the beneficiary's student status which results in a refund of qualified higher education expenses which have been previously paid to the educational institution from an education savings account, then, subject to the laws governing the priority of refunds of federal and state aid, that portion of the qualified higher education expenses paid with funds from an education savings account shall be refunded by the educational institution directly to the LATTA for credit to the account of the beneficiary.

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 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 24:

Interested persons may submit written comments on the proposed revision until 4:30 p.m., October 20, 1998, at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Student Tuition and Revenue Trust (START Saving) Program—Qualified Higher Education Expenses

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Estimated costs to implement this rule change are the routine charge to publish by the *Louisiana Register* of \$80 for publication of the Notice of Intent and the Final Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated to result from this rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Students who receive benefits of the START savings program may receive those benefits for qualified higher education expenses billed by entities other than their school to cover the significant cost of room and board.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

No impact on competition and employment is anticipated to result from this rule.

Jack L. Guinn
Executive Director
9809#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Radiation Protection Division**

NCR Compatibility Requirements
(LAC 33:XV.328) (NE020*)

(Editor's Note: A portion of the following notice of intent, which appeared on page 1540 of the August 20, 1998 *Louisiana Register* is being republished to correct a publishing error.)

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 3. Licensing of Radioactive Material

**§328. Special Requirements for Specific License to
Manufacture, Assemble, Repair, or Distribute
Commodities, Products, or Devices That Contain
Radioactive Material**

A. - J.2.d. ...

e. shall provide to the division a copy of each individual's certification by the Board of Pharmaceutical Specialties and the division, licensing state, Nuclear Regulatory Commission, or agreement state license or the permit issued by a licensee of broad scope and a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows the individual to work as an authorized nuclear pharmacist, in accordance with Subsection J.2.b.i. and iii of this Section.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR:

Gus Von Bodungen
Assistant Secretary

9809#016

NOTICE OF INTENT

Department of Environmental Quality Office of Water Resources Water Pollution Control Division

Procedures for Modifying Approved POTW Pretreatment Programs (LAC 33:IX.2715, 2723, and 2735)(WP030*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Pollution Control Division regulations, LAC 33:IX.2715, 2723, 2735 (Log Number WP030*).

This proposed rule is identical to a federal regulation found in 62 FR 38405-38415, July 17, 1997, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. 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 changes the number of public notices needed for a major modification from two to one. It also increases the number of modifications that will be considered minor modifications, and thus will not need to be public noticed. This change will equate Louisiana's regulations to the EPA federal regulations and will make the public notice requirements for pretreatment modifications the same as other modifications. The basis and rationale for this proposed rule are to mirror the federal regulations.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33 ENVIRONMENTAL QUALITY Part IX. Water Quality Regulations Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program Subchapter T. General Pretreatment Regulations for Existing and New Sources of Pollution §2715. Pretreatment Program Requirements: Development and Implementation by POTW

* * *

[See Prior Text in A - B]

C. Incorporation of Approved Programs in Permits. A POTW may develop an appropriate POTW pretreatment program any time before the time limit set forth in Subsection B of this Section. The POTW's LPDES permit will be reissued or modified by the NPDES state or EPA to incorporate the approved program conditions as enforceable conditions of the permit. The modification of a POTW's LPDES permit for the purposes of incorporating a POTW pretreatment program approved in accordance with the procedures in LAC 33:IX.2721 shall be deemed a minor permit modification subject to the procedures in LAC 33:IX.2385.

* * *

[See Prior Text in D - F.5.d.]

6. The POTW shall prepare and maintain a list of its industrial users meeting the criteria in LAC 33:IX.2705.*Significant Industrial User.a*. The list shall identify the criteria in LAC 33:IX.2705.*Significant Industrial User.a* applicable to each industrial user and, for industrial users meeting the criteria in LAC 33:IX.2705.*Significant Industrial User.a.ii* shall also indicate whether the POTW has made a determination in accordance with LAC 33:IX.2705.*Significant Industrial User.b* that such industrial user should not be considered a significant industrial user. The initial list shall be submitted to the approval authority in accordance with LAC 33:IX.2717 as a nonsubstantial program modification in accordance with LAC 33:IX.2735.B.2. Modifications to the list shall be submitted to the approval authority in accordance with LAC 33:IX.2723.I.1.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:

§2723. Reporting Requirements for POTWs and Industrial Users

* * *

[See Prior Text in A - I.2]

3. a summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period;

4. a summary of changes to the POTW's pretreatment program that have not been previously reported to the approval authority; and

5. any other relevant information requested by the approval authority.

* * *

[See Prior Text in J-P.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:

§2735. Modification of POTW Pretreatment Programs

* * *

[See Prior Text in A]

B. Substantial Modifications Defined

1. The following are substantial modifications for purposes of this Section:

a. modifications that relax POTW legal authorities (as described in LAC 33:IX.2715), except for modifications that

directly reflect revision to the general pretreatment regulations, LAC 33:IX.Chapter 23.Subchapter T or Subchapter N, and reported in accordance with Subsection D of this Section;

b. modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported in accordance with Subsection D of this Section. Maximum Allowable Industrial Loadings mean the total mass of a pollutant that all industrial users of a POTW (or a subgroup of industrial users identified by the POTW) may discharge in accordance with limits developed under LAC 33:IX.2709;

c. changes to the POTW's control mechanism, as described in LAC 33:IX.2715.F.1.c;

d. a decrease in the frequency of self-monitoring or reporting required of industrial users;

e. a decrease in the frequency of industrial user inspections or sampling by the POTW;

f. changes to the POTW's confidentiality procedures; and

g. other modifications designated as substantial modifications by the approval authority on the basis that the modification could have significant impact on the operation of the POTW's pretreatment program, could result in an increase in pollutant loadings at the POTW, or could result in less stringent requirements being imposed on industrial users of the POTW.

2. The approval authority may designate other specific modifications, in addition to those listed in Subsection B.1 of this Section, as substantial modifications.

3. A modification that is not included in Subsection B.1 of this Section is nonetheless a substantial modification for purposes of this Section, if the modification:

a. would have a significant impact on the operation of the POTW's pretreatment program;

b. would result in an increase in pollutant loadings at the POTW; or

c. would result in less stringent requirements being imposed on industrial users of the POTW.

C. Approval Procedures for Substantial Modifications

1. The POTW shall submit to the approval authority a statement of the basis for the desired program modification, a modified program description (see LAC 33:IX.2717.B), or such other documents the approval authority determines to be necessary under the circumstances.

2. The approval authority shall approve or disapprove the modification based on the requirements of LAC 33:IX.2715.F, following the procedures in LAC 33:IX.2721.B-F, except as provided in Subsection C.3-4 of this Section. The modification shall become effective upon approval by the approval authority.

3. The approval authority need not publish a notice of decision under LAC 33:IX.2721.E, provided the notice of request for approval under LAC 33:IX.2721.B states that the request will be approved if no comments are received by a date specified in the notice, no substantial comments are received, and the request is approved without change.

4. Notices required by LAC 33:IX.2721 may be performed by the POTW, provided that the approval authority finds that the POTW notice otherwise satisfies the requirements of LAC 33:IX.2721.

D. Approval Procedures for Nonsubstantial Modifications

1. The POTW shall notify the approval authority of any other (i.e., nonsubstantial) modifications to its pretreatment program at least 45 days prior to when they are to be implemented by the POTW, in a statement similar to that provided for in Subsection C.1 of this Section.

2. Within 45 days after the submission of the POTW's statement, the approval authority shall notify the POTW of its decision to approve or disapprove the nonsubstantial modification.

3. If the approval authority does not notify the POTW within 45 days of its decision to approve or deny the modification or to treat the modification as substantial under Subsection B.1.g of this Section, the POTW may implement the modification.

E. Incorporation in the Permit. All modifications shall be incorporated into the POTW's LPDES permit upon approval. The permit will be modified to incorporate the approved modification in accordance with LAC 33:IX.2385.

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:

A public hearing will be held on October 26, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP030*. Such comments must be received no later than October 26, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. 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 Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of WP030*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Linda Korn Levy
Assistant Secretary

9809#063

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees Group
Benefits Program**

Plan Document—Mandated Benefits, Cancer
Screening and Detection

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. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board hereby gives notice of intent to adopt amendments to the Plan Document of Benefits. The Board finds that it is necessary to amend the Plan Document to implement the provisions of Act Number 1439 of the 1997 Regular Session of the Louisiana Legislature (R.S. 22:215.11), regarding benefits for mammography, Pap tests, and prostate examination and testing. Accordingly, notice is hereby given that the Plan Document of Benefits for the State Employees Group Benefits Program will be amended in the following particulars:

Amend Article 3, Section I, Subsection F, Paragraph 29, to read as follows:

F. Eligible Expenses

The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule and the Schedule of Benefits, under the Comprehensive Medical Benefits when prescribed by a Physician and Medically Necessary for the Treatment of a Covered Person:

* * *

29. Not subject to the annual deductible, one Pap test for cervical cancer per calendar year and screening mammographic examinations performed according to the following schedule:

- a. One baseline mammogram during the five-year period a person is 35-39 years of age;
- b. One mammogram every two calendar years for any person who is 40-49, or more frequently if recommended by a physician;
- c. One mammogram every twelve months for any person who is 50 years of age or older;

* * *

Amend Article 3, Section I, Subsection F, by adding a new Paragraph, designated as Paragraph 37, to read as follows:

* * *

37. Not subject to the annual deductible, testing for detection of prostate cancer, including digital rectal examination and prostate-specific antigen testing, once every twelve months for men over the age of fifty years, and as medically necessary for men over the age of forty years;

* * *

Interested persons may present their views, in writing, to Jack W. Walker, Ph.D., Chief Executive Officer, State Employees Group Benefits Program, Box 44036, Baton

Rouge, LA 70804, until 4:30 p.m. on Friday, October 30, 1998.

Jack W. Walker, Ph.D.
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Plan Document—Mandated Benefits,
Cancer Screening and Detection**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that implementation of these benefits will impact the State Employees Group Benefits Program by \$1,261,000 to \$1,697,800 during the first year. Over time these additional claim costs will be reflected in the rate structure that is adopted by the Board of Trustees.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections of state or local governmental units will not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Those persons that are directly affected will be the plan members of the State Employees Group Benefits Program. These members will now be eligible for benefits for mammography, pap smears, and prostate screening without having to meet the annual medical deductible that is imposed by the Program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition and employment will not be affected.

Ann B. Davenport
Deputy Director
9809#073

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Elderly Affairs**

FY 1998-99 State Plan on Aging
(LAC 4:VII.1317)

In accordance with Louisiana Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend LAC 4:VII.1317, the FY 1998-1999 Louisiana State Plan on Aging, effective January 1, 1999. This rule change is in accordance with the Code of Federal Regulation, 45 CFR 1321.19 "Amendments to the State Plan," and 45 CFR 1321.35 "Withdrawal of Area Agency Designation," (Vol. 53. Number 169 pages 33769 and 33770). The purposes of this rule change are:

- (1) to reverse the designation of the Governor's Office of Elderly Affairs as the Area Agency on Aging for the Planning and Service Area (PSA) of Calcasieu parish and Tensas parish;

(2) to designate Calcasieu parish and Tensas parish as Planning and Service Areas;

(3) to designate Calcasieu Council on Aging, Inc. as the Area Agency on Aging for Tensas PSA.

The FY1998-1999 Louisiana State Plan on Aging was adopted and published by reference in the September 20, 1997 issue of the Louisiana Register, Volume 23, Number 9. The full text of the State Plan may be obtained by contacting the GOEA at the address below or the Office of the State Register at 1051 North Third Street, Room 512, Baton Rouge, LA 70802, telephone (225) 342-5015.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 13. State Plan on Aging

§1317. Area Agencies on Aging

Area Agency on Aging	Planning and Service Area (Parishes Served)
Allen COA	Allen
Beauregard COA	Beauregard
Bienville COA	Bienville
Bossier COA	Bossier
Caddo COA	Caddo
CAJUN Area Agency on Aging (AAA)	Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion
Calcasieu COA	Calcasieu
Caldwell COA	Caldwell
Cameron COA	Cameron
Capital Area Agency on aging (AAA)	Ascension, Assumption, East Feliciana, Iberville, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge, West Feliciana
CENLA Area Agency on Aging (AAA)	Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Winn
Claiborne COA	Claiborne
DeSota COA	DeSota
East Baton Rouge COA	East Baton Rouge
Jefferson COA	Jefferson
Jefferson Davis COA	Jefferson Davis
Lafourche COA	Lafourche
Lincoln COA	Lincoln
Livingston COA	Livingston
Madison COA	Madison
Morehouse COA	Morehouse
Natchitoches COA	Natchitoches

North Delta (AAA)	East Carroll, Franklin, Jackson, Richland, Tensas, Union
New Orleans COA	Orleans
Ouachita COA	Ouachita
Plaquemines COA	Plaquemines
Red River COA	Red River
Sabine COA	Sabine
St. Bernard COA	St. Bernard
St. Charles COA	St. Charles
St. James AAA	St. James
St. John COA	St. John
St. Tammany COA	St. Tammany
Terrebonne COA	Terrebonne
Vernon COA	Vernon
Webster COA	Webster
West Carroll COA	West Carroll

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated by the Office of the Governor, Office of Elderly Affairs, LR 23:1146 (September 1997) amended LR 24:1110, (June 1998), LR 24:

The Governor's Office of Elderly Affairs will conduct a public hearing to receive comments on the proposed amendment to the State Plan on Monday, October 26, 1998, at the Office of Elderly Affairs conference room, 412 North Fourth Street, Baton Rouge, LA. 70802, at 1:30 p.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. The GOEA will receive written comments until 4:00 p.m. October 26, 1998.

Paul F. "Pete" Arceneaux, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: FY 1998-99 State Plan on Aging**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not result in additional costs or savings to state or local governmental units. The proposed rule dedesignates the Governor's Office of Elderly Affairs as the Area Agency on Aging (AAA) for Calcasieu and Tensas parishes and designates each parish as a Planning and Service Area (PSA). The proposed rule designates the Calcasieu Council on Aging, Inc. as the AAA for the Calcasieu parish PSA. The proposed rule designates the North Delta Regional Planning and Developmental District, Inc. as the AAA for the Tensas parish PSA.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The AAA's receive Title III funds to cover the additional cost to develop and administer an area plan on aging. The North Delta Regional Planning and Development District, Inc. will receive an additional ten percent (10%) of the Title III funds originally allocated to the Tensas parish PSA to be used for administrative costs of the PSA. The Calcasieu Council on Aging has been contracting with the Governor's Office of Elderly Affairs to administer services in the Calcasieu parish PSA. The Calcasieu Council on Aging will directly receive these administrative funds as the designated AAA.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to affect competition and employment. The Tensas Council on Aging will be allowed to bid on services delivered in the Tensas parish PSA. The Calcasieu Council on Aging will administer the Title III funds through the area plan.

Paul F. "Pete" Arceneaux Robert E. Hosse
Executive Director General Government Section Director
9809#013 Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Lifelong Learning
Workforce Commission**

Community and Technical Colleges
Investment Fund Awards—1998-99
(LAC 40:XIX.101-113)

Notice is hereby given, in accordance with R.S. 49:950, et seq., that the Governor's Office of Lifelong Learning in conjunction with the Louisiana Workforce Commission, pursuant to authority vested in the office by R.S. 23:2055 and R.S. 23:2071 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to enact rules governing the Community and Technical Colleges Investment Fund, LAC 40:XIX, Chapter 1, §§101-113, to provide for eligibility and requirements for submission of applications.

Title 40

LABOR AND EMPLOYMENT

Part XIX. Louisiana Workforce Commission

Chapter 1. Community and Technical Colleges

Investment Fund

§101. Purpose

Funds appropriated by the legislature to the Community and Technical Colleges Investment Fund are available exclusively to the Louisiana Workforce Commission for use in efforts to ensure the responsiveness of state community and technical colleges toward meeting the needs of Louisiana's businesses and industries and the needs of Louisiana's citizens for the development of a quality workforce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Lifelong Learning, Workforce Commission, LR 25:

§103. Definitions

Applicant—the community or technical college requesting funds under this program from the Workforce Commission, in order to provide training in partnership with one or more employers.

Award—funding approved under this program for approved activities.

Awardee—an applicant receiving a training award under this program.

Employers—the employers participating in a training partnership.

Training Provider—the community or technical college providing the training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Lifelong Learning, Workforce Commission, LR 25:

§105. Eligibility

A. An applicant shall be eligible for training funds if it is a public community college, technical college or a consortium or two or more community and/or technical colleges that develops a partnership with one or more employers for the purpose of designing or redesigning training programs to meet the needs of business and industry.

B. All eligible applicants must demonstrate that they are collaborating in developing and operating a continuing job preparatory program designed to produce skilled workers in a particular trade or technical occupation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Lifelong Learning, Workforce Commission, LR 25:

§107. Criteria

A. Applicants must incorporate the goals of the Workforce Commission into their program design and operation. The Workforce Commission's adopted goals focus on a workforce system that will become:

- 1. customer focused;
- 2. performance based;
- 3. market driven;
- 4. streamlined;
- 5. locally operated;
- 6. focused on the work ethic.

B. Community and technical college applicants must certify the existence of a partnership with one or more employers.

C. The proposed training program must incorporate industry-based skills standards. If such standards are not applicable to the type of training, the applicant must provide an explanation and must indicate an alternate standardized measure of skill acquisition.

D. The applicant and the employer partner must certify the need for job preparatory training by projecting job demand.

The growth and demand job forecast, upon which the need is projected, must be substantiated.

E. The community and/or technical college applicant shall commit resources from its current budget toward the total costs for the proposed program or project.

F. Applicants must complete a budget for approval by the Commission. Administrative costs shall not exceed ten percent (10 percent) of costs.

G. The Workforce Commission shall work in consultation with employers, training providers and organized labor in determining the allocation of monies appropriated under this fund.

H. The Workforce Commission will consider the following factors in selecting awardees:

1. long-term program need (job demand);
2. level of employer interest and participation in program design and operation;
3. level of employer leveraged resources and financial assistance for the program;
4. number of employers served, particularly small employers;
5. amount of college's existing resources being converted to the proposed program;
6. strength and long-term viability of the partnership and program;
7. average hourly wage rates projected for employed trainees upon completion of training;
8. program accessibility in terms of scheduling;
9. opportunities for career advancement;
10. utilization of skill standards and industry-based certification or alternate standard measure of skill acquisition;
11. capacity for bringing qualified disadvantaged citizens, welfare-to-work participants, inmates or parolees into the workforce.

I. Program performance shall be based upon:

1. the performance standards adopted by the Workforce Commission, which measure the effectiveness of a training program in terms of:
 - a. placement (employment of participants upon completion or exit from program);
 - b. training-related placement;
 - c. adequacy of training;
 - d. customer satisfaction (The customers are both the employers who need trained workers and the citizens who seek training.); and
2. semi-annual progress reports submitted to the Workforce Commission for review and approval.

J. Awardees shall participate in the development of the Scorecard component of the Occupational Information System, which consists of a website display of performance data derived by matching participant exit data with agency databases, such as, with the Unemployment Insurance database from the Department of Labor.

K. Funds awarded shall be used to design or redesign a training program/project, and awardees shall plan for sustainability of a program/project following the cessation of award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office the Lifelong Learning, Workforce Commission, LR 25:

§109. Application Procedure

The Workforce Commission will provide a standard form for use by applicants. The application form will contain, but not be limited to, detailed descriptions of the following:

A. a description of the process that will be used by the community/technical college(s) and the employer partner(s) for planning and collaboration. This process shall include the structure through which the partnership will assess needs, make decisions and take corrective actions, as necessary;

B. certification of the growth and demand job need that warrants the preparatory training. The forecasted projection must be based upon analysis of current and future job trends, and the basis for the projection must be provided;

C. a description of the proposed training program to include: curriculum, pre-employment and any post-employment training, recruitment of students, scheduling, staffing, student to teacher ratio, provision for any accelerated learning in the workplace, or other important program components;

D. a written commitment from each employer partner to participate in the development and design of a job preparatory training program in a specific occupational field and to provide assistance. The commitment from participating employers shall include a description of the intended leveraged resources, including any financial contribution;

E. a written commitment from each college partner to collaborate with the employer(s) on the design and implementation of the program, along with a written description of the data collection methodology and the resources committed to the training by the college;

F. a proposed budget with administrative costs not to exceed ten percent of costs;

G. any additional information the Workforce Commission may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Lifelong Learning, Workforce Commission, LR 25:

§111. Submission and Review Procedure

A. Applicants must submit their completed application to the Workforce Commission. Submitted applications will be reviewed and evaluated by a committee of the Workforce Commission and by staff. The applicant and the employer partner(s) may be required to present orally the concepts of the proposal to the reviewers.

B. Following review of applications, the Committee will forward prioritized recommendations to the Workforce Commission. The applications will then be reviewed and approved by the Workforce Commission.

C. A copy of the award letter will be sent to the respective board(s) for the community and technical colleges. No funds spent on the project prior to the Commission's approval of award will be considered eligible project costs.

D. The Commission will issue an award letter to the applicant within five working days of the application approval by the Workforce Commission.

AUTHORITY NOTE: Promulgated in accordance R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Lifelong Learning, Workforce Commission, LR 25:

§113. General Award Provision

A. Award Contract

1. A contract will be executed between the Workforce Commission and the awardee. The contract will specify the goals and objectives expected and the compliance requirements.

2. The Workforce Commission staff will monitor the progress of the training.

3. The Workforce Commission will reimburse the training provider from invoices submitted by the Workforce Commission and will disburse funds from invoices or certification of work completed.

4. Funds may be used for training programs extending up to two years in duration.

B. Use of Funds

1. The Community and Technical Colleges Investment Fund offers financial assistance in the form of an award for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include, inter alia, the following:

a. instruction costs: wages for technical and community college instructors, contracts for vendor trainer, training seminars;

b. travel costs: travel expenses reimbursable under this agreement will comply with state Travel Regulation, PPM 49. Travel costs are limited to fifteen percent (15 percent) of the total training award;

c. materials and supplies costs: training texts and manuals, audio/visual materials, skills assessment, training materials, computer based training software; and

d. capital outlay: equipment and facility modification.

C. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of approved invoices to the Workforce Commission. No funds spent on the project prior to the Commission's approval of the award will be considered eligible project costs.

2. All disbursements of funds shall be made to the training provider cited as the awardee.

D. Compliance Requirements

1. Training providers shall be required to complete semiannual reports describing progress toward the goals and objectives specified in their contract with the Workforce Commission.

2. In the event the awardee fails to meet its goals and objectives specified in its contract with the Workforce Commission, the Commission shall retain the right to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the awardee in an amount commensurate with the scope of the unmet goals and objectives.

3. In the event the awardee or monitoring entity knowingly files a false statement in its application or in a progress report, the awardee or monitoring entity shall be

guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

4. The Workforce Commission shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the awardee and the monitoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Lifelong Learning, Workforce Commission, LR 25:

Inquiries concerning the proposed enactments may be directed to Chris Weaver, Executive Director of the Workforce Commission, Office of the Governor, P.O. Box 94004, Baton Rouge, Louisiana 70804.

Interested persons may submit data, views, arguments, information or comments on the proposed enactments in writing, to the Louisiana Workforce Commission, Office of the Governor, P.O. Box 94004, Baton Rouge, LA, Attention: Chris Weaver, Executive Director. Written comments must be submitted to and received by the Commission within ten (10) days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Commission within twenty (20) days of the date of this notice.

Chris Weaver
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Community and Technical College Investment Fund Awards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These awards are funded through the Community and Technical Colleges Investment Fund which was established by Act 152 of the 1998 First Extraordinary Session. One million dollars was appropriated in the 1998 Regular Session to implement this program. These rules establish the criteria for the awards process and operational guidelines for the program to be administered by the Louisiana Workforce Commission. There are no implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is likely that some financial support from local business and industry and some additional amount of tuition collections will be realized by the community and technical colleges that receive a grant under these rules. The amounts are unknown. Business support is more likely to be in the form of in-kind contributions. Local governmental units will not be directly affected by these rules. Revenue collections are not shown for FY 00-01 because current funding is not sufficient to extend beyond FY 99-00.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Students may incur some tuition costs; however, the amount is unknown. The program does not mandate that schools impose tuition. Employers could incur some voluntary costs through their participation in the program; however, the amount is

unknown. There is no mandate for employer participation; however, it will be a consideration in the awarding of grants. The skills developed by students through these programs should be more consistent with the needs of the employers, thus making it easier for students to find gainful employment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The program is designed to produce changes in Louisiana's workforce training programs that will make the state's businesses more competitive, make the state more attractive for business investment, expand the state's economy and increase employment accordingly.

Chris Weaver
Executive Director
9809#039

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Sanitary Code—Retail Food Stores/Markets (Chapter XXII)

Notice is hereby given, in accordance with the Administrative Procedures Act, R.S. 49:950 et seq, that the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4A(1) and R.S. 40:5, intends to update and revise Chapter XXII of the Louisiana State Sanitary Code to be in accordance with current Food and Drug Administration (FDA) Food Code Guidelines.

Sanitary Code

Chapter XXII. Retail Food Stores/Markets

22:01 Definition: Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

a_w—water activity.

Base of Operation/Commissary—catering establishment, restaurant, or any other properly equipped place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

Beverage—liquid for drinking, including water.

Bulk Food—processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn.

Certification Number—a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

C.F.R.—Code of Federal Regulations.

CIP—clean in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surface that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

Code—the word *Code* when used alone shall mean the regulations contained in this Sanitary Code, subsequent

amendments thereto, or any emergency rule or regulation which the administrative authority having jurisdiction may lawfully adopt.

Convenience Store—a retail food store which is usually easily accessible and deals mostly with prepackaged food products.

Comminuted—reduced in size by methods including chopping, flaking, grinding, or mincing.

Critical Items—a provision of this code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation, such as, but not limited to, a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water sources, sewage backup, severe insect and rodent infestation, and chemical contamination.

Deli/Delicatessen—a food establishment which generally serves ready-to-eat food products such as sandwiches, cold cuts, cheeses, prepared salads and some prepared hot foods

Department—the Department of Health and Hospitals and Secretary means the Secretary thereof.

EPA—Environmental Protection Agency.

Easily Cleanable—surfaces that are readily accessible and made of such materials, finish and so fabricated that residue may be effectively removed by normal cleaning methods.

Employee—the permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a retail food store or market.

Equipment—an article that is used in the operation of a food store or market such as a reach-in or walk-in refrigerator or freezer, grinder, ice maker, meat block, mixer, oven, scale, sink, slicer, stove, table, thermometers, vending machine, or warewashing machine.

FDA—Food and Drug Administration.

Food—raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

Food Contact Surfaces—a surface of equipment or a utensil with which food normally comes in contact with, or a surface of equipment or a utensil from which food may drain, drip or splash into a food or onto a surface normally in contact with food.

Food Establishment—an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption. The term includes restaurants, cafeterias, caterers, delis, bars, lounges, or any other facility that prepares food for individual service or for a group of people, whether consumption is on or off the premises and regardless if there is a charge for the food. The term does not include private homes where food is prepared or served for individual family consumption.

Game Animals—an animal, the products of which are food, that is not classified by law as cattle, sheep, swine, goat, poultry, fish, and game birds or small animals as described in Chapter X of the State Sanitary Code.

Garbage—the putrescible components of refuse which are subject to spoilage, rot, or decomposition. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

HACCP—Hazard Analysis Critical Control Point.

HACCP Plan—a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

Hazard—a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

Hermetically Sealed Container—a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

Injected—manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat such as with juices which may be referred to as "injecting," "pinning," or "stitch pumping".

Itinerant Retail Food Store/Market—any fixed or mobile retail food store/market which operates on a temporary or seasonal basis.

Interpretation—this chapter shall be interpreted and applied to promote its underlying purpose of protecting the public health.

Kitchenware—food preparation and storage utensils.

Label—the principal display or displays of written, printed, or graphic matter upon any food or the immediate container thereof, or upon the outside container or wrapper, if any, of the retail package of any food.

Labeling—includes all labels and other written, printed and graphic matter, in any form whatsoever, accompanying any food.

Law—applicable local, state, and federal statutes, regulations, and ordinances.

Market—a retail food store or food market which stores, prepares, packages, serves, vends or otherwise provides food products such as beverages, eggs, meat, milk, produce, seafood or other similar products.

Microorganisms—yeasts, molds, fungi, bacteria, parasites, viruses and includes, but is not limited to, species having public health significance. The term "undesirable Microorganisms" includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated within the meaning of the Food, Drug and Cosmetic Laws and Regulations.

Mobile Food Unit—a vehicle-mounted retail food store/market designed to be readily movable.

Noncritical—items means all provisions in this code that are not classified as critical items.

Offal—waste parts, especially of a butchered animal, including but not limited to bones, cartilage, fatty tissue and gristle.

Packaged—bottled, canned, cartoned, securely bagged, or securely wrapped.

Permit—the document issued by the Department that authorizes a person to operate retail food store/market.

Person—an association, a corporation, individual, partnership, other legal entity, governmental subdivision or agency.

Person in Charge—the individual present at a retail food store/market who is responsible for the operation at the time of inspection.

Pest—refers to any objectionable animal or insect including, but not limited to, birds, roaches, rodents, flies, and larvae.

pH—the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 alkalinity. The value for pure distilled water is 7, which is considered neutral.

Potable Water—is water having bacteriological, physical and chemical qualities that make it safe and suitable for use by people for drinking, cooking or washing.

Potentially Hazardous Food—a food that is natural or synthetic and is in a form capable of supporting:

- a. the rapid and progressive growth of infectious or toxigenic microorganism;
- b. the growth and toxin production of *Clostridium botulinum*; or
- c. in shell eggs, the growth of *Salmonella enteritidis*.

Potentially hazardous food includes:

- a. an animal food (a food of animal origin) that is raw or heat-treated;
- b. a food of plant origin that is heat-treated or consists of raw seed sprouts;
- c. cut melons; and
- d. garlic and oil mixtures.

Potentially hazardous food does not include:

- a. an air-cooled hard-boiled egg with shell intact;
- b. a food with a water activity (a_w) value of 0.85 or less;
- c. a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24°C (75°F);
- d. a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; and
- e. a food for which a variance granted by the regulatory authority is based upon laboratory evidence demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of *C. botulinum* cannot occur.

p.p.m.—parts per million.

Ready-to-Eat Food—food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form.

Reduced Oxygen Packaging—the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen; displacing the oxygen with another gas or combination of gases; or otherwise controlling the oxygen content in a package to a level below the normally found in the surrounding atmosphere, which is 21 percent oxygen. This may include

methods referred to as altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging including sous vide.

Refuse—any garbage, rubbish, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility. It also includes other discarded material such as solid, liquid, semi-solid, or contained gaseous material resulting from either industrial, commercial, mining, or agricultural operations, or from community activities. It does not include solid or dissolved material in domestic sewage, irrigation return flow, industrial discharges which are point sources, or radioactive wastes.

Regulatory Authority—the local, state, or federal enforcement body or authorized representative having jurisdiction over the retail food store/market.

Retail Food Store—all types of food markets including convenience, fixed, mobile and temporary food stores. These may also be referred to as groceries. Larger retail food stores may also include bakeries and delis.

Rubbish—includes all non-putrescible waste matter, except ashes, from any public or private establishments, institution, or residence. It also includes construction and demolition wastes.

Sanitization—the application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, yield a reduction of 5 logs, which is equal to a 99.999 percent reduction, of representative disease microorganisms of public health importance.

Seafood—includes, but is not limited to, fish, shellfish edible crustaceans, marine and freshwater animal food products.

Sealed—free of cracks or other openings that allow the entry or passage of moisture.

Seasonal—a recurrent period that is characterized by certain occupation, festivities, or crops; any period of time that is legally available to the hunter, fisherman, or trapper. These seasons are legally set by government regulatory agencies such as State Wildlife and Fisheries, State Department of Agriculture or other such agencies.

Shall—refers to mandatory requirements.

Should or May—refers to recommended or advisory procedures or equipment.

Single-Service Articles—tableware, carry-out utensils, and other items such as bags, container's placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use.

Single-Use Articles—utensils and bulk food container designed and constructed to be used once and discarded. *Single-use articles* includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs, or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans.

Smoked Food—food which has been colored or flavored by natural or liquid smoke.

State Health Officer—the legally appointed and/or acting State Health Officer of the health authority having jurisdiction over the entire State of Louisiana, and includes his/her duly authorized representative, except where the context of these regulations, or pertinent statutory language indicates the

reference is to the State Health Officer acting personally. Should legislative action either change the term *State Health Officer* or transfer his/her authority, the successor shall assume the functions delegated to the *State Health Officer* in this Sanitary Code.

Tableware—eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, tumblers; and plates.

Temperature Measuring Service—a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

Temporary Retail Food Store/Market—a fixed or mobile retail food store/market which operates for a period of time no more than twenty-one consecutive days in conjunction with a single event or celebration.

Utensil—a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multi use, single-service, or single-use; gloves used in contact with food; and food temperature measuring devices.

Warewashing—the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

Water Activity—(a_w) is a measure of the free moisture in a food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

Wholesome—food which is in sound conditions, clean, free from adulteration or contamination and is otherwise suitable for human consumption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984) amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

General Requirements

22:02-1 General: Every retail food store/market which is hereafter constructed or extensively remodeled, and every existing retail food store/market, shall comply with the requirements of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:02-2 Submission of Plans: Whenever a retail food store/market is constructed or extensively remodeled, properly prepared plans and specifications for such construction or remodeling, shall be submitted to the State Health Officer for review and approval before construction or remodeling is begun. The plans and specifications shall indicate the proposed type of operation, anticipated volume and types of food products to be stored, prepared, packaged and/or served along with the proposed layout of the facility, mechanical plans, construction materials and the types and location and specifications of all fixed and mobile equipment to be used in the establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:02-3 Preoperational Inspection: The State Health Officer shall conduct one (1) or more preoperational inspections to verify that the retail food store/market is constructed and equipped in accordance with the approved plans and is in compliance with all provisions of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:02-4 HACCP Plan: If a retail food store/market wants to submit a HACCP plan it should contain:

A. a categorization of the types of *Potentially Hazardous Foods* that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the department;

B. a flow diagram by specific food or category type identifying *Critical Control Points* and providing information on the following:

1. ingredients, materials, and equipment used in the preparation of that food; and

2. formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

C. a supervisory training plan that addresses the food safety issues of concern;

D. a statement of standard operating procedures for the plan under consideration including clearly identifying:

1. each Critical Control Point;

2. the Critical Limits for each Critical Control Point;

3. the method and frequency for monitoring and controlling each Critical Control Point by the employee designated by the person in charge;

4. the method and frequency for the person in charge to routinely verify that the employee is following standard operating procedures and monitoring Critical Control Points;

5. action to be taken by the person in charge if the Critical Limits for each Critical Control Point are not met; and

6. records to be maintained by the person in charge to demonstrate that the HACCP Plan is properly operated and managed;

E. additional scientific data or other information, as required by the Department supporting the determination that food safety is not compromised by the proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Permits

22:03 General: No person shall operate a retail food store/market of any type without first having received a valid permit to operate from the State Health Officer. Permits are

not transferable. A valid permit shall be posted in every retail food store/market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Issuance of Permits

22:04-1 The owner, President of the Corporation, or such other officer duly delegated by the corporation or partnership shall make written application for a permit to operate to the State Health Officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:04-2 Prior to approval of an application for a permit, a preoperational inspection shall be made as described in 22:02-2 to determine compliance with all provisions of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:04-3 The State Health Officer shall issue a permit to the applicant if an inspection reveals that the proposed retail food store/market complies with all the provisions of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Employee Health

22:05 General: All employees shall meet the requirements of Chapter I and Chapter II of the State Sanitary Code. The person in charge shall be responsible for complying with Chapter I, Section 1:08-1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Personal Cleanliness

22:06-1 Handwashing: Employees shall thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, during work as often as necessary to keep them clean, and after smoking, using tobacco, eating, drinking, coughing, sneezing, handling raw food, or using the toilet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:06-2 Fingernails: Employees shall keep their fingernails clean and trimmed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:06-3 Jewelry: Employees may not wear jewelry on their arms and hands while preparing food. This does not apply to a plain ring such as a wedding band.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:06-4 Outer Clothing: Employees shall wear clean outer clothing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Hygienic Practices

22:07-1 Eating and Drinking: Employees shall eat and drink only in designated areas where the contamination of exposed food, equipment, utensils or other items needing protection can not result. An employee may drink while preparing food from a closed beverage container if the container is handled properly to prevent contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:07-2 Using Tobacco: Employees shall not use tobacco in any form while preparing or serving food. Employees shall use tobacco only in designated areas such as described in section 22:32.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:07-3 Hair Restraints: Employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food, equipment, utensils and other items needing protection. This does not apply to employees such as counter staff who only serve beverages and wrapped or packaged food items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:07-4 Food Contamination: Employees experiencing

persistent sneezing, coughing or a runny nose may not work with exposed food, equipment, utensils or other items needing protection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:07-5 Handling: Employees shall handle soiled tableware in a manner to prevent the contamination of clean tableware by their hands. Employees may not care for or handle animals such as patrol dogs, support animals, or pets while preparing or serving food. Employees with support animals may care for their animals if they wash their hands in accordance with Section 22:06-1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Food Supplies

22:08-1 General: All food shall be safe, unadulterated and honestly presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:08-2 Source: Food shall be obtained from sources that comply with law. Unless exempted by law, food prepared in a private home may not be used or offered for human consumption in retail food stores and food markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:08-3 Package: Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:08-4 Labeling: Packaged food shall be labeled as specified by law. All bulk food storage containers shall be properly labeled according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:08-5.1 Raw Shellfish: All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording:

There may be a risk associated with consuming raw shellfish as is the case with other raw protein products. If you suffer from chronic illness of the liver, stomach or blood or have other immune disorder, you should eat these products fully cooked.

In addition, this message must appear on the principal display panel or top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels. In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters:

There may be a risk associated with consuming raw shellfish as is the case with other raw protein products. If you suffer from chronic illness of the liver, stomach or blood or have other immune disorder, you should eat these products fully cooked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:08-5.2 Exemption: Establishments that exclusively serve raw molluscan shellfish that have been subjected to a process recognized by the State Health Officer as being effective in reducing the bacteria *Vibrio vulnificus* to non-detectable levels may apply for an exemption from the mandatory consumer information notification requirement. Establishments interested in obtaining an exemption shall certify, in writing, to the State Health Officer, that it shall use exclusively for raw consumption only molluscan shellfish that have been subjected to the approved process. Upon receipt of that communication, the State Health Officer shall confirm the establishment as being exempt from the requirement of displaying the consumer information message. The establishment's certification must be sent to the State Health Officer at the following address:

Louisiana Office of Public Health
P. O. Box 60630
New Orleans, Louisiana 70160

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:08-6 Hermetically Sealed Containers: Food in hermetically sealed containers shall be obtained from a licensed and/or regulated food processing plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:08-7 Milk: Fluid, frozen, dry milk and milk products shall be obtained from sources with Grade A Standards as specified in law and Chapter VII and Chapter VIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental

Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:08-8 Seafood: Fish, shellfish, edible crustaceans, marine and fresh water animal food products shall be obtained from sources according to law and Chapter IX of this Code. Shell stock tags shall be retained for 90 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:08-9 Eggs

A. Shell eggs shall be received clean and sound according to law.

B. Liquid, frozen and dry egg products shall be obtained pasteurized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:08-10 Poultry and Meats: Poultry and meat products shall be obtained from sources according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:08-11 Game Animals

A. Game animals may be received for sale if they are under a routine inspection program conducted by a regulatory authority or raised, slaughtered, and processed under a voluntary inspection program by a regulatory authority.

B. If retail markets are requested by an individual to process wild deer meat, they must process this meat in accordance with the guidelines established by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Temperature

22:09-1 Temperature Control: Except as specified in section 22:09-2, all refrigerated potentially hazardous foods shall be received at a temperature of 41°F (5°C) or below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:09-2 Exceptions: A food may be received at a temperature specified in laws governing its distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental

Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:09-3 Cooking/Reheating: Foods shall be cooked to heat all parts of the food to temperature and for a time that are at least:

A. 165⁰F (74⁰C) or above for 15 seconds for wildgame, poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, or stuffing containing fish, meat or poultry.

B. 155⁰F (68⁰C) or above for 15 seconds for pork, comminuted fish, comminuted meats and injected meats.

C. 145⁰F (63⁰C) or above for 15 seconds for all other foods.

D. All potentially hazardous food that is cooked, cooled, and reheated for hot holding or serving shall be reheated so that all parts of the food reach a temperature of at least 165⁰F (74⁰C) for 15 seconds.

E. Microwave - Foods cooked or reheated in microwave ovens shall be rotated and stirred throughout to compensate for uneven distribution of heat and heated an additional 25⁰F (14⁰F) above the temperatures required in 22:09-3.

F. Beef roast shall be cooked to a minimum internal temperature of 130⁰F (54⁰C) or to a temperature and time that will cook all parts of the roast as required by law.

G. Raw, marinated fish, raw molluscan shellfish, steak tartare, or partially or lightly cooked food, shall be served according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:09-4 Hot Holding Temperatures: Food stored for hot holding and service shall be held at a temperature of 140⁰F (60⁰C) or higher with the exception of roast beef. If roast beef is cooked in accordance with 22:09-3(F) the minimum hot holding temperature shall be 130⁰F (54⁰C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:09-5 Cold Holding Temperatures: Food stored for cold holding and service shall be held at a temperature of 41⁰F (5⁰C) or below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:09-6 Cooling Methods: Cooling of food shall be accomplished within 4 hours by using one or more of the following methods:

- A. placing the food in shallow pans;
- B. separating the food into smaller or thinner portions;
- C. using rapid cooling equipment;
- D. stirring the food in a container placed in an ice water bath;
- E. using containers that facilitate heat transfer;

F. adding ice as an ingredient;

G. other approved effective methods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:09-7 Frozen Food: Stored frozen food should be stored at a temperature of 0⁰F or below and shall be maintained frozen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March, 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:09-8 Thawing: Potentially hazardous food shall be thawed by one of the following methods:

A. under refrigeration that maintain the food temperature at 41⁰F (5⁰C) or below;

B. completely submerged under potable running water at a temperature of 70⁰F (21⁰C) or below with sufficient water velocity to agitate and float off loose particles in an overflow;

C. for a period of time that does not allow thawed portions to rise above 41⁰F (5⁰C);

D. as part of the conventional cooking process or thawed in microwave oven and immediately transferred to conventional cooking equipment with no interruption in the process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:09-9 Time as a Public Health Control: Time only, rather than time in conjunction with temperature, may be used as a public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption if:

A. the food is marked or otherwise identified with the time within which it shall be cooked, served or discarded;

B. the food is served or discarded within 4 hours from the point in time when the food is removed from temperature control;

C. food in unmarked containers or packages, or for which the time expires, is discarded; and

D. written procedures are maintained in the retail food store/market or food establishment and made available to the Department upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:09-10 Temperature Measuring Devices: (Thermometers): Temperature measuring devices shall be provided and used to measure:

A. food temperature of potentially hazardous food on a device scaled in Fahrenheit accurate to +/- 2⁰F or Celsius accurate to +/- 1⁰C.

B. ambient air temperature of all equipment used to hold potentially hazardous food on a device scaled in Fahrenheit accurate to +/- 3⁰F. or Celsius accurate to +/- 1.5⁰C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Food Storage

22:10-1 Food shall be protected from contamination by storing the food:

A. in a clean, dry location;

B. where it is not exposed to splash, dust, or other contamination; and

C. at least 6 inches (15cm) above the floor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:10-2 Food may not be stored:

A. in locker rooms;

B. in toilet rooms;

C. in dressing rooms;

D. in garbage rooms;

E. in mechanical rooms;

F. under sewer lines;

G. under water lines which may leak, including lines on which water has condensed;

H. under open stairwells; or

I. in vehicles used to transfer or hold any type of waste;

J. under other sources of contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:10-3 Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water through the packaging, wrapping, or container because of its positioning in the ice or water. Unpackaged food may only be stored in direct contact with drained ice; except:

A. whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water;

B. raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service or sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Food Preparation

22:11-1 General: During preparation, unpackaged food shall be protected from environmental sources of contamination. Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served or offered for human consumption in ready to eat form except that while, raw fruits and vegetables that are intended for washing by the consumer before consumption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:11-2 Molluscan Shellfish: Raw shellfish shall be handled in accordance with Chapter IX of the Code and may not be prepackaged at retail markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:11-3 Cross Contamination: Cross contamination shall be prevented by:

A. separating raw animal foods from ready to eat foods;

B. separating raw unprepared vegetables from ready to eat potentially hazardous foods; or

C. separating certain raw animal foods from each other because of different cooking temperatures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Food Display and Service

22:12-1 General

A. Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter service line, or food/sneeze guards, display cases, or other effective means.

B. Proper utensils shall be used for preparation service and dispensing of food. These utensils shall be stored in accordance with section 22:19-10.

C. Reuse of soiled tableware by self-service consumers returning to the service area for additional food is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:12-2 Bulk Foods: Bulk foods shall be handled and dispensed in a manner described in 22:12-1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:12-3 Condiments: Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:12-4 Ice

A. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic service ice-dispensing equipment. Ice-dispensing utensils shall be stored in accordance with section 22:019-10.

B. Ice used as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, may not be used as food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:12-5 Reservice: Once served to a consumer, portions of left-over food shall not be reserved. Food that is not potentially hazardous, such as crackers and condiments, in an unopened original package and maintained in sound condition may be reserved or resold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Equipment and Utensils

22:13 General: All equipment and utensils shall be of construction approved by the State Health Officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:13-1 Multi-use: Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substance or impart colors, odors, or tastes to food and under normal use conditions shall be:

- A. safe;
- B. durable, corrosion-resistant, and non absorbent;
- C. sufficient in weight and thickness to withstand repeated warewashing;
- D. finished to have a smooth, easily cleanable surface and

E. resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:13-2 Copper: Cooper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:13-3 Galvanized Metal: Galvanized metal may not be used for utensils or food-contact surfaces or equipment that are used for beverages, acidic food, moist food or hygroscopic food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:13-4 Solder and Flux: Solder and flux containing lead in excess of 0.2 percent may not be used on surfaces that contact food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:13-5 Wood: Except as specified in part A, B and C of this section, wood and wood wicker may not be used as a food-contact surface:

A. hard maple or an equivalently hard, close-grained wood may be used for:

1. cutting boards; cutting blocks, baker's tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

2. wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230°F (110°C) or above;

B. whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used;

C. if the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in untreated wood containers or approved treated wood container complying with C.F.R..

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:14 Non Food-Contact Surfaces: Surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, non absorbent, and smooth material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:15 Single-Service and Single-Use Articles: Single-service and single-use articles may not be reused.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:16 Slash-Resistant Gloves, Use Limitations

A. Except as specified in part B of this section, slash-resistant gloves that are used to protect hands during operations requiring cutting may be used in direct contact only with food that is subsequently cooked such as frozen food or a primal cut of meat.

B. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and non-absorbent outer surface; or if the slash resistant gloves are covered with a smooth, durable, non-absorbent glove, or a single-use glove.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:17 Food Temperature Measuring Devices: Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Requirements for Equipment

22:18-1 General: Equipment used for cooling, heating and holding cold and hot foods, shall be sufficient in number and capacity to provide food temperatures as specified in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:18-2 Manual Warewashing, Sink Compartment Requirements

A. A sink with at least three (3) compartments shall be provided for manual washing, rinsing and sanitizing equipment and utensils.

B. Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils.

C. When equipment or utensils are too large for the warewashing sink or warewashing machine, the following alternative process may include:

1. high-pressure detergent sprayers;
2. low- or line-pressure spray detergent foamers;
3. other task-specific cleansing equipment, such as CIP;
4. brushes or other implements.

D. Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing. Drainboards for sinks and machines shall be self-draining.

E. A warewashing sink may not be used for handwashing or dumping mop water. Sinks may be used to wash wiping cloths, wash produce and other foods or thaw foods if the sinks are properly washed and sanitized before this use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:18-3 Warewashing Machines

A. A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

1. temperatures required for washing, rinsing and sanitizing;
2. pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
3. conveyor speed for conveyor machines or cycle time for stationary rack machines.

B. Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

C. Warewashing machines shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. in each wash and rinse tank; and
2. as the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

D. Warewashing machines shall be operated in accordance with the machine's data plate and other manufacturer's specifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Cleaning of Equipment and Utensils

22:19-1 General:

A. Equipment food-contact surfaces and utensils shall be clean to sight and touch.

B. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

C. Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:19-2 Frequency of Cleaning

A. Equipment food-contact surfaces and utensils shall be cleaned:

1. before each use with a different type of raw animal food such as beef, seafood, lamb, pork, or poultry;
2. each time there is a change from working with raw foods to working with ready-to-eat foods;
3. between uses with raw fruits or vegetables and with potentially hazardous food;
4. before using or storing a temperature measuring device;
5. at any time during the operation when contamination may have occurred.

B. Equipment food-contact surfaces and utensils used with potentially hazardous food shall be cleaned throughout the day at least every four (4) hours.

C. Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

D. Warewashing equipment, including machines and the compartments of sinks, basins or other receptacle used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards, shall be cleaned:

1. before use;
2. throughout the day at frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended needed function; and
3. if used, at least every 24 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:19-3 Cleaning Agents: The wash compartment of a sink, mechanical warewasher, or other alternative process as specified in section 22:18-2 (C), shall, when used for warewashing, contain a wash solution of soap, detergent, acid cleaner, alkaline cleanser, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25

22:19-4 Temperature of Wash Solution

A. The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110°F (43°C) unless a different temperature is specified on the cleaning agent manufacturer's label instruction.

B. The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

1. for a single tank, stationary rack, single temperature machine, 165°F (74°C);
2. for a single tank, conveyor, dual temperature machine, 160°F (71°C);
3. for a single tank, stationary rack, dual temperature machine, 150°F (66°C);
4. for a multitank, conveyor, multi temperature machine, 150°F (66°C).

C. The temperature of the wash solution in spray type warewashers that use chemicals to sanitize may not be less than 120°F (49°C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25

22:19-5 Methods of Cleaning

A. Precleaning:

1. food debris on equipment and utensils shall be scrapped over a waste disposal unit, scupper, or garbage receptacle or shall be removed in a warewashing machine with prewash cycle;
2. if necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

B. Loading: Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

1. expose the items to the unobstructed spray from all cycles; and
2. allows the items to drain.

C. Wet Cleaning

1. Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high pressure sprays; or ultra sonic devices;

2. The washing procedures selected shall be based on the type and purpose of equipment or utensil, and on the type of soil to be removed.

3. Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:19-6 Rinsing Procedures: Utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or other solutions. A distinct, separate water rinse after washing and before sanitizing shall be used with the following:

1. a three (3) compartment sink;
2. alternative manual warewashing equipment equivalent to a three (3) compartment sink as specified in 22:18-2 (C);
3. a three (3) step washing, rinsing and sanitizing procedure in a warewashing system for CIP equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:19-7 Sanitization: After the food-contact surfaces of all equipment and utensils are cleaned, they shall be sanitized before use. Clean food-contact surfaces of equipment and utensils shall be sanitized in:

A. hot water;

1. if immersion in hot water is used in manual operation, the temperature of the water shall be maintained at 171°F (77°C) or above;

2. in a mechanical operation, the temperature of the hot water rinse as it enters the manifold may not be more than 194°F (90°C) or less than:

- a. for a single tank, stationary rack, single temperature machine, 165°F (74°C); or
- b. for all other machines, 180°F (74°C). This should achieve a utensil surface temperature of 160°F (71°C) as measured by an irreversible registering temperature indicator;

3. in a mechanical operation using a hot water rinse, the flow pressure may not be less than 15 pounds per square inch or more than 25 pounds per square inch as measured in the water line immediately upstream from the fresh hot water sanitizing rinse control valve;

B. chemical;

1. when a chemical sanitizer is used in a sanitizing solution for manual or mechanical operational at the specified exposure times, it shall be listed in 21 CFR 178.1010 sanitizing solutions, shall be used in accordance with the EPA approved manufacturers label use instructions, and shall be used as follows:

a. a chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

Minimum Concentration	Minimum Temperature	
MG/L (p.p.m.)	pH 10 or less °F (°C)	pH 8 or less °F (°C)
25	120 (49)	120 (49)
50	100 (38)	75 (24)
100	55 (13)	55 (13)

- b. an iodine solution shall have a:
 - i. minimum temperature of 75°F (24°C);
 - ii. pH of 5.0 or less, unless the manufacturer's use directions included in the labeling specify a higher pH limit of effectiveness; and
 - iii. concentration between 12.5 mg/L and 25 mg/L (p.p.m.);

c. a quaternary ammonium compound solution shall:

- i. have a minimum temperature of 75°F (24°C);
- ii. have a concentration as specified under 7-204.11 and as indicated by the manufacturer's use directions included in labeling; and
- iii. be used only in water with 500 mg/L (p.p.m.) hardness or less;

d. other solutions of the chemicals specified in a, b, and c, of this section may be used if demonstrated to the Department to achieve sanitization and approval by the Department; or

e. other chemical sanitizers may be used if they are applied in accordance with the manufacturer's use directions included in the labeling;

2. chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified in 22:19-7 B (1) shall be used to provide the following:

- a. an exposure time of at least 10 seconds for a chlorine solution;
- b. an exposure time of at least 30 seconds for other chemical sanitizer solutions; or
- c. an exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficiency, yields sanitization as defined in this Chapter;

3. a test kit or other device that accurately measures the concentration in mg/L or parts per million (p.p.m.) of sanitizing solutions shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:19-8 Air Drying

A. Except as specified in c of this section, after cleaning and sanitizing, equipment and utensils may not be cloth-dried.

B. Equipment and utensils may be air-dried or used after adequate draining as specified in paragraph a of 21 CFR 178.1010 Sanitizing Solutions, before contact with food.

C. Utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:19-9 Storage of Clean Equipment and Utensils

A. Except as specified in D of this section, cleaned equipment, utensils and single-service and single use articles shall be stored:

1. in a clean dry location;
2. where they are not exposed to splash, dust, or the contamination; and
3. at least 6 inches (15cm) above the floor.

B. Clean equipment and utensils shall be stored as specified under A of this section and shall be stored:

1. in a self-draining position that permits air drying; and
2. covered or inverted.

C. Single-service and single-use articles shall be stored as specified under A of this section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

D. Items that are kept in closed packages may be stored less than 6 inches (15cm) above the floor on dollies, pallets, racks, and skids provided that the storage equipment is designed so that it may be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:19-10 In-Use and Between Use Utensil Storage: During pauses in food preparation or dispensing, food preparation dispensing utensils shall be stored:

A.1. in the food with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;

2. in food that is not potentially hazardous with their handles above the top of the food within containers or equipment that can be closed, such as bins;

B. on a clean portion of the food preparation table or cooking equipment in accordance with section 22:19-1 and 2;

C. in running water of sufficient velocity to flush particulate matter to the drain, if used with moist food such as ice cream or mashed potatoes; or

D. in a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Water Supply

22:20-1 General: Enough potable water for the needs of the retail food store/market shall be provided in accordance with Chapter XII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental

Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:20-2 Pressure: Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:20-3 Hot Water: Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the retail food store/market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:20-4 Steam: Steam used in contact with food or food contact surfaces shall be free of deleterious materials or additives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:20-5 Bottled Water: Bottled and packaged potable water shall be obtained from a source that complies with Chapters VI and XII of this Code and the Food, Drug and Cosmetic Laws and Regulations. Bottled and Packaged potable water, if used, shall be handled and stored in a way that protects it from contamination and shall be dispensed from the original container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Sewage

22:21-1 General: All sewage from a retail food store/market shall be disposed of through an approved sewerage system/facility, community or individual, in accordance with Chapter XIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:21-2 If an individual sewerage disposal system is used, it shall be sized, constructed, maintained and operated according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental

Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Plumbing

22:22-1 General: Plumbing shall be sized, installed, and maintained in accordance with Chapter XIV of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:22-2 Cross-Connection: There shall be no cross-connection between the potable water supply and any other source of water of lesser quality including any source of pollution from which the potable water supply might become contaminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:22-3 Backflow: Backflow shall be prevented by:

A. An air gap between the water supply inlet and flood level rim of the plumbing fixture, equipment, or nonfood equipment which is at least twice the diameter of the water supply inlet and may not be less than one (1) inch (25mm).

B. A backflow or backsiphonage prevention device installed and maintained on a water line in accordance with Chapter XIV of this Code.

C.1. Not having a direct connection between the sewage system and any drain line originating from equipment in which food, portable equipment, or utensils are placed.

2. If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five (5) feet (1.5m) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:22-4 Non Potable Water System: A nonpotable water system is permitted only for purposes such as air conditioning and fire protection, provided the system is installed in accordance with Chapter XIV of this Code and:

A. the nonpotable water does not contact directly or indirectly, food, potable water, equipment that contacts food, or utensils and;

B. the piping of any nonpotable water system shall be easily identified so that it is readily distinguishable from piping that carries potable water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:22-5 Lavatory Facilities: All lavatory fixtures shall be installed in accordance with Chapter XIV of this code.

A.1. At least one (1) handwashing lavatory shall be located to permit convenient use by all employees in food preparation areas and utensil washing areas including the produce, meat and seafood markets.

2. Lavatories shall also be located in or immediately adjacent to toilet rooms.

B. Lavatories shall be accessible to employees at all times.

C. Lavatories shall be equipped to provide water at a temperature of at least 110°F (43°C) through a mixing valve or combination faucet.

D. If a self-closing, slow-closing, or metering faucet is used, it shall provide a flow of water for at least 15 seconds without the need to reactive the faucet.

E. Steam mixing valves are prohibited.

F. A supply of hand-cleansing soap or detergents shall be available at each lavatory. A supply of individual disposable towels, a continuous towel system that supplies the user with a clean towel or a heat-air drying device shall be available at each lavatory. The use of common towels is prohibited.

G. Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

H. A handwashing lavatory may not be used for purposes other than handwashing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:22-6 Toilet Facilities: All toilet fixtures shall be installed in accordance with Chapter XIV of this Code.

A. Toilet facilities shall be the number required, shall be conveniently located, and accessible to employees at all times.

B. Toilet rooms shall be completely enclosed, well lighted and shall have tight-fitting, self-closing, solid doors which shall be closed except during cleaning and maintenance.

C. Toilet rooms shall be vented to the outside atmosphere.

D. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials with at least one covered waste receptacle in toilet rooms used by women.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:22-7 Grease Traps: An approved type grease interceptor shall be installed in accordance with Chapter XIV of this Code.

A. It shall be installed in the waste line leading from sink, drains and other fixtures or equipment where grease may be introduced in the drainage or sewage system in quantities that can affect line stoppage or hinder sewage treatment or private sewage disposal.

B. A grease trap, if used, shall be located to be easily accessible for cleaning and shall be serviced as often as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:22-8 Garbage Grinders: If used, garbage grinders shall be installed and maintained in accordance with Chapter XIV of this Code. Garbage grinders shall not be used with individual sewerage systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:22-9 Utility or Service Sink

A. At least one (1) service sink or one (1) curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste. The sink shall be located in an area to avoid food contamination.

B. The use of lavatories, utensil washing, equipment washing, or food preparation sinks for this purpose is prohibited.

C. In some special applications, because of space restrictions or unique situations, in the opinion of the State Health Officer or his representative that the risk of contamination is low, a large utility/service sink may be used as a handwashing sink.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Garbage and Refuse

22:23-1 General: All garbage and refuse shall be handled in accordance with Chapter XXVII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:23-2 Receptacles

A. Equipment and receptacles for refuse, recyclables, returnables, and for use with materials containing food residue shall be durable, cleanable, insect and rodent resistant, leakproof, and nonabsorbent.

B. Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the retail food store/market, or within closed outside receptacles.

C. Outside receptacles shall have tight-fitting lids, doors, or covers.

D. There shall be a sufficient number of receptacles to hold all the garbage and refuse that accumulates. They shall be emptied when full.

E. Soiled receptacles shall be cleaned at a frequency to prevent a nuisance or the attraction of insects and rodents.

F. Liquid waste from compacting shall be disposed of as sewage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:23-3 Incineration: Where garbage or refuse is burned on the premises, it shall be done by incineration in accordance with the rules and regulations of the Louisiana Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:23-4 Cleaning and Storage

A. Indoor garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent washable materials, shall be kept clean, shall be insect and rodent proof and shall be large enough to store the garbage and refuse that accumulates.

B. Outdoor storage area surface shall be constructed of non-absorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

C. Suitable cleaning equipment and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of equipment and receptacles used for refuse, recyclable and returnable.

D. Liquid waste from the cleaning operation shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from entering the sanitary sewerage system. Dumpster pads may be elevated or curbed, enclosed or covered, and the sanitary sewerage drain protected with a proper cover.

E. In some special applications, if approved by the State Health Officer or his representative, off-premises-based cleaning services may be used if on-premises cleaning equipment and supplies are not provided at establishments which generate only rubbish.

F. Outdoor premises used for storage of refuse, recyclables and returnables shall be maintained clean and free of litter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental

Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Insects and Rodent Control

22:24-1 General: Insects and rodents shall be controlled in accordance with Chapter V of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:24-2 Insect Control Devices

A. Devices that are used to electrocute flying insects shall be designed to have "escape-resistant" trays.

B. Devices that are used to electrocute flying insects and that may impel insects or insect fragments or to trap insects by adherence shall be installed so that:

1. the devices are not located over a food preparation area; and
2. dead insects and insect fragments are prevented from being impelled onto or falling on exposed food, clean equipment, utensils, linens and unwrapped single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:24-3 Openings: Openings to a portion of the building that is not part of the food establishment or to the outdoors shall be protected against the entry of insects and rodents by:

- A. filling or closing holes and other gaps along floors, walls and ceilings;
- B. closed, tight-fitting windows;
- C. solid, self-closing, tight-fitting doors, or
- D. If windows or doors are kept open for ventilation or other purposes, the openings shall be protected against the entry of insects and rodents by:
 1. 16 mesh to the inch (25.4mm) screens;
 2. properly designed and installed air curtains; or
 3. other effective means.

E. Establishment location, weather or other limiting conditions may be considered as part of an overall flying insect and other pest control program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:24-4 Premises

- A. The premises shall be free of:
 1. items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and
 2. litter.
- B. The premises shall be kept free of pests by:

1. routinely inspecting the premises for evidence of pests; and

2. using methods of control approved by law.

C. Outdoor walking and driving areas shall be surfaced with concrete, asphalt, gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, drain properly and prevent muddy conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Physical Facilities

22:25 Floors

A. Floors shall be constructed of smooth, durable, and easily cleanable materials.

B. Closely woven and easily cleanable carpet may be used in certain areas of retail food stores except where food is prepared and processed.

C. Properly installed floor drains shall be provided in all markets where food is prepared and processed.

D. Floors shall be maintained clean and in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:26 Walls and Ceilings

A. Walls and ceilings shall be constructed of light colored, smooth, durable and easily cleanable materials.

B. Utility service lines, pipes, exposed studs, joists, rafters and decorative items shall not be unnecessarily exposed in food preparation and processing areas. When exposed in other areas of the retail food store, they shall be installed so they do not obstruct or prevent cleaning of the walls and ceilings.

C. Walls, ceilings, and any attachments shall be maintained clean and in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:27 Lighting

22:27-1 Lighting Intensity Shall Be:

A. In walk-in refrigeration units and dry food storage areas, and in other areas or rooms during periods of cleaning, at least 110 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor;

B. In areas where fresh produce or packaged foods are sold or offered for consumption, areas used for handwashing, warewashing, equipment and utensil storage, and in toilet rooms, at least 220 lux (20 foot candles) at a distance of 75 cm (30 inches) above the floor; and

C. At a surface where a food employee is working with unpackaged potentially hazardous food or with food, utensils,

and equipment such as knives, slicers, grinders, or saws where employees' safety is a factor, at least 540 lux (50 foot candles).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:27-2 Shielding

A. Light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food, clean equipment, utensils and linens or unwrapped single-service and single-use articles.

B. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:28 Ventilation

22:28-1 Mechanical: If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes, mechanical ventilation of sufficient capacity shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:28-2 Hood: Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings and should be equipped with filters to prevent grease from escaping into the outside atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:28-3 Heating, Air Conditioning, Ventilating System Vents

These systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food preparation surfaces, equipment and utensils.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Poisonous or Toxic Materials

22:29-1 Labeling

A. Containers of poisonous or toxic materials and personal

care items shall bear a legible manufacturer's label.

B. Working containers used for storing poisonous or toxic materials such as cleaners and sanitizer taken from bulk supplies shall be clearly and individually identified with the common name of the material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25

22:29-2 Storage and Display: Poisonous or toxic materials shall be stored and displayed for retail sale or use in markets so they may not contaminate food, equipment, utensils, linens, single-service and single-use articles by:

A. separating the poisonous or toxic materials by spacing or partitioning; and

B. locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, single-service and single-use articles;

C. storing those properly labeled medicines and first aid supplies necessary for the health of employees or for retail sale in a location or area that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles; and

D. medicines, poisonous or toxic materials requiring refrigeration shall not be stored in a refrigerator used to store food;

E. storing employees' personal care items in lockers or other suitable facilities that are located in an area that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:29-3 Use

A. Only those poisonous or toxic materials that are required for the operation and maintenance of a retail food store/market such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in food preparation and processing areas. This does not apply to approved, packaged poisonous or toxic materials that are for retail sale stored in accordance with Section 22:28-2.

B. Poisonous or toxic materials shall be stored in accordance with Section 22:28-2 and used according to:

1. law;

2. manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that the use is allowed in a food preparation or processing area; and

3. any additional conditions that may be established by the regulatory authority.

C. Chemical sanitizers and other chemical antimicrobials applied to food contact surfaces shall meet the requirements specified in section 22:19-7(B).

D. Chemicals used to wash or peel raw, whole fruits and vegetables shall be used in accordance with the manufacturer's label instructions and as specified in 21CFR 173.315.

E. Restricted pesticides shall be applied and used according to law.

F. Rodent bait shall be contained in a covered, tamper-resistant bait station.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

Miscellaneous

22:30 Prohibiting Animals

A. Except as specified in B and C of this Section, live animals may not be allowed on the premises of a retail food store/market.

B. Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles can not result:

1. edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

2. patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

3. in areas that are not used for food preparation such as dining and sales areas, support animals such as guide dogs that are trained to assist an employee or other person who is handicapped, are controlled by the handicapped employee of person, and are not allowed to be on seats or tables; and

C. live or dead fish bait shall be stored so that contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles can not result.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:31 Curb Markets: Markets commonly called "curb markets" dealing in produce, if unenclosed, shall store all produce above the floor or ground level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:32 Distressed Merchandise: Products that are held by the retail food store/market for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:33 Dressing Areas, Lockers and Employee Break Areas

A. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

B. Lockers or other suitable facilities shall be provided and used for the orderly storage of employees' clothing and other possessions.

C. Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination. Areas where employees use tobacco should be well ventilated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:34 Itinerant Retail Food Store/Market:

22:34-1 Permit

A. No itinerant retail food store/market shall operate without first applying and receiving a permit to operate from the State Health Officer.

B. Seasonal permits issued to itinerant retail food stores/markets should coincide with the legally set seasons for the products those markets plan to handle or sell and expire the last day of that season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:34-2 Plans: Plans and specifications for all proposed itinerant retail food stores/ markets shall be submitted to the State Health Officer for review and approval before applying and receiving a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:34-3 Mobile Retail Food Stores/Markets

A. The interior of vehicles where food products are stored shall be constructed of a smooth, easily cleanable surface and maintained in good repair.

B. The interior of vehicles where food products are stored shall be kept clean.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental

Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:34-4 Packaged Food Products: Trucks or vendors selling packaged food products such as ice cream, frozen novelties, meats, etc. shall operate from a base of operation where leftover products may be properly stored and inspected and the vehicle serviced. Packaged potentially hazardous foods shall be stored in accordance with section 22:09-5 and 22:09-7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:34-5 Produce: Produce vendors shall comply with Sections 22:08-1, 22:08-2, 22:08-4, 22:10 and 22:30. The produce should be protected by some type of enclosure or cover on the vehicles. If there are any "leftover" at the end of the day, they should be properly stored and protected from insects and rodents overnight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:34-6 Seafood

A. Boiled seafood shall be handled in accordance with guidelines set by the State Health Officer.

B. Oysters sold by the sack must be in an enclosed, mechanically refrigerated vehicle and comply with Section 22:08-1, 22:08-2, 22:08-4 and 22:08-5.

C. Live crabs or crawfish sold by the bushel or sack must be stored either on ice in an enclosed, insulated vehicle or in an enclosed mechanically refrigerated vehicle and comply with Section 22:08-1, 22:08-2 and 22:08-4.

D.1. Shrimp vendors shall store their shrimp in containers such as ice chest which are smooth, impervious and easily cleanable. The use of styrofoam is prohibited.

2. Shrimp shall be maintained at a temperature below 41°F (5°C) in accordance with Section 22:09-5.

3. A minimum one gallon container of sanitizer solution at the proper strength shall be provided in accordance with Section 22:19-7 B. to rinse hands, scoops, scales, ice chest, etc; as needed.

4. Paper hand towels and a waste receptacle shall be provided.

E. Waste water from any seafood vendor shall be disposed of properly in accordance with Section 22:21. Wastewater shall be collected in an approved, covered, labeled container for proper disposal. The discharging of wastewater onto the ground or into a storm drainage system is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:35 Linen/Laundry

22:35-1 General: Clean linens shall be free from food residues and other soiled matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:35-2: Frequency of Cleaning

A. Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

B. Cloth gloves shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish.

C. Wet wiping cloths shall be laundered before being used with a fresh solution of cleanser or sanitizer.

D. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:35-3 Wiping Cloths

A. Cloths that are used for wiping food spills shall be used for no other purpose.

B. Moist cloths used for wiping food spills on food contact surfaces of equipment shall be stored in a chemical sanitizer between uses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:35-4 Storage of Soiled Linens: Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils and single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:35-5 Use of Laundry Facilities

A. Laundry facilities on the premises of a retail food store/market shall be used only for the washing and drying of items used in the operation of the establishment and located away from food preparation areas.

B. Linens which are not laundered on the premises may be sent to an off premise commercial laundry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental

Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:36 Living Areas: Living or sleeping quarters such as a private home, a room used as living or sleeping quarters, or area directly opening into a room used as living or sleeping quarters, shall not be used for conducting retail food store/market operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:37 Maintenance Equipment

A. Maintenance tools such as brooms, mops, vacuum cleaners, and similar equipment shall be:

1. stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and
2. stored in an orderly manner that facilitates cleaning of the maintenance equipment storage location.

B. After use, mops shall be placed in a position that allows them to air dry without soiling walls, equipment, or supplies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:38 Open Front Markets: Only properly labeled, prepackaged foods may be stored or offered for sale in open front markets. This provision does not apply to produce that is normally peeled or washed prior to consumption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:39 Reduced Oxygen Packaging Criteria

A. A Retail Food Establishment that packages food using a reduced oxygen packaging method shall have a Hazard Analysis Critical Control Point (HACCP) plan and also provide the following information:

1. identifies the food to be packaged;
2. limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one of the following:
 - a. has a water activity (a_w) of 0.91 or less;
 - b. has a pH of 4.6 or less;
 - c. is a meat product cured at a food processing plant regulated by the U.S.D.A. or LA. Department of Agriculture using a combination of nitrites and salt that at the time of processing consists of 120 mg/L or higher concentration of sodium nitrite and a brine concentration of at least 3.50 percent, and is received in an intact package or;
3. specifies methods for maintaining food at 41°F (5°C) or below;

4. describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

- a. maintain the food at 41°F (5°C) or below; and
 - b. discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;
5. limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, which ever occurs first;
6. includes operational procedures that:
- a. prohibit contacting food with bare hands;
 - b. identify a designated area and the method by which:
 - i. physical barriers or methods of separation of raw foods and ready-to eat foods minimize cross-contamination; and
 - ii. access to the processing equipment is restricted to responsible trained personnel familiar with the potential Hazards of the Operation; and
 - c. delineate cleaning and sanitization procedures for food-contact surfaces; and
7. describes the training program that ensures that the individual responsible for the reduced oxygen packaging (Vacuum Packaging) operation understands the:
- a. concepts required for a safe operation;
 - b. equipment and facilities; and
 - c. procedures specified in A.6 of these guidelines and the HACCP plan.

B. Except for fish that is frozen before, during, and after packaging, a retail establishment may not package fish using a reduced oxygen packaging method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:40 Smoked Meat Preparation

22:40-1 Not Fully Cooked: Not fully cooked meats, also referred to as "partially cooked meats", shall be heated to a temperature and time sufficient to allow all parts of the meat to reach between 100°F and 140°F. This product shall be labeled on each retail package *Further Cooking Required* with lettering of not less than one-half (1/2) inch.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:40-2 Fully Cooked: Fully cooked meats shall be heated at a temperature and time sufficient to allow all parts of the meat to reach 155°F except poultry products which shall reach 165°F with no interruption of the cooking process and fish which shall reach 145°F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:41 Special Food Preparation

22:41-1 Special food preparation shall include cooking and/or preparation of ready-to-eat foods including but not limited to deli food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:41-2 Special food preparation shall be conducted in separate facilities partitioned from the market and other operations and shall comply with all the provisions of Chapter XXIII of the Code. Seafood Markets may sell boiled seafood such as crabs, crawfish, and shrimp.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:42 Inspections

22:42-1 Frequency: Inspections of retail food stores/markets shall be performed as often as necessary for the enforcement of this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:42-2 Access: Representatives of the State Health Officer, after proper identification, shall be permitted to enter any retail food store/market at any time for the purpose of making inspections to determine compliance with this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:42-3 Records: The State Health Officer shall be permitted to examine the records of retail food stores/markets to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed. Such records shall be maintained for a period of not less than six (6) months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:42-4 Reports: Whenever an inspection of a retail food store/market or food establishment is made, the findings shall

be recorded on an inspection report form. A copy of the completed inspection report shall be furnished to the person in charge of the retail food store/market or food establishment at the conclusion of the inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:43 Enforcement

22:43-1 General: Enforcement procedures shall be conducted in accordance with Chapter I of the code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:43-2 Critical Violations: Critical items, such as, but not limited to, a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water source, chemical contamination, sewage backup or improper sewage disposal, noted at the time of inspection shall be corrected immediately or by a time set by the State Health Officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:43-3 Noncritical Violations: Noncritical items noted at the time of inspection shall be corrected as soon as possible or by a time limit set by the State Health Officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

22:43-4 Adulterated Food: Any food product that is adulterated, misbranded or unregistered is subject to seizure and condemnation by the State Health Officer according to Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2 and 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 25:

For convenience in locating subjects in the reformatted text in this revision of Chapter XII of the State Sanitary Code, the promulgating Agency had created Appendix A which is an index for Chapter XXII (RETAIL FOOD STORES/MARKETS). A copy of this index can be obtained from the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802, or phone (225) 342-5015.

Interested persons may submit written comments to Barry Blue, Sanitarian Program Administrator, Retail Food Program,

P.O. Box 60630, New Orleans, LA 70160 prior to or during the scheduled public hearing. The scheduled hearing will convene promptly at 10 A.M. on October 27, 1998 in the Fourth Floor Conference Room at the Department of Health and Hospital, 1201 Capital Access Road, Baton Rouge LA.

All interested persons will be afforded an opportunity to submit data, views or arguments at said hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sanitary Code, Chapter XXII—Retail Food
Stores/Markets**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated implementation costs (savings) to local units. The Agency will, however, incur a cost of approximately \$850.00 in FY 98-99 for publication of this rule in the *Louisiana Register*.

**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. Chapter XXII of the State Sanitary Code was last revised in total on March 20, 1984. Therefore, Chapter XXII of the State Sanitary Code needs to be revised to incorporate the many changes issued over the years due to advances in science and technology in accordance with the current USDA Food Code.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There is no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups. Chapter XXII of the State Sanitary Code was last revised in total on March 20, 1984. Therefore, Chapter XXII of the State Sanitary Code needs to be revised to incorporate the many changes issued over the years due to advances in science and technology in accordance with the current USDA Food Code.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no effect on competition and employment.

Jimmy Guidry, M.D.
Assistant Secretary, OPH
9809#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code—Temperature Control
(Chapters XXIII and XXIII A)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the

Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4A(1) and R.S. 40:5, intends to update Chapters XXIII and XXIII A of the Louisiana State Sanitary Code in reference to the cold holding temperature of potentially hazardous foods to be in accordance with Chapter XXII of this Code and the new Food and Drug Administration (FDA) Food Code guidelines.

Sanitary Code

Chapter XXIII. Eating and Drinking Establishments

* * *

Food Protection

* * *

23:00 General: At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination, including dust, insects, animals, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous foods shall be 41EF or below, or 140EF or above at all times, except as otherwise provided.

* * *

Food Storage

* * *

23:010-2 Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 41EF or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled, utilizing such methods as shallow pans, agitation, or quick chilling of water circulation external to the food container so that the cooling period shall not exceed four hours. Potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 41EF or below.

* * *

Food Preparation

* * *

23:020-1 In refrigerated units at a temperature not to exceed 41EF; or

* * *

Food Display and Service

* * *

23:021 Potentially Hazardous Foods: Potentially hazardous food shall be kept at an internal temperature of 41EF or below or at an internal temperature of 140EF or above during display and service, except that rare roast beef shall be held for service at a temperature of at least 130EF.

* * *

Chapter XXIII A. Temporary Food Service

* * *

23A:005-2 Temperature Control: All potentially hazardous (and readily perishable) foods shall be maintained at a temperature of 41EF or below, or at a temperature of 140EF or above at all times, including during transportation if prepared off site and during storage. A thermometer should be provided in all perishable food storage facilities.

* * *

Interested persons may submit written comments to: Barry Blue, Sanitarian Program Administrator, Retail Food Program, P. O. Box 60630, New Orleans, LA 70160 prior to or during

the public hearing which is being scheduled for October 27, 1998 beginning promptly at 10 a.m. in the Fourth Floor Conference Room at the Department of Health and Hospitals which is located at 1201 Capital Access Road, Baton Rouge LA. All interested persons will be afforded an opportunity to submit data; views or arguments at said hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sanitary Code—Temperature Control**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is projected that the Agency will incur an estimated implementation cost of \$160 during FY 98-99 for the publication of this rule in the *Louisiana Register*.

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. This rule updates temperature controls in accordance with United States Food and Drug Administration Guidelines as currently required for the refrigerated storage of foods and does not involve any revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. There would be no fiscal impact on industry as existing equipment is capable of maintaining the proposed change in temperature requirement. This rule will update temperature controls in accordance with United States Food and Drug Administration Guidelines as currently required for the refrigerated storage of foods.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Jimmy Guidry, M.D.
Assistant Secretary
9809#060

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**

Pharmacy Program—Maximum Allowable Overhead Cost

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted 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 and as directed by the 1998-99 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides a pharmacy dispensing fee in the Pharmacy Program in accordance with the methodology established for the Maximum Allowable Overhead Cost which includes a \$0.10 provider fee collected on all prescriptions dispensed to Louisiana residents by pharmacists (*Louisiana Register*, January 1992). This dispensing fee is called the Louisiana Maximum Allowable Overhead Cost and is determined by updating the base rate through the application of certain economic indices to appropriate cost categories to assure recognition of costs which are incurred by efficiently and economically operated providers. During state fiscal years 1995-1996, 1996-97 and 1997-98, the Bureau maintained the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-1995 level. The Bureau has determined it is necessary to continue the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-1995 level. This action is necessary to avoid a budget deficit in the medical assistance programs.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions applicable to the Maximum Overhead Cost under the Pharmacy Program.

Maximum Allowable Overhead Cost

1. The Maximum Allowable Overhead Cost will remain at the level established for state fiscal year 1994-95. This Maximum Allowable Overhead Cost will remain in effect until the dispensing survey is completed and an alternate methodology is determined.

2. No inflation indices or any interim adjustments will be applied to the Maximum Allowable Overhead Costs.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, October 27, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, 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: Pharmacy Program—Maximum Allowable
Overhead Cost**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed rule will decrease state program costs by approximately (\$2,764,571) for SFY 1998-99, (\$2,776,597) for SFY 1999-2000, and (\$2,804,363) for SFY 2000-2001.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed rule will decrease federal revenue collections by approximately (\$6,540,616) for 1998-99, (\$6,569,068) for SFY 1999-2000, and (\$6,634,758) for SFY 2000-2001.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The Pharmacists enrolled in the Medicare program will continue to experience reduced reimbursements of approximately (\$9,305,187) for SFY 1998-99, (\$9,345,665) for SFY 1999-2000, and (\$9,439,121) for SFY 2000-2001 for pharmacy services rendered to Medicaid recipients.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no known effect on competition and employment.

Thomas D. Collins
Director
9809#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Board of Private Security Examiners**

Security Officer Registration, Training, Records, and
Administrative Penalties
(LAC 46:LIX.301, 403, 405, 803, and 903)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the executive secretary gives notices that rulemaking procedures have been initiated to amend the Louisiana State Board of Private Security Examiners Regulations, LAC 46:LIX:101-903, as follows.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIX. Private Security Examiners

Chapter 3. Security Officer Registration

**§301. Qualifications and Requirements for Security
Officer Registration**

A. - G. ...

H. An applicant who will be registered to carry a weapon

must be trained in that weapon prior to carrying such weapon on a job site and verification of training must be submitted by the licensee to the board at the time application is made. If the applicant has not been trained, then the licensee shall register the applicant as unarmed until such time as required training has been received and proof of training submitted to the board. If the applicant receives the required weapons training within 15 days from their date of hire, and submits proof of such training on a board training verification form, then the board will change the status of the applicant from unarmed and no fee will be required. If the training is received after 30 days, then a \$10 status change fee must be submitted in accordance with the rule for status changes.

I. - K.3. ...

4. Registration card classifications are as follows:

- a. revolver;
- b. straight baton;
- c. revolver and shotgun;
- d. 9MM and shotgun;
- e. revolver and baton;
- f. shotgun;
- g. shotgun and PR-24 baton;
- h. shotgun and baton;
- i. PR-24 baton;
- j. revolver and PR-24 baton;
- k. 9MM semiautomatic;
- l. 9MM and baton;
- m. unarmed;
- n. unarmed only; and
- o. 9MM and PR-24 baton.

K.5 - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 24:

Chapter 4. Training

§403. Classroom Training

A. - C. ...

D. All scores of such examinations must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed training verification form signed by the licensed instructor within 15 calendar days from completion of training.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 18:192 (February 1992), LR 23:588 (May 1997), LR 24:

§405. Firearms Training

A. Armed security officers, in addition to the training requirements outlined in R.S. 37:3284 and in the rules herein, shall complete twelve hours of firearms training and range

qualifications by a board-licensed firearms instructor prior to working an armed assignment. Examination scores must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed verification form signed by the licensed instructor within 15 calendar days from completion of training.

B. - E.3. ...

4. Shotgun.

F. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:192 (February 1992), amended LR 23:588 (May 1997), LR 24:

Chapter 8. Licensee Suitability, Records, Investigations and Registrant Violations

§803. Employee Records Required to Be Kept and Subject to Inspection

A. - D. ...

E. A company will have no more than 30 days to comply with the board's written findings as a result of an inspection, in addition to paying any assessed administrative fines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 18:195 (February 1992), LR 24:

Chapter 9. Administrative Penalties

§903. Administrative Penalties Pursuant to R.S. 37:3288(B)

A. - B. ...

C. In accordance with R.S. 37:3288(B), administrative penalty schedule is as follows:

Penalty Fee Schedule	Not to Exceed
1. Licensee's failure to submit security officer application, fingerprint card, and/or necessary registration fees within prescribed time period. If the application, fingerprint card, and/or registration fees are not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate.	\$25 \$500
2. Licensee's failure to resubmit fingerprint card after two written requests by the board when a deadline is given. If the fingerprint card is not resubmitted within 14 days after deadline date, administrative fine accumulates at a daily rate.	\$25 \$500
3. Licensee's failure to notify the board in writing within prescribed time period of security officers in their employ who have been terminated. If termination notice is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate.	\$25 \$500
4. ...	

5. ...	
6. Licensee's failure to submit renewal application and renewal fee for a registrant in their employ prior to expiration date. If the renewal application and renewal fee are not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate.	\$25 \$500
7. Licensee's failure to have registrant in their employ trained within prescribed time period. If registrant is not trained within 14 days after deadline date, administrative fine accumulates at a daily rate.	\$25 \$500
8. Licensee's failure to submit to the board a training verification form on a registrant in their employ within prescribed time period. If training verification is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate.	\$25 \$500
9. ...	
10. ...	
11. Licensee allowing registrant to carry an unauthorized weapon while on duty.	not less than \$25 nor more than \$100
12. Licensee or registrant's submission of a check to the board that is returned from the bank deemed non-sufficient funds.	\$25
13. Fingerprint cards repeatedly rejected by the Department of Public Safety as non-classifiable due to smudges, not being fully rolled, etc.	\$25
14. Registrant's performing security duties for any other person other than the licensee with whom he is registered.	\$25
15. Registrant's failure to sign registration card.	\$25
16. Registrant's failure to affix a photograph of registrant, taken within the last six months, to registration card.	\$25
17. Registrant's failure to timely surrender registration card when required to do so.	\$25
18. Registrant's possession or use of any registration card which has been improperly altered.	\$25
19. Registrant's defacing of a registration card.	\$25
20. Registrant's allowing improper use of a registration card.	\$25

AUTHORITY NOTE: Promulgated in accordance within R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 18:196 (February 1992), LR 24:

These proposed regulations are to become effective upon publication as a final rule in the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than October 20, 1998, at 4:30 p.m. to Wayne R. Rogillio, Executive Secretary, Louisiana State Board of Private Security Examiners.

Wayne R. Rogillio
Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Security Officer Registration, Training,
Records, and Administrative Penalties**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Neither costs nor savings to state or local governmental units are involved in these rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units is anticipated from these rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No costs or economic benefits to directly affected persons or governmental groups are expected from these rule changes.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition and employment is anticipated from these rule changes.

Wayne R. Rogillio
Executive Secretary
9809#050

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Driver's License, General Requirements
(LAC 55:III.100-111, 115-119, 125,
129-135, 147-151)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles hereby gives notice of intent to adopt rules pertaining to the issuance of driver's licenses to aliens lawfully present in the state, and to provide a procedure for individuals to request declaratory orders on rules promulgated by the Department on driver's licenses. The Department also gives notice of intent to amend the rules regarding the issuance of commercial driver's licenses, rules regarding mail-in driver's license renewals, and the rules regulating third-party testers and third-party examiners. These rules are being promulgated pursuant to the authority contained in R.S. 32:401 et seq.

The Fiscal and Economic Impact Statement for Administrative Rules has been approved by the Legislative Fiscal Office and is attached to this notice of intent.

These new sections, as well as the amendments to existing sections, are necessary to update the rules to reflect current state and federal statutes and current federal regulations.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§100. Definitions

As used in this chapter, the following terms have the meanings described below.

Department—Department of Public Safety and Corrections, Office of Motor Vehicles, except in the case of commercial driving schools, in which case Department shall mean the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section.

Driver Privacy Protection Act—the federal Driver Privacy Protection Act of 1994 (DPPA) (Title XXX of P.L. 103-322), 18 U.S.C. §2721 et seq., as implemented by the Department in the *Louisiana Administrative Code*, Title 55, Part III, Chapter 5, Subchapter B.

Personal Information—information which includes the full name, complete physical address, and date of birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§101. General Knowledge Required of All Applicants for a Commercial Driver's License

A.1. - 6.f.i. ...

ii. tests which indicate the pressure levels at which the low air pressure warning devices and the tractor protection valve should activate.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1089 (December 1989), amended LR 25:

§103. Examinations and Skills Test

* * *

E. Repealed.

F. - G.2. ...

a. a pre-trip inspection during which the following equipment situations are inspected:

i. service brakes, including trailer brake connections;

ii. parking or hand brake;

iii. steering mechanism;

iv. lighting devices and reflectors;

v. tires;

- vi. horn;
- vii. windshield wiper or wipers and washers;
- viii. rear-vision mirror or mirrors;
- ix. all coupling devices;
- x. all required emergency equipment; and
- xi. the loading condition and load-securing devices;

and;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1090 (December 1989), amended LR 25:

§105. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1091 (December 1989), repealed LR 25:

§107. Knowledge and Skills Test for Endorsements to a Commercial Driver's License

The following tests are required for endorsements to a commercial driver's license:

1. ...
 - a. procedure for assembly and hookup of units;
 - b. - e. ...
 - f. skills test during which the basic maneuvers specified in §113 must be satisfactorily performed.
2. a.i. - iv. ...
 - v. proper procedures at railroad crossing and draw bridges; and
 - vi. proper braking procedures.
- b. an applicant for a passenger endorsement applicable to a specific vehicle group shall take his skills test in a passenger vehicle satisfying the requirements of that group as defined in 49 CFR §383.91.
3. Tank Vehicle Endorsement. In order to obtain a Tank Vehicle Endorsement, each applicant must have knowledge covering the following:
 - a. causes, prevention, and effects of cargo surge on motor vehicle handling;
 - b. proper braking procedures for the motor vehicle when it is empty, full and partially full;
 - c. differences in handling of baffled/compartamental tank interiors versus non-baffled motor vehicles;
 - d. differences in tank vehicle type and construction;
 - e. differences in cargo surge for liquids of varying product densities;
 - f. effects of road grade and curvature on motor vehicle handling with filled, half-filled and empty tanks;
 - g. proper use of emergency systems; and
 - h. for drivers of DOT specification tank vehicles, retest and marking requirements.
4. Requirements for Hazardous Materials Endorsement. In order to obtain a Hazardous Material Endorsement each

applicant shall have such knowledge as is required of a driver of a hazardous materials laden vehicle, from information contained in 49 CFR parts 171, 172, 173, 177, 178, and 397 on the following:

- a. hazardous materials' regulations including:
 - i. hazardous materials table;
 - ii. shipping paper requirements;
 - iii. marking;
 - iv. labeling;
 - v. placarding requirements;
 - vi. hazardous materials packaging;
 - vii. hazardous materials definitions and preparation;
 - viii. other regulated material (e.g., ORM-D);
 - ix. reporting hazardous materials accidents; and
 - x. tunnels and railroad crossings;
- b. hazardous materials' handling including:
 - i. forbidden materials and packages;
 - ii. loading and unloading materials;
 - iii. cargo segregation;
 - iv. passenger carrying buses and hazardous materials;
 - v. attendance of motor vehicles;
 - vi. parking;
 - vii. routes;
 - viii. cargo tanks; and
 - ix. "Safe Havens";
- c. operation of emergency equipment including:
 - i. use of equipment to protect the public;
 - ii. special precautions for equipment to be used in fires;
 - iii. special precautions for use of emergency equipment when loading or unloading a hazardous materials laden motor vehicle; and
 - iv. use of emergency equipment for tank vehicles;
- d. emergency response procedures including:
 - i. special care and precautions for different types of accidents;
 - ii. special precautions for driving near a fire and carrying hazardous materials, and smoking and carrying hazardous materials;
 - iii. emergency procedures; and
 - iv. existence of special requirements for transporting Class A and B explosives;
- e. Title 46, *Code of Federal Regulations*, Parts 30-60, 64, 98, 148, and 151;
- f. Title 49, *Code of Federal Regulations*, Parts 391-396, pertaining to the knowledge of hazardous materials on highways;
- g. L.S.A.-R.S. 32:1501-1520;
- h. hazardous materials handling, including forbidden materials, loading and unloading materials, cargo segregation, passenger-carrying buses and hazardous materials, attendance of motor vehicles, cargo tanks, and "Safe Havens";
- i. operation of emergency equipment including use of equipment to protect the public, special precautions for

equipment to be used in fires, special precautions for the use of emergency equipment when loading or unloading of hazardous materials, use of emergency equipment for tank vehicles and required emergency equipment for vehicles hauling or handling hazardous materials; and

j. emergency response equipment including the special care and precautions necessary for different types of accidents, special precautions for driving in the vicinity of a fire with hazardous materials, smoking and transporting hazardous materials, emergency procedures and existence of special requirements for transporting Class A and B explosives.

5. **Combination Tank Vehicle and Hazardous Materials.** In order for an applicant to obtain a combination tank vehicle and hazardous materials' endorsement, he shall make a satisfactory demonstration of his knowledge by obtaining an 80 percent or better score on the knowledge test of all the requirements set forth above for the applicable type and class of vehicle and hazardous material requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1092 (December 1989), amended LR 25:

§109. Color of License

A. Except as otherwise provided herein, the background of all commercial drivers' licenses, Classes "A," "B," and "C," shall be gold in color and shall specify on the front thereof "commercial driver's license" or "CDL."

B. The background of all driver's licenses issued to minors shall be red in color to insure ease of identification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1093 (December 1989), amended LR 25:

§111. Change of Name or Sex

A. Place of Application, Fees, and Forms to be used.

1. Application for a driver's license with a change of name and/or sex may be made at any driver's license field office in Louisiana or through the mail by writing the Department of Public Safety and Corrections, Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, Louisiana 70896, attention Change of Name and/or Sex. Prior to the issuance of the driver's license, the applicant with a change of name and/or sex shall appear at a driver's license field office.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 2:118 (April 1976), amended LR 25:

§115. Intoxicating Beverages and Controlled Substances

A.1. No operator of a commercial motor vehicle shall consume an intoxicating beverage, regardless of its alcoholic content, or be under the influence of an intoxicating beverage, or controlled dangerous substance, within four hours before

going on duty or operating, or having physical control of a commercial motor vehicle.

2. No operator of a commercial motor vehicle shall consume an intoxicating beverage regardless of its alcoholic content, be under the influence of any intoxicating beverage or controlled substance, or have any measure blood alcohol concentration, or a positive reading for any controlled substance or its metabolite, while on duty or while operating or in physical control of a commercial motor vehicle.

3. Additionally, no operator of a commercial motor vehicle shall be on duty or operate a commercial motor vehicle while in the immediate possession of an intoxicating beverage or controlled substance, regardless of its content. This prohibition does not apply to possession of an intoxication beverage which is manifested and transported as part of a shipment by a commercial motor vehicle.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1093 (December 1989), amended LR 25:

§117. Third-Party Testers

A. - 9. ...

10. have a basic control skills' test course and road test route approved by the Department.

* * *

C.1. All applicants for certification as third-party testers, as well as all persons certified as third-party testers, shall permit an employee or other representative of the Department to audit the applicant's or third-party tester's records during the hours of 8:00 a.m. through 4:30 p.m. Monday through Friday, or at any other time the third-party tester is normally open for business or an examiner employed by the third-party tester is administering knowledge or skills tests for endorsements to a commercial driver's license. The applicant or third-party tester, including any of its employees, officers, or directors, shall immediately make available, to the employee or representative of the Department conducting the audit, the records required to be kept by LAC 55, Part III, Chapter 1, Subchapter A, or the third-party tester agreement unless the applicant or third-party tester certifies, in writing, that the records sought are in use at that time, in which case the records shall be made available by 4:30 p.m. on the following day.

2. The failure to provide the records sought to be audited pursuant to §147 may serve as grounds to revoke the status of the third-party tester or third-party examiner, or as grounds to deny the certification if such status is the subject of a new or renewal application with the Department.

3. The applicant or third-party tester and third-party examiner shall permit the removal of the records by the employee or representative of the Department conducting the audit unless the employee or representative of the Department determines that acceptable copies are made available by the applicant or third-party tester.

4. The applicant or third-party examiner and third party-tester shall permit an employee or other representative

of the Department to conduct an inspection of the applicant's or third-party tester's premises during the hours of 8:00 a.m. through 4:30 p.m. Monday through Friday, or at any other time the third-party tester is normally open for business or an examiner employed by the third-party tester is administering knowledge and skills tests for endorsements to a commercial driver's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1093 (December 1989), amended LR 25:

§118. Administrative Actions

A. The Department may suspend, revoke or cancel any certification, license, or permit granting the status of third-party examiner or third-party tester for any violation of R.S. 32:401 et seq., LAC 55, Part III, Chapter 1, Subchapter A, or the agreement signed by the third-party tester or third party examiner. Additionally, the Department may impose a fine or other sanction for violation of R.S. 32:401 et seq., LAC 55, Part III, Chapter 1, Subchapter A, or the agreement signed by the third-party examiner or third-party tester.

B. The Department shall deny any application for a certification, license or permit for the status of third-party tester or third-party examiner if the applicant does not possess the qualification contained in R.S. 32:408.1 and Chapter 1.

C. Any request for an administrative hearing to review the denial of an application, the suspension, revocation or cancellation of any certification, license, or permit issued pursuant to R.S. 32:408.1 or LAC 55, Part III, Chapter 1, Subchapter A, or any other action, order or decision of the Department regarding a third-party tester or a third-party examiner shall be in writing and received by the Department within thirty days of the date the notice was mailed or hand delivered, as the case may be.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§119. Third-Party Examiners

* * *

B. All applicants for certified third-party examiner status who currently hold a certificate of third-party examiner from a state other than Louisiana shall make application to the Department for a certified third-party examiner status and shall meet all of the requirements in §119.A. Additionally, all third-party examiners shall take a skills test from either a departmental examiner or an approved third-party examiner upon the renewal of the commercial driver's license of said applicant for the classes of vehicles for which he is applying to be a third-party examiner.

* * *

D. All third-party examiners shall utilize in their evaluation of the skills of individual applicants for commercial driver's licenses and the endorsements thereto, the commercial driver's license road test criteria and protocol formulated by Essex Corporation for the National Driver's License Examiner's Training Program.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1094 (December 1989), amended LR 25:

§125. Basic Maneuvers

The following specified basic maneuvers shall be required to be performed by an applicant for a Class A, B, or C commercial driver's license during the administration of the skills' test. These maneuvers shall be required to be performed in a vehicle of the same class as the license being sought by the applicant.

* * *

4. Applicant shall successfully demonstrate safe and correct operation of the vehicle while traversing at least one simulated railroad crossing or one actual railroad crossing.

* * *

6. The basic maneuvers to be performed shall include at least one each of an expressway merge and exit, if the same is available in the testing area.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1095 (December 1989), amended LR 25:

§129. Renewal by Mail

The Department shall send an invitation to each person qualified to renew his Class "D" or "E" driver's license by mail. This invitation shall be mailed to the last known address of the qualified person 100 days prior to the expiration of the person's driver's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:182 (February 1995), amended LR 25:

§131. Disqualifications for Mail Renewal Applicants

A person is not qualified to renew his driver's license by mail if the individual's driving record indicates that, within two years preceding the date of application, the individual has been convicted of the following moving violations:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:183 (February 1995), amended LR 25:

§133. Further Disqualifications

A person shall not be qualified to renew his driver's license by mail if:

1. the applicant is 70 years of age or older prior to 100 days before the expiration of the driver's license;

2. the applicant indicates on the mail-in renewal application form that there have been changes or additions

since that last renewal including any physical condition, or vision change which does not meet departmental standards;

3. repealed;

4. if the applicant's driving record indicates a pending suspension, or pickup order for the license has been issued, or the record has a notation of "no insurance" or "petition."

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:183 (February 1995), amended LR 25:

§135. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:183 (February 1995), repealed LR 25:

* * *

§147. Issuance of Driver's License without Providing a Social Security Number

A. Except as provided in §147, every applicant for a new or renewed Louisiana driver's license shall submit proof of his or her social security number to the Department. Except as provided in §147, the Department shall not issue a driver's license to any applicant for a new or renewed driver's license who fails to submit his or her social security number to the Department.

B. Before issuing a class "E" driver's license to an alien individual who does not possess and is ineligible to obtain a social security number, the Department shall:

1. require the alien individual to present, in addition to the documents required in R.S. 32:409.1(A)(2)(d)(x), a document demonstrating lawful presence in the United States in a status in which the alien individual may be ineligible to obtain a social security number. The following is a list of lawful presence documents:

a.i. Arrival-Departure Record (I-94) (Class A-1, A-2, A-3, B-1, B-2, C-1, C-2, C-3, E-1, E-2, F-1, F-2, G-1, G-2, G-3, G-4, G-5, H-4, I, J-2, K-2, L-2, M-1, M-2, NATO 1-7, O-3, P-4, R-2, S-5, S-6, S-7, TC, TD, Cuban/Haitian Entrant, Parolee;

ii. the form I-94 cannot state "Employment Authorized";

iii. if a foreign passport and Form I-94 have been presented as primary or secondary document, that Form I-94 is also an acceptable §147.B document, but only if it fits the §147.B description;

b. Visa Waiver Arrival-Departure Record (I-94W) (Class WB, WT);

c. Crewman's Landing Permit (I-95A);

d. Alien Crewman Landing Permit and Identification Card (I-184);

e. Nonresident Alien Canadian Border Crossing Card(I-185);

f. Nonresident Alien Mexican Border Crossing Card (I-186);

g. Nonresident Alien Border Crossing Card (I-586);

h. B-1/B-2 Visa/BCC (DSP-150).

C. The Department shall verify the validity of each applicant's "proof of lawful presence" document by confirming the document reasonably appears on its face to be genuine as it relates to the applicant.

D. Each alien individual who in his or her application claims neither to hold a social security number nor to be eligible to obtain a social security number shall sign a certifying statement to that effect.

E. Definitions. As used in §147, the following terms have the meanings described below:

Alien Individual—a foreign-born person who has not qualified as a citizen of the United States.

Genuine—as applied to lawful presence documents, this means the documents are truly what they purport to be, and that they are not false, forged, fictitious, simulated, spurious, or counterfeit.

Proof of Lawful Presence Document—a verifiable document used to establish the identity and lawful presence of an individual who does not have and is ineligible to obtain a social security number.

Social Security Number—a valid and unique number issued by the Social Security Administration to every individual who meets the Agency's requirements to receive a number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:409.1

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§149. Declaratory Orders and Rulings

A.1. Any person desiring a ruling on the applicability of any statute, or the applicability or validity of any rule in Chapter 1, Subchapter A, shall submit a written petition to the assistant secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

2. If the petition includes reference to a specific transaction handled by the Department, or if the petition relates to the issuance, revocation, cancellation, or denial of any license, permit or certification, then the person submitting the petition shall also submit proof that he has notified all of the persons involved in the transaction or issuance, revocation, cancellation, or denial of the license, permit or certification by certified mail, return receipt requested. If the person is unable to notify the involved person or persons after otherwise complying with the notice requirement, he shall so state in his petition.

B. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his

designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

C. Notice of the order or ruling shall be sent to person submitting the petition as well as the persons receiving notice of the petition at the mailing addresses provided in connection with the petition.

D. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in §149.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq. and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§151. Driver Privacy Protection Act

A. Every applicant for a new or renewed driver's license shall be given the opportunity to prohibit the disclosure of personal information as defined in LAC 55, Part III, Chapter 5, §553, Subchapter B, by completing the Department's approved form, and submitting to the form to the Department as required in the instructions on the form. An individual may submit a properly completed form to the Department at anytime without having to transact any other business with the Department. A form which is incomplete or which is illegible shall not be processed and shall not be returned.

B. Until the Department receives a properly completed form from an individual, the personal information provided by the individual to the Department shall be considered a public record as provided in R.S. 44:1 et seq.

C. Upon receipt of a properly completed form, the Department will code the individual's record to reflect the proper disclosure code pursuant to the option chosen on the form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Persons having comments or inquiries regarding these proposed rules may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (504) 925-4068, or by sending a facsimile to (504) 925-3974. These comments and inquiries should be received by Friday, October 23, 1998.

A public hearing on these rules is tentatively scheduled for Tuesday, October 27, 1998, at 9:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Lt. Col. Ronnie Jones
Acting Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Driver's License, General Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no additional costs nor savings regarding the adoption of these rules as the Department is already providing these services. These amendments are being submitted to update the rules to reflect changes in federal and state laws and changes in federal regulations regarding driver's licenses and the licensing process. Local governments will not be affected as only the state issues driver's licenses and certifies third-party testers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue or costs as the Department is already providing these services. Local governments should not be affected as they are not involved in the regulatory process.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs or economic benefit to any person or group. The fees collected by the Department are established by statute and are not being changed. Additionally, the only change that may benefit any person is §145 which allows the issuance of drivers' license to legal aliens who are otherwise ineligible to obtain a social security number. This rule allows these aliens with a lawful presence document to obtain a driver's license even if they do not have a social security number.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment. No changes are being made to the qualification requirements for third-party testers or third-party examiners. These are the only businesses that would be affected by these rules.

Lt. Col. Ronnie Jones
Acting Undersecretary
9809#022

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Special Identification Cards
(LAC 55:III.Chapter 19)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles hereby gives notice of intent to adopt rules pertaining to the issuance of special identification cards as is authorized in R.S. 40:1321.

Title 55
PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 19. Special Identification Cards

§1901. Definitions

As used in this chapter, the following terms have the meanings described below:

Assistant Secretary—Assistant Secretary of the Office of Motor Vehicles.

Department—Department of Public Safety and Corrections, Office of Motor Vehicles.

Driver Privacy Protection Act—the federal Driver Privacy Protection Act of 1994 (DPPA) (Title XXX of P.L. 103-322), 18 U.S.C. §2721 et seq., as implemented by the Department in the *Louisiana Administrative Code*, Title 55, Part III, Chapter 5.

Personal Information—information which includes the full name, complete physical address, and date of birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1903. Application for Special Identification Card

A. First time applicants applying for a Louisiana special identification card will be required to provide one of the following combinations of identification:

1. one primary and two secondary documents; or
2. two primary documents.

B. When an applicant applying for a Louisiana special identification card possesses a current Louisiana driver's license, additional identification shall not be required.

C. If the applicant possesses a valid out-of-state driver's license, no secondary documents will be required if the applicant provides the Department with a Louisiana residence.

D. When an applicant applies for a duplicate identification card and a digitized photographic image of the individual does not exist, the applicant shall be required to provide one of the following combinations of identification for verification purposes:

1. one primary and one secondary document; or
2. three secondary documents.

E.1. An expired Louisiana driver's license or previous, expired Louisiana identification card provided the photograph clearly identifies the applicant as the same may be accepted for verification purposes.

2. A Louisiana identification card beginning with the letter "X" shall not be accepted for purposes of verification.

F. If a digital photographic image exists, then the digital photographic image shall be compared to the applicant. Once viewed for positive identification, the digital photographic image shall be considered a primary document and applicant need only provide one secondary document. The acceptance of the digital photographic image shall be at the discretion of the motor vehicle employee processing the application or the motor vehicle employee's supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1905. Exclusive List of Acceptable Primary and Secondary Documents for Purposes of Identification

A. The following are the only items which are acceptable as primary documents:

1. a certified copy of a birth certificate (long form), an original certificate of birth (A seal is not required.), birth registration card or certificate issued by a state or county bureau of vital statistics with raised agency seal, birth card (short form), or a foreign birth certificate with a certified translation;

2. foreign birth certificates shall be accompanied by a passport and appropriately stamped immigration documents;

3. foreign passports shall be appropriately stamped and accompanied by proper immigration documents (I-94). An Alien Registration Card (I-151 or I-551) shall be considered a secondary document;

4. a certificate of naturalization is a document which indicates that the named individual has been granted United States citizenship. Since it is a federal crime to duplicate this form, a copy shall not be accepted as a primary document;

5. a current driver's license issued by another state shall be considered a primary document. A valid letter of clearance may be accepted when the applicant has lost his or her out-of-state license;

6. a foreign driver's license shall be considered a primary document only if it is accompanied by proper immigration documents. (I-94, I-151, I-551);

7. a valid United States military identification card or draft record or military dependent identification card shall be accepted as a primary document;

8. a current United States Coast Guard Merchant Mariner card shall be accepted as a primary document;

9. a certification of birth abroad issued by the United States Department of State;

10. an identification card issued by federal, state, or local government agency or entity provided it contains a photograph or information such as name, date of birth, sex, height, and address;

11. a Native American tribal document;

12. an out-of-state identification card issued by a state motor vehicle department;

13. a Department of Public Safety and Corrections prison identification card containing photograph, name, race, sex, and date of birth.

B. The following are the only items which are acceptable as secondary documents:

1. a student identification card issued by a Louisiana college or university when accompanied by a 100 percent tuition fee paid receipt for the current semester. These two items are to be considered as two separate documents;

2. W-2 forms for two years;

3. original documents of adoption papers;

4. an original of a high school, college or university diploma;

5. the original (issued at time of ceremony) or a certified copy of a marriage license or a certificate of marriage from a county, parish or city in the United States, or an original or certified copy of a divorce judgment or decree from a court of competent jurisdiction in the United States;

6. a Louisiana voter's registration card;

7. official certified deeds or title to property in Louisiana, including burial plot deeds;

8. a Louisiana vehicle registration certificate or Louisiana certificate of title;

9. a local utility statement showing name and address of the individual applying, or a receipt showing that public utilities have been activated at the address indicated on the application for the Louisiana special identification card;

10. an insurance policy, either health, home, life, or automobile liability;

11. three payroll check stubs. The name of the applicant printed on the check stub;

12. a temporary resident card (Form I-688) issued pursuant to the INS Immigration Reform and Control Act, to qualified aliens. This type of card is issued after May 5, 1987 and replaces the I-94 with fingerprint which was valid only until June 30, 1987. (This card is considered a *primary* document for these applicants);

13. high school year book—provided the picture clearly identifies the applicant as the same;

14. Medicare/Medicaid card or medical eligibility card;

15. Prison release documents or letter from probation officer;

16. DD214 (military discharge papers);

17. selective service notification to the applicant at his address;

18. original or certified copy of any professional degree, certificate or license;

19. school records or at least two report cards from separate years;

20. motor vehicle chattel mortgage agreement;

21. any government law enforcement officer's identification or badge, if in uniform, a police unit; this does not include private security company guards;

22. eyewitness identification by reputable person;

23. letter of verification/introduction from another state agency responsible for placement of deprived or handicapped persons, such as Blind Services;

24. employment identification cards from major employers or companies with photograph, provided the photo clearly identifies the applicant as the same;

25. Social Security card or official verification from an office of Social Security specifying number;

26. medical Card must be presented for the issuance of duplicate C.D.L. license;

27. driver's log book may be used as a secondary document on a C.D.L. license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1907. Refugees

A. A refugee must have Form I-94 issued by the federal government. After one year the refugee should apply for a Resident Alien Card (Form I-551). Since it takes two to six months to receive the Form I-551, the refugee applicant should possess a new I-94 with his/her picture and a stamp indicating "processed for I-551." I-94, must be accompanied with at least two secondary documents or lease/rent agreement showing residence in Louisiana.

B. Secondary Documents:

1. original "Refugee Resettlement Program" letter with a color picture of the applicant. The color picture will have the agency director's signature across it *and* a raised agency seal overlapping. This letter will be valid for 15 days from the date of issuance. The alien registration number shall be recorded on the application for an identification card. The applicant's signature on the letter shall be compared with the individual's signature on the application card;

2. a school report card;

3. Social Security card or official verification from an office of social security;

4. work Authorization Card issued by INS (Immigration and Naturalization Service).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1909. Documents Which Are not Acceptable Forms of Identification

The following items are not acceptable forms of identification:

1. immigration documents with a picture of individual under age 14;

2. hospital-issued birth certificate;

3. baptism certificate;

4. any photographic image of any official document, unless the document is certified by the official or his deputy having custody of the original document;

5. expired or altered military identification card;

6. expired student identification card;

7. birth certificate without the official "raised" seal of the Bureau of Vital Records;

8. union card;

9. old, expired Louisiana identification cards beginning with letter "X";

10. credit cards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1911. Identification Requirements for Foreign Exchange Students

Foreign exchange students shall be required to submit a power of attorney, executed by a minor's parent(s) and awarding legal guardianship of the minor child to the major adult signing the application as the minor's legal guardian. A copy of this document must be maintained with the applicant's file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1913. Additional Identification Requirements for Minors

Minor applicants applying for a first-time special identification card or a duplicate special identification card, shall be accompanied by a parent, a custodial parent if the parents are divorced or legally separated, or legal guardian if a person other than one of the parents has legal custody of the minor. The signature of a parent, a custodial parent if the parents are divorced or legally separated, or legal guardian if a person other than one of the parents has legal custody of the minor shall be required for the issuance of a special identification card. Proper identification shall be presented by both the minor and parent or guardian. The Department may require additional documentation or information in order to verify the identity of the minor and parent or legal guardian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1915. Eligibility

A. A Louisiana resident of any age may be issued a special identification card. The fee for issuance of the special identification card shall be ten dollars (\$10.00) plus a five-dollar fifty cents (\$5.50) handling fee as provided by statute. The special identification card shall be issued for four (4) years from the issue date. The renewal fee shall be the same as the fee for the issuance.

B. Any person over the age of sixty years who is a resident of Louisiana shall be entitled to a special identification card at no charge. Additionally, there shall be no expiration date or renewal date for a special identification card issued to a person over the age of sixty years, as provided for by Act 622 of the 1992 Legislative Session which amended R.S. 40:1321(G).

C. Act 237 of the 1981 Legislative session amends R.S. 32:414, R.S. 32:872, and R.S. 40:1321 to provide for the issuance of a special identification card to a person whose operator's license has been suspended, canceled, or revoked. The fee is ten (\$10.00) plus \$5.50 handling fee, and is issued for four years from issue date and the renewal fee is the same as the fee for the issuance.

D. If an individual makes application for a special identification card, and has in his possession a valid out-of-state license, the license does not have to be surrendered. However, the individual must be informed that since residency has been established in Louisiana by issuance of the special identification card, in order to operate a motor vehicle on the public highways, roads, and streets of Louisiana, a Louisiana driver's license must be obtained by the individual.

E. In those cases in which an applicant cannot pass the required test for a driver's or chauffeur's license or does not wish to be issued a license, but only wishes to obtain a special identification card, the officer will complete the driver status slip for voluntary surrendered, attach license to the status slip,

and forward the items the Office of Motor Vehicle Headquarters in Baton Rouge.

F. All identification cards issued to first time applicants shall be mailed, except in those cases in which the state residency requirements have been established.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1917. Duplicate Identification Cards

A. Applicants applying for a duplicate special identification card shall be required to provide one of the following combinations of identification:

1. one primary and one secondary document; or
2. three secondary documents.

B. Persons over the age of sixty years who are applying for a duplicate special identification card, shall be entitled to the duplicate at no charge (in accordance with Act 622 of the 1992 Legislative Session which amends R.S. 40:1321(G)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1919. Acceptance of Checks for Identification Cards

Checks shall not be accepted for the payment of the fees due in connection with the issuance of a special identification card unless the check was issued by the Department of Health and Human Resources, Division of Vocation Rehabilitation, or its successor, in the appropriate amount for the issuance of special identification cards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1921. Denial, Revocation or Cancellation of Identification Cards

The Department may deny, cancel or revoke a special identification card for any of the following reasons.

1. The applicant made a misstatement of fact in his/her application for a special identification card, or the applicant omitted a material fact from his application for a special identification card.
2. The applicant intentionally furnished false information to the Department in connection with his application for special identification card.
3. The individual has been found to be in possession of a fictitious special identification card or a special identification card which has been altered or caused to be altered by the individual.
4. Any personal information of the individual which appears on the face of the special identification card has changed, and more than sixty days has elapsed since the information has changed.

5. The Department receives information that the individual is no longer a resident of the State of Louisiana.

6. The individual to whom the special identification card was issued has allowed another individual to use his/her special identification for purposes of identification or in the furtherance of the commission of fraud.

7. The individual is convicted of any criminal offense in which fraud, theft, or unauthorized use are elements of the offense, and the individual used the special identification card in the commission of the offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1923. Administrative Hearings

Any person denied a special identification card, or whose special identification card has been canceled or revoked, may make a written request for hearing within thirty days of the issuance of the denial. The written request may be mailed to the Office of Motor Vehicles, Attention Hearing Requests, P.O. Box 64885, Baton Rouge, Louisiana 70896, or hand delivered to the Office of Motor Vehicles Headquarters in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1925. Declaratory Orders and Rulings

A.1. Any person desiring a ruling on the applicability of R.S. 40:1321, or any other statute, or the applicability or validity of any rule, to special identification cards shall submit a written petition to the assistant secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

2. If the petition includes reference to a specific transaction handled by the Department, or if the petition relates to the issuance, revocation, cancellation, or denial of any special identification card, then the person submitting the petition shall also submit proof that he has notified all of the persons involved in the transaction or issuance, revocation, cancellation, or denial of the license, permit or certification by certified mail, return receipt requested. If the person is unable to notify the involved person or persons after otherwise complying with the notice requirement, he shall so state in his petition.

B. If the petition seeks an order or ruling on a transaction handled by the Office of Motor Vehicles, the person submitting the petition shall notify the person or persons who submitted the transaction, if other than the person submitting the petition. Such notice shall be sent by certified mail, return receipt requested. In such case, the petition shall not be considered until proof of such notice has been submitted to the assistant secretary, or until the person petitioning for the order or ruling establishes that the person or persons cannot be notified after a due and diligent effort. The notice shall include a copy of the petition submitted to the assistant secretary.

C. The assistant secretary may request the submission of

legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as the persons receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in §1925.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321 and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

§1927. Driver Privacy Protection Act

A. Every applicant for a new or renewed special identification card shall be given the opportunity to prohibit the disclosure of personal information as defined in LAC 55, Part III, Chapter 5, §553 by completing the Department's approved form, and submitting to the form to the Department as required in the instructions on the form. An individual may submit a properly completed form to the Department at anytime without having to transact any other business with the Department. A form which is incomplete or which is illegible shall not be processed and shall not be returned.

B. Until the Department receives a properly completed form from an individual, the personal information provided by the individual to the Department shall be considered a public record as provided in R.S. 44:1 et seq.

C. Upon receipt of a properly completed form, the Department will code the individual's record to reflect the proper disclosure code pursuant to the option chosen on the form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321 and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

Persons having comments or inquiries regarding the proposed rules on special identification cards may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (504) 925-4068, or by sending a facsimile to (504) 925-3974. These comments and inquiries should be received by October 23, 1998.

A public hearing on these rules is tentatively scheduled for Tuesday, October 27, 1998, at 10:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Lt. Col. Ronnie Jones
Acting Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Special Identification Cards**

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 2. Alcoholic Beverages

§201. Direct Shipments of Sparkling or Still Wines

A. Identification of Shipments

1. All shipments made by a manufacturer or retailer of sparkling or still wines domiciled outside the state of Louisiana that are shipped directly to any consumer in Louisiana shall be identified as follows:

a. the words "Alcoholic Beverage—Direct Shipment" shall be marked and clearly visible on both the front and back of the package in lettering measuring at least one quarter inch in height; and

b. the words "Unlawful to Sell or Deliver to Anyone under 21 Years of Age" must be clearly visible on the front of the package, in lettering measuring at least one quarter inch in height.

2. The manufacturer's or retailer's Louisiana registration or permit number assigned by the Excise Taxes Division shall be clearly displayed on the front of the package.

B. Reporting of Shipments

1. For each shipment made by a manufacturer or retailer of sparkling or still wines domiciled outside the state of Louisiana that is shipped directly to any consumer in the state of Louisiana, the shipper shall maintain the following records until December 31 of the year following the year in which the shipment was made. These records shall be available for inspection by the Department of Revenue upon request:

a. an invoice detailing the transaction, which shall include, in addition to any other requirements of law, a line for the signature of the person receiving the shipment and the certification that the recipient is 21 years of age or older. The certification shall read as follows:

I acknowledge receipt of the referenced shipment containing sparkling or still wines, and I hereby certify that I am 21 years of age or older.

Date of Receipt

Signature of Recipient

b. Below this certification, the invoice shall include the signed and dated certification of the individual making delivery of the package containing sparkling or still wines as follows:

The person to whom this package containing sparkling or still wines has been delivered has shown proper proof of age to establish that he/she is 21 years of age or older.

Date of Delivery

Signature of Person Making Delivery

2. Each certification required by §201.A must be signed and dated at the time of delivery to any consumer in Louisiana.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no additional costs nor savings regarding the adoption of these rules as the Department is already providing these services. These rules are being submitted by the Department because of the mandate in R.S. 40:1321.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue or costs as the Department is already providing these services. Local governments should not be affected as they are not involved in the issuance or regulation of special identification cards.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs or economic benefit to any person or group. The fees collected by the Department are established by statute and are not being changed. The public will benefit from the fact that published guidelines to be followed in the process of applying for an identification card will be available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition nor employment.

Lt. Col. Ronnie Jones
Acting Undersecretary
9809#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Excise Taxes Division**

**Direct Shipments of Sparkling or Still Wines
(LAC 61:I.201)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the authority of R.S. 26:341, 26:344, and 26:359, notice is hereby given that the Department of Revenue, Excise Taxes Division proposes to adopt LAC 61:I.201, pertaining to direct shipments of sparkling or still wines to consumers within the state by manufacturers or retailers domiciled outside the state.

Act 71 of the 1998 Regular Session of the Louisiana Legislature enacted R.S. 26:359 to impose a tax on the direct sale and shipment of wines by common carrier, provide for the enforcement and collection of the tax, require application and tax payment before shipments can be made, and provide for penalties for unlawful shipments of sparkling or still wines to Louisiana consumers under certain circumstances. This proposed regulation provides for identifying and reporting of shipments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:341, 26:344, and 26:359.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Excise Taxes Division, LR 24:

Interested persons may submit data, views or arguments, in writing, to Cynthia Bridges, Director, Excise Taxes Division, Department of Revenue, Box 201, Baton Rouge, LA 70821 or by facsimile to (504) 925-3851. All comments shall be submitted by 4:30 p.m., Tuesday, October 27, 1998.

A public hearing will be held on Wednesday, October 28, 1998, at 10:00 a.m. in the Secretary's Conference Room, 330 North Ardenwood Drive, Baton Rouge, LA.

John Neely Kennedy
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Direct Shipments of Sparkling or Still Wines**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the Beverage Alcohol Direct Shipment Program as provided for by Acts 1998 No. 71 will result in an increase in the Excise Taxes Division's expenditures for the cost of two additional positions at an approximate annual cost of \$60,000 for salaries and related benefits.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Requiring out-of-state dealers that directly ship sparkling and still wines to instate customers to register and pay an annual tax will result in an increase in the state's general funds. During the first quarter of 1998, 40 companies registered and paid the \$100 registration fee. Based on this data, it is estimated that these 40 companies will register each year and pay total fees of \$16,000. A four percent annual growth rate was assumed to estimate the subsequent years.

In addition, requiring out-of-state dealers to collect the proper sales and excise taxes from direct shipments to instate customers will likely result in an increase in sales and excise tax collections, assuming that these monies were not previously collected. The Department does not have data to estimate the amount of these possible revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Out-of-state dealers that directly ship sparkling and still wines to instate customers will incur increased costs for the annual tax as well as increased administrative burden required to file the registration and sales invoice information. Based on registrations from the first quarter of 1998, it is estimated that 40 companies will register each year and pay total fees of \$16,000. The dealers' increased administrative costs cannot be determined, but is expected to be minimal.

In addition, registered out-of-state dealers will collect the proper sales and excise taxes from direct shipments to instate customers, which could result in an increase in customer costs, assuming that these monies were not previously collected. The Department does not have data to estimate these possible additional costs.

It is possible that the receipts for these out-of-state dealers may be adversely impacted if customers, who purchased

sparkling and still wines from them only to avoid proper payment of sales and excise taxes, now choose to purchase from instate sellers. There is no data available to estimate this possible impact.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Acts 1998, No. 71 should equalize the competition for instate and out-of-state sparkling and still wine dealers by ensuring proper registration and collection of the taxes. No impact on employment is expected.

John Neely Kennedy
Secretary
9809#015

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Severance Tax Division**

**Natural Resources Severance Tax
(LAC 61:I.2903)**

Under the authority of R.S. 47:633 and 47:648.3 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Severance Tax Division proposes to amend LAC 61:I.2903 to conform with current law and industry practices, technology, and marketing.

This regulation was originally adopted in 1974. Since that time, there have been many industry and statutory changes that are not reflected in the regulation. These proposed amendments are to add clarity, to return to the statutory provisions, and to delete language that is obsolete or a restatement of the law.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 29. Natural Resources: Severance Tax

§2903. Severance Taxes on Oil; Distillate, Condensate or Similar Natural Resources; Natural Gasoline or Casinghead Gasoline; Liquefied Petroleum Gases and Other Natural Gas Liquids; and Gas

A. Definitions

Allocation of Value—inasmuch as oil and/or condensate is accounted for on a lease basis, rather than on an individual well basis, the gross value received for runs from a lease shall be allocated to the wells within the lease on the basis of the pro rata barrels run from each well; it being the intent of this section to apportion value received to all producing wells in a lease without regard to the tax rate applicable to each well.

Condensate—liquid hydrocarbons, other than natural or casinghead gasoline, referred to as condensate, distillate or other natural resources, which will remain in a liquid state, under atmospheric conditions of pressure and temperature, recovered by ordinary production methods from a gas well as

classified by the Office of Conservation. This also includes liquid hydrocarbons recovered from separators or scrubbers situated at inlets to plants, compressors, dehydrators, and metering stations.

Department—the Department of Revenue.

Gas—gaseous phase hydrocarbons recovered by separation from either an oil well or gas well.

Gas Tax Rate—The gas tax rate as adjusted annually in accordance with R.S. 47:633(9)(i) will be rounded to the nearest one-tenth of one cent. When rounding, if the fourth decimal digit is five or greater, the rate shall be rounded up to the nearest tenth; if the fourth decimal digit is less than five, the rate shall be rounded down to the nearest tenth.

Incapable Gas Well—a well classified by the Office of Conservation as a gas well which has been determined by the secretary to be incapable of producing an average of 250,000 cubic feet of gas per day, under operating conditions, throughout the entire taxable month.

Low Pressure Oil Well—a well classified by the Office of Conservation as an oil well which has been determined by the secretary to have a wellhead pressure of 50 pounds per square inch gauge or less, under operating conditions—whether it be tubing flow or casing flow, throughout the entire taxable month. An oil well producing oil by any artificial method, such as gas lift, pumping or hydraulic lift shall be presumed, in the absence of a determination to the contrary by the secretary, to have a wellhead pressure of 50 pounds per square inch gauge or less under operating conditions.

Natural Gas Liquids—natural gas liquids, butane, propane, ethane and methane extracted as the result of additional processes employed in the mechanical processes as outlined in §2903.A. *Natural or Casinghead Gasoline*.

Natural or Casinghead Gasoline—liquid hydrocarbons recovered from gas (subsequent to the ultimate separation and/or scrubbing of the gas stream) by specifically applied mechanical processes of absorption, adsorption, compression cooling, cryogenics and refrigeration to the entire volume of gas from which these liquid hydrocarbons are recovered. *This includes liquid hydrocarbons recovered from hydrex and HRU units.*

Oil—liquid hydrocarbons recovered by initial separation from a well classified as an oil well by the Office of Conservation.

Payout—the payout of the well cost for a horizontal well as referred to in R.S. 47:633(7)(c)(iii), a deep well as referred to in R.S. 47:633(9)(d)(v), and a new discovery well as referred to in R.S. 47:648.3 occurs when gross revenue from the well, less royalties and operating costs directly attributable to the well, equals the well cost as approved by the Office of Conservation. Operating costs are limited to those costs directly attributable to the operation of the exempt well, such as direct materials, supplies, fuel, direct labor, contract labor or services, repairs, maintenance, property taxes, insurance, depreciation, and any other costs that can be directly attributed to the operation of the well.

Secretary—the secretary of the Department of Revenue.

Stripper Field—a field in which all crude oil production is from certified stripper oil wells.

Value—with respect to oil and/or condensate, the value shall be the higher of (1) the gross receipts received from the first purchaser by the producer or (2) the posted field price.

a. *Gross Receipts*—the total amount of payment:

i. received from the first purchaser in an arm's length transaction; or

ii. received from the first purchaser or transferred from the first purchaser by recognized accounting methodology, in a non-arm's length transaction. Gross receipts shall include bonus or premium payments when made by the purchaser to the owner, all advanced payments, and any other thing of value such as exchanges, barter, or reimbursement of costs. Advanced payments are not taxable until the oil and/or condensate for which such payments are made are actually severed and delivered to the purchaser.

b. *Posted Field Price*—a statement of crude oil prices circulated among buyers and sellers of crude petroleum and is generally known by buyers and sellers within the field as being the posted price. The posted field price is the actual price of crude petroleum advertised for a field. The area price is a statement of crude oil prices circulated among buyers and sellers of crude petroleum listing prices for different areas of the state, usually listed as north Louisiana and south Louisiana, and generally known among buyers and sellers within the area as the posted price. This area price is the beginning price for crude petroleum of an area before adjustments for kind and quality (including, but not limited to, gravity adjustments) of the crude petroleum. When no actual posted field price is advertised or issued by a purchaser, the area price less adjustments for kind or quality (including, but not limited to, gravity adjustments) becomes the posted field price.

c. *Arm's Length Transaction*—a contract or agreement that has been arrived at in the open market place between independent and nonaffiliated parties with opposing economic interests.

d. *Non-Arm's Length Transaction*—a contract or agreement between subsidiaries and/or related parties and/or affiliates.

e. *Value in Arm's Length Transaction*—in an arm's length transaction, the value shall be the gross receipts of all things of value received directly or indirectly by the producer.

f. *Value in Non-Arm's Length Transaction*—in a non-arm's length transaction, the value shall be derived by taking the following into consideration:

i. the gross receipts of all things of value received directly or indirectly by the producer;

ii. if the producer or a subsidiary, related party, or an affiliate of the producer, is the purchaser, look to the gross proceeds from contemporaneous arm's length transactions by such purchaser for the purchase of significant quantities of like quality oil or condensate in the same field, or if necessary, the same area;

iii. the prices paid by independent and nonaffiliated parties for significant quantities of like quality oil or condensate produced in the same field or, if necessary, the same area; and

iv. other relevant information, including information submitted by the producer concerning the unique circumstances of producer's operations, product or market.

g. The secretary, in the absence of supporting documentation or arm's length transaction, may adjust a producer's reported value to conform with the above mentioned standards.

h. *Transportation Costs*—there shall be deducted from the value determined under the foregoing provisions the charges for trucking, barging, and pipeline fees actually charged the producer. In the event the producer transports the oil and/or condensate by his own facilities, \$0.25 per barrel shall be deemed to be a reasonable charge for transportation and may be deducted from the value computed under the foregoing provisions. The producer can deduct either the \$0.25 per barrel or actual transportation charges billed by third parties but not both. Should it become apparent the \$0.25 per barrel charge is inequitable or unreasonable, the secretary may prospectively redetermine the transportation charge to be allowed when the producer transports the oil and/or condensate in his own facilities.

B. *Certification for Reduced Tax Rates.* A taxpayer may qualify for the lesser tax rates levied in R.S. 47:633(7)(b) and (c), and R.S. 47:633(9) by certifying and reporting production and test data, on forms prescribed by the secretary.

1. *Oil*—Oil production is certified for reduced severance tax rates provided by R.S. 47:633(7)(b) or (c)(i)(aa) by individual well. To receive the reduced tax rate on the crude oil production from an oil well, an application must be filed with the secretary on or before the 15th day of the second month following the month in which production subject to the reduced rate applies.

a. After a well has been certified for the reduced tax rate, it is necessary to file continuing certification forms on or before the 15th day of the second month following the months of production. It is not necessary to include stripper wells that are certified with a "B" prefix code on the continuing certification forms. Failure to file or delinquent filing of the continuing certification forms may result in certification denial for the month's production that the report is delinquent or not filed.

b. Wells cannot be certified as both a stripper and an incapable oil well.

c. Recertification is required whenever the well operator changes.

d. All wells are subject to redetermination of their reduced rate status based on reports filed with the Department and the Office of Conservation. When a well no longer meets the qualifications for the reduced tax rate for which it was certified, the full tax rate becomes due.

2. *Gas*—Gas production is certified for reduced severance tax rates provided by R.S. 47:633(9)(b) and (c) by individual well. To receive the reduced severance tax rate on natural gas or casinghead gas production, an application must be filed with the secretary on or before the 15th day of the second month following the month in which production occurs.

a. The well cannot be certified as both an incapable gas well and an incapable oil well.

b. If the well changes from one tax rate status to another a new certification is required.

c. Recertification is required whenever the well operator changes.

d. All wells are subject to redetermination of their reduced rate status based on reports filed with the Department and the Office of Conservation. When a well no longer meets the qualifications for the reduced tax rate for which it was certified, the full tax rate becomes due.

C. *Determination of Taxable Volume—Liquids.* It is the duty of the severer to measure the volume of oil, condensate or similar natural resources immediately upon severance or as soon thereafter as these hydrocarbons come into being in the form on which the tax is imposed.

1. In any arm's length transaction involving oil, condensate or similar natural resources individually or in a commingled combination, the method of measurement utilized by the first purchaser and the seller for determining the total volume involved and the volumes applicable to the properties involved is acceptable and may be used for the determination of the volumes to which the appropriate tax rates apply.

2. In the absence of an arm's length transaction or for any other reason where the secretary deems that the method of measurement is prejudicial to the state's best interests, he shall prescribe an acceptable method of measurement.

3. When liquid hydrocarbons bearing various tax rates are commingled without proper prior measurement as prescribed below, the entire commingled volume shall be taxed at the highest tax rate applicable to any oil or condensate present in the commingled volume.

4. Proper measurement prior to commingling oil and condensate shall be as outlined below.

a. *Stock Tank Measurement.* When oil, condensate or similar natural resources are produced into stock tanks, the tanks shall be strapped on a 100 percent basis. All measurements, gravity determination, temperature corrections to 60EF, and determinations of basic sediment and water (BS and W) shall be made in accordance with procedures outlined in the latest American Petroleum Institute (API) code covering measuring, sampling, testing of crude oil, and the American Society for Testing Materials—Institute of Petroleum (ASTM-IP) petroleum measurement tables.

b. *Liquid Metering Devices.* When oil and condensate are not stock tank measured but must be measured at pressures above atmospheric pressure, such liquids shall be measured by means of a liquid metering device. The meter shall be calibrated at least once every 90 days and records of calibration and all other pertinent test results shall be kept on file for the same period of time as the prescriptive period relative to taxes and must be available for examination by representatives of the department. The taxpayer may pay tax on the metered volume or allocated meter volume at the meter measurement pressure corrected to 60EF. When a flash factor is required to convert the volume at the meter measurement

pressure to the volume at atmospheric pressure, the flash factor may be obtained by either utilizing the equilibrium vaporization flash calculation method or the differential vaporization process.

c. Well Tests. When crude oil and/or condensate are not stock tank measured or measured by liquid measuring devices, the use of well tests, split stream tests, full stream tests or other acceptable and recognized methods of determining the liquid volume of full well stream shall be employed as a measurement device for allocation purposes.

5. When oil and/or condensate are commingled with a liquid hydrocarbon bearing a lesser tax rate, the oil and/or condensate shall be taxed on the basis of value received for the entire commingled product.

a. When oil and/or condensate bearing various tax rates are commingled prior to separate measurement, the commingled volume shall be taxed at the highest tax rate applicable to any oil or condensate present in the commingled volume. The separate measurement requirement is met when one of the products is properly measured prior to commingling.

D. Determination of Taxable Volume—Gas. It is the duty of the severer to measure the volume of gas immediately upon severance or as soon thereafter as the substance comes into being in the form on which the tax is imposed.

1. Gas produced from an individual gas well, regardless of whether the well is capable or incapable, shall be measured by means of a meter or well tests acceptable to the secretary. Metering may be accomplished by the backout method, whereby the volume produced by one of two or more wells may be ascertained by subtracting from the combined metered volume the measured volumes from the rest of the wells. All measurements shall be made at a pressure base of 15.025 pounds per square inch absolute and at a temperature of 60°F with corrections made for deviations from Boyle's law when measurement pressures exceed 200 pounds per square inch gauge.

2. Gas produced from individual oil wells may be determined by an allocation of the total metered volume based on gas/oil ratios or solution oil ratios acceptable to the secretary. Records pertaining to volume determinations shall be kept on file for examination and verification by representatives of the secretary.

3. When gas volumes bearing various tax rates are commingled, the volumes bearing each different tax rate must be determined prior to commingling as outlined in §2903.D.1 or 2. When such commingling occurs and it is determined by the secretary or his representative that the prescribed measurement requirements have not been met, the entire commingled volume shall be taxed at the highest rate applicable to any gas present in the commingled volume.

E. Application of the Tax on Gas. All gas other than gas expressly exempted from the tax under the provisions of R.S. 47:633.9 is subject to the tax. The determination of whether gas lift gas is taxable or exempt shall be made in the same manner as formation gas.

1. Gross gas production shall be an accumulation of the total dispositions of formation gas from a well and/or lease.

Gas exhausted from a gas lift installation, commonly called "re-cycled gas," and commingled with formation gas shall not be included in the volume of gas produced from the underground formation. Dispositions shall include, by way of illustration but not by way of limitation, gas used for field operations, within or without the field, gas vented into the atmosphere, gas used elsewhere for gas lift, gasoline and natural gas liquids extracted (which must be converted to gas), and gas delivered to a processing plant, sales or deliveries.

2. Gas which has not previously borne tax or been subject to tax shall not be allowed as an exclusion or tax credit upon injection, but will be allowed as an exclusion when ultimately reproduced. Thus, gas produced in another state or in federal offshore areas would not qualify for an exclusion or tax credit upon injection into the formation in the state of Louisiana.

3. Gas which has previously been allowed as an exclusion or tax credit at the time of injection shall be taxed at the time of reproduction, notwithstanding the fact that it may have been originally produced outside the state.

4. Gas produced without the state of Louisiana which has been injected into the earth in the state of Louisiana will be allowed as an exemption to the extent that the exemption will not exceed the production from the same formation. Adequate records must be maintained by the taxpayer so as to identify the nontax paid injected gas at the time of reproduction and qualify for the exclusion.

5. A credit claimed by a taxpayer on gas injected into a formation in the state of Louisiana will be limited to any gas severance tax liability imposed against him during the same period for gas produced by him. Credit shall not be allowed against taxes owed in taxable periods subsequent to that in which the credit occurred. A taxpayer claiming this credit will be required to submit a worksheet detailing the source of gas by company, parish, field and lease comprising the volume on which the credit is claimed.

6. When capable and incapable gas volumes are commingled and gas is subsequently withdrawn from the commingled mass and used for a purpose which makes the gas exempt from the severance tax, it will be presumed that the ratio of the volumes of capable and incapable gas remaining in the commingled mass will be in the same ratio as before withdrawal.

7. Carbon Black

a. Carbon black exclusions may be allocated to leases on a contractual basis; provided, however, that such gas is physically capable of being consumed as carbon black. In the absence of contractual limitations, the allocation of plant fuel and carbon black shall be on an equitable and reasonable basis.

b. Whenever sales and/or deliveries are made for plant fuel and/or carbon black usage the consumer of such plant fuel and the transporter or seller of the gas used for carbon black shall be required to submit a report monthly to the department showing 100 percent entries into its gas streams involved and an allocation of the plant fuel and/or carbon black usage withdrawn from the stream back to the sources entering the commingled mass.

8. Drip Points

a. No additional severance tax is due on scrubber liquids recovered subsequent to a point at which the gas severance tax has been paid, provided, however, such recovery has been made from a pipeline gas stream owned and operated by someone other than the producer of the gas and the scrubber liquids are recovered after the gas has changed ownership, and the producer receives no further thing of value for the resource entering the pipeline.

b. When severance tax is due and paid on scrubber liquids, natural and/or casinghead gasoline recovered from gas subsequent to a point at which the gas severance tax on the gas has been previously paid, a credit will be given for the gas shrinkage volume resulting from the recovery of these scrubber liquids and/or natural and casinghead gasoline. This gas severance tax credit shall be made on an actual vapor equivalent or at 1,260 cubic feet of gas per barrel of liquid recovered.

9. Gas used or consumed as fuel in the operation of a recycling or gasoline plant for purposes other than the production of natural resources in the state of Louisiana shall not be exempt from the tax. The extraction or fractionation of liquefied petroleum gases (LPG) or natural or casinghead gasoline does not constitute production of natural resources.

F. Exclusions from the Gas Severance Tax

1. Gas injected into the formation in the state of Louisiana.

2. Gas produced without the state of Louisiana which has been injected into the earth in the state of Louisiana.

3. Gas vented or flared from oil and gas wells provided such gas is not otherwise sold. There shall be no exclusion allowed for gas flared at gasoline or recycling plants if such gas is attributable to raw gas volumes which are sold by the producer prior to plant processing.

4. Gas used for fuel in connection with the operation and development for or production of oil and gas in the field where produced, provided such gas is not otherwise sold; and gas used for drilling fuel in the field where produced even though sold for that purpose.

5. Gas used in the manufacture of carbon black.

6. Gas attributable to United States government royalty.

7. Gas accounted for as measurement differences.

G. Reports and Returns

1. All returns and reports shall be made on forms prescribed by the secretary or on forms substantially similar which have been approved for use by the secretary. Returns and reports shall be completed and filed in accordance with instructions issued by the secretary.

2. The secretary is empowered to require any person engaged in severing natural resources, or any other person held liable for severance taxes, to furnish necessary information pertaining thereto for the proper enforcement, and verification of taxes levied in R.S. 47:631 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633 and R.S. 47:648.

HISTORICAL NOTE: Adopted by the Department of Revenue and Taxation, Severance Tax Division, August 1974, amended and promulgated LR 3:499 (December 1977), amended LR 20:1129

(October 1994), repromulgated LR 20:1299 (November 1994), amended by the Department of Revenue, Severance Tax Division, LR 23:1167 (September 1997), LR 24:

Interested persons may submit data, views, or arguments, in writing to Carl Reilly, Director of the Severance Tax Division, Department of Revenue, P.O. Box 3863, Baton Rouge, LA 70821 or by fax to (504) 925-3862. All comments must be submitted by 4:30 p.m., Tuesday, October 27, 1998.

A public hearing will be held on Wednesday, October 28, 1998, at 1:00 p.m. in the Department of Revenue Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

John Neely Kennedy
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Natural Resources Severance Tax**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This regulation was originally adopted in 1974. Since that time there have been many industry and statutory changes that are not reflected in the regulation. These proposed amendments are to add clarity, to return to the statutory provisions, and to delete language that is obsolete or a restatement of the law. There will be no increase in state or local governmental costs to implement these proposed amendments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments will have no effect on the state's revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have no cost or economic benefit to severance taxpayers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition or employment.

John Neely Kennedy
Secretary
9809#017

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Food Stamps—Collection Methods and Penalties
(LAC 67:III.2005)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 3, Food Stamps.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, set forth guidelines concerning the ineligibility of certain individuals making fraudulent statements with respect to identity "or" residence. This rule was promulgated on the basis of federal implementation instructions which incorrectly stated identity "and" residence which is more restrictive than provided by the law. An emergency rule to avoid possible federal sanctions or penalties as a result of the error was signed on July 20, 1998. This notice proposes the correction of the language.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter P. Recovery of Overissued Food Stamp Benefits

§2005. Collection Methods and Penalties

A. - B.1-3 ...

4. An individual shall be ineligible to participate for ten years if found to have made a fraudulent statement or representation with respect to identity or residence in order to receive multiple benefits simultaneously.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L.97-35, 97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272, 273, 276 and 277, P.L.103-66, P.L.104-193, P.L. 104-134, 7 CFR 3 Subpart B.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20:899 (August 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:189 (February 1995), LR 22:584 (July 1996), LR 23:83 (January 1997), LR 23:1710 (December 1997), LR 25:

Interested persons may submit written comments on the proposed rule by October 28, 1998 to the following person: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065.

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Food Stamps—Collection Methods and Penalties

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost to state government is the cost of publishing the rule and revisions to policy. This cost is minimal and funds for such actions are included in the program's annual budget. (An emergency rule to effect this change, beginning July 20, 1998, will prevent the possible assessment of any federal penalties to the state.) 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 collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action has no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups. There will be an impact on Food Stamp recipients who misrepresent or make fraudulent statements in order to receive multiple benefits simultaneously. We cannot anticipate the number of recipients who will engage in such activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9809#059

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Division of Aviation and Public Transportation

Safety Requirements for Railroad Grade Crossings (LAC 70:IX.Chapter 13)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a rule entitled "Safety Requirements for Railroad Grade Crossings", in accordance with R.S. 48:390, R.S. 48:390.1 and R.S. 32:172.

Title 70

TRANSPORTATION

Part IX. Aviation and Public Transportation

Chapter 13. Safety Requirements for Railroad Grade Crossings

§1301. Closures of Grade Crossings

A. Criteria to be considered by the Department in determining whether closure of a railroad grade crossing is necessary:

1. estimated daily vehicular use at the crossing;
2. average number of trains passing the crossing per day (as provided by the railroad);
3. availability of alternative routes and distances to such routes;
4. train speeds at the crossing (as provided by the railroad);
5. highway/railroad accident/incident history at the crossing;
6. existing warning devices at the crossing;
7. degree of difficulty involved in improving the roadway approach by profile or in providing adequate warning devices such as flashing lights, gates, etc.;

8. sight distance and visibility at the crossing;
9. angle of intersection of alignments of the roadway and the railroad;
10. redundancy of crossings in the area;
11. proximity of a state highway, new crossing or recently upgraded crossing;
12. number of school busses using the crossing (as provided by the local governing authority);
13. number of unique vehicles using the crossing, such as those which carry hazardous materials or passengers for hire (as provided by the local governing authority);
14. effect of any change on usage by emergency vehicles (as provided by the local governing authority).

B. In formulating its decision concerning closures, the Department may contact the appropriate local governing authority for assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Aviation/Public Transportation, LR 24:

§1303. Obstruction of Roadways at Railroad Grade Crossing for a Maximum of Twenty Minutes—Variances

A. Pursuant to the provisions of R.S. 48:390 and R.S. 48:390.1, any railroad or public agency may submit a formal application to the Department requesting a variance from the requirements of that section relative to blockage of a public highway/railroad at-grade crossing for more than twenty minutes or may request that different regulations be applied in connection with operation over a specific crossing where local conditions require. This rule is applicable only to the public highway/railroad crossings.

B. Elements of the application:

1. identity of any public agencies within the geographic area;
2. identity of any railroads which may be affected by the variance;
3. identify any previous steps which may have been taken in an attempt to achieve an alternative to the proposed variance;
4. provide Federal Railroad Administration requirements that would affect the feasibility of meeting the allowable conditions as provided for in R.S. 48:390 and R.S. 48:390.1;
5. identify the unique local conditions which require or support the variance.

C. The application for variance, together with all requested information, shall be submitted to the Department of Transportation and Development Highway/Rail Safety Engineer.

D. A committee composed of representatives of the following Department areas of expertise review the application for variance:

1. railroad unit;
2. rail management program;
3. legal section;

4. appropriate district.

E. Upon completion of the review of the application, the committee shall make a recommendation to the Department's Chief Engineer.

F. Based upon the decision of the Chief Engineer, a formal response of the Department will be forwarded to the railroad or public agency which submitted the formal application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390 and 390.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Aviation/Public Transportation, LR 24:

§1305. Criteria for Erection of Stop Signs at Highway Grade Crossings

A. In accordance with the provisions of R.S. 32:172, the Department will assist local governing bodies in evaluation of public highway/railroad at-grade crossings which have no active warning devices for consideration of stop signs which would enhance the regulatory warning of the crossbuck sign.

B. Considerations:

1. number of collisions which have occurred at the crossing;
2. whether the crossing is considered "high profile";
3. whether the crossing has reduced site distance or visibility on the approaches so that vehicular traffic must substantially slow down or stop in order to see up and down the track.

C. The Department shall issue guidelines and basic recommendations to the local governing authority for consideration in placement of stop signs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:172.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Aviation/Public Transportation, LR 24:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the publication of this notice of intent to Bill Shrewsberry, Highway/Rail Safety Engineer, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, phone (504) 379-1543.

Frank M. Denton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Safety Requirements for
Railroad Grade Crossings**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

In order to implement the provisions of the 1998 legislation which enhance the Railroad Safety Program within the Department of Transportation and Development, the Department will employ a DOTD Headquarter's Program Manager (GS Level 18) whose salary will be approximately \$60,000 annually, including benefits.

These measures should reduce the State's exposure to liability for lawsuits which arise from train/vehicle accidents, although that amount cannot be estimated at this time.

The effect on local governmental units will be limited to the cost of signs to be provided at certain passive public crossings. Large stop signs cost approximately \$100 each and approximately 400 signs at 200 crossings would be made necessary each year, totaling \$40,000 annually. (A minimal number of supplemental warning signs could also be required.) It is anticipated that this cost should be incurred for the next three fiscal years only, after which only sign maintenance costs will be necessary.

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)

The general public which utilizes highways, both state and local, will benefit from additional safety measures to be implemented and monitored under these rules. Railroad grade crossings will be made safer if certain public crossings are either closed or signed with stop signs. These measures are designed to save lives, a fiscal amount which cannot easily be quantified.

There will be fiscal impact on the railroad companies if grade crossings are closed. It is anticipated that approximately 5 crossings per year will be closed over an indefinite period of time. The average cost for a railroad to close a crossing is \$2,500. The amount required for such closure, however, should be offset by the safety benefit of having fewer public crossings; the reduction in maintenance and liability costs for the railroads; and increased efficiency for the railroads.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

Frank M. Denton
Secretary
9809#057

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Highways/Engineering**

**Wireless Telecommunications Permit
(LAC 70:III.Chapter 23)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a rule entitled "DOTD Wireless Telecommunications Permit", in accordance with R.S. 48:381.2.

The full text of this proposed rule can be viewed in the emergency rule section of this issue of the *Louisiana Register*.

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 John

Collins, Headquarters Utilities Permits Engineer, P. O. Box 94245, Baton Rouge, Louisiana 70804-9245, phone (504) 379-1509.

Frank M. Denton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Wireless Telecommunications Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Initially there will be no additional cost to the Department of Transportation and Development. The agency has sufficient staff to implement this rule. There will be no additional cost for local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State revenue collections will increase. The State will collect approximately \$666,250 the first year, and \$1,332,500 each year thereafter.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The telecommunications companies will benefit from the ability to use state property for telecommunication facilities. It is not possible to calculate this benefit, but it should be substantial.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This should increase competition and may increase employment.

Frank M. Denton
Secretary
9809#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Port Commissions
Board of River Port Pilot Commissioners**

Licensing Requirements

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 34:991(B)(3), the Board of River Port Pilot Commissioners hereby gives notice that it intends to amend Section 4, Rule 2(2)(c) and (d) as follows:

Section 4. Apprenticeship

* * *

Rule 2

* * *

2. Each petitioner must hold:

a. a United States Coast Guard Masters' License of Steam or Motor Vessels of any gross tons upon Inland Waters, Rivers or Western Rivers; or

b. a United States Coast Guard Second Mate's License

(or any upgrade thereof) of Steam or Motor Vessels of any gross tons upon Oceans; or

c. a United States Coast Guard Third Mate's License (or any upgrade thereof) of Steam or Motor Vessels of any gross tons upon Oceans, and each petitioner must present documentation acceptable to the board demonstrating service time of 270 days and the all of the service time must be on vessels over 200 gross tons and 90 days of this time must be on vessels of at least 1,600 gross tons. The petitioner, as a condition of the apprenticeship, must acquire a Master's License of Steam or Motor Vessel of Any Gross Tons upon Inland Waters, Rivers, or Western Rivers prior to receiving a commission; or

d. a Bachelor's Degree or diploma granted by a college or university accredited by the American Association of Colleges and Secondary Schools, and each petitioner must present documentation acceptable to the board demonstrating service time of 270 days and the all of the service time must be on vessels over 200 gross tons and 90 days of this time must be on vessels of at least 1,600 gross tons. The petitioner, as a condition of the apprenticeship, must acquire a Master's License of Steam or Motor Vessel of Any Gross Tons upon Inland Waters, Rivers, or Western Rivers prior to receiving a commission.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991 et seq.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners for the Port of New Orleans, LR 21:704 (July 1995), amended LR 24:

Interested persons may comment on the proposed rule revisions in writing to Captain Donald J. Short, Secretary, Box 848, Belle Chase, LA 70037.

Capt. Donald J. Short
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Licensing Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no effects on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Persons applying to be River Port Pilots will incur less costs and expenses to obtain the requisite licenses. The new rule replaces the requirement that a petitioner hold a 1600 Ton master's license with a requirement that the petitioner must have 270 days of service time on vessels in excess of 200 Gross Tons, 90 days of which must be on vessels in excess of 1600 Gross Tons after the petitioner has obtained a First Class Pilot's License and/or Third Mate's License. The petitioner is required to obtain a First Class Pilot's License and a Third Mate's

License prior to petitioning for a commission. The petitioner is still required to acquire an unlimited master's license prior to receiving a pilot commission.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The changes will enhance competition by allowing more individuals to compete for pilot positions.

Capt. Donald J. Short
Secretary
9809#054

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Office of Fisheries**

Crawfish Traps (LAC 76:VII.187)

The Secretary of the Department of Wildlife and Fisheries hereby adopts the following rule on minimum mesh requirements of crawfish traps in the eastern portion of the Atchafalaya Basin, Iberville, Iberia and St. Martin Parishes, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

**§187. Crawfish Traps, Exception to State-Wide
Minimum Mesh Requirements**

As required by Act 267 of the 1997 Regular Session of the Legislature, the Secretary of the Department of Wildlife and Fisheries hereby adopts a minimum mesh size for commercial crawfish traps of three-quarters of one inch for the area consisting of the east side portion of the Atchafalaya Basin extending from Morgan City at the Intracoastal Canal to I-10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:322(I).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 24:

Interested persons may submit written comments on the proposed rule to Mr. Bennie Fontenot, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 until 4:30 p.m., November 4, 1998.

James H. Jenkins, Jr.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Crawfish Traps**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no implementation costs.

Enforcement of the proposed rule will be carried out using existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule 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 may require some commercial fishers, who fish in the eastern portion of the Atchafalaya Basin, to discontinue using their existing crawfish traps and construct/purchase traps that meet the new minimum mesh requirements for the area. In 1997, 34 percent of the commercial crawfish trap licenses were issued to residents in this area. Crawfish traps cost approximately \$4.00 each and fishers may use 100-500 traps.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule may change the quantity and size of crawfish harvested by the commercial fishers in the eastern portion of the Atchafalaya Basin area. This may have an impact on competition between commercial fishers who fish inside and those that fish outside the affected area. The impact on competition and employment on these fishers is unknown.

James L. Patton
Undersecretary
9809#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Black Bass Regulations—Eagle Lake
(LAC 76:VII.169)

The Wildlife and Fisheries Commission hereby advertises its intent to amend the following rule on black bass (*Micropterus spp.*) on Eagle Lake located east of the Mississippi River in Madison Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 1. Freshwater Sports and Commercial Fishing
§169. Black Bass Regulations, Eagle Lake**

The size regulation for black bass (*Micropterus spp.*) on Eagle Lake located east of the Mississippi River in Madison Parish, Louisiana is as follows:

It shall be unlawful to take or possess, while on the water or while fishing in the water, black bass less than 16 inches total length on Eagle Lake, located east of the Mississippi River in Madison Parish, Louisiana. This rule shall become effective January 1, 1999.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325(C), 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19:909 (July 1993), amended LR 21:477 (May 1995), LR 22:376 (May 1996), LR 24:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the amended rule to Bennie Fontenot, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Wednesday, November 4, 1998.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Black Bass Regulations—Eagle Lake**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff. Madison Parish Enforcement Agents are presently employed to patrol Eagle Lake as part of their duties.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule 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)

Sport fishermen who fish at Eagle Lake will be affected by the proposed action, since they will have to release black bass less than 16 inches total length back to the water. The implementation of a 16 inch minimum should result in an increase in largemouth bass below and just above 16 inches. The proposed rule will have no effect on costs and/or economic benefits to sport fishermen at Eagle Lake.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have little or no effect on competition or employment in the public or private sector.

James L. Patton
Undersecretary
9809#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 7-9, 1998, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows:

New Candidates: September 11, 1998

Re-Take Candidates: September 25, 1998

Reciprocity Candidates: November 13, 1998

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to September 11, 1998. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

9809#041

POTPOURRI

Student Financial Assistance Commission Office of Student Financial Assistance

TOPS ACT Deadline Extension Hearing (LAC 29:IV.301, 703, and 803)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to hold a hearing to receive public comment on a rule revision to the Tuition Opportunity Program for Students [R.S. 17:3048.1] which provides a one-time extension of the deadline for completing the ACT Test to the national test date scheduled in October, 1998, for those students who failed to take the test prior to their high school graduation date.

The hearing will be held at 2:00 p.m., September 28, 1998, in the fourth floor conference room, Louisiana Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, Louisiana.

All interested persons will be afforded an opportunity to submit data, views, comments, or arguments, orally and in writing.

Jack L. Guinn
Executive Director

9809#043

POTPOURRI

Department of Health and Hospitals Board of Veterinary Medicine

Board Meeting Date Change

The Louisiana Board of Veterinary Medicine has changed the meeting date for the regularly scheduled October board meeting from Wednesday, October 14, 1998 to Thursday, October 15, 1998.

Charles B. Mann
Executive Director

9809#019

POTPOURRI

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

Retroactive Licensure of Hospital Sites

On June 10, 1998, Senate Concurrent Resolution Number 35 (SCR-35) was adopted. SCR-35 authorized the Department of Health and Hospitals, for a period of six (6) months after the date of the adoption of SCR-35, to accept applications and within a reasonable time thereafter to issue licenses to satellite facilities of a licensed hospital retroactive to the date the services were first offered by the hospital or to permit a licensed hospital to retroactively amend its license to include its satellite facilities from the date the services were first offered by the hospital. To effectuate the terms of SCR-35, the Department of Health and Hospitals (DHH) announces the following:

I. Interpretation of LA R.S. 40:2107B

For Licensing Hospital Premises

Louisiana Revised Statute 40:2107B states:

Each license issued hereunder shall be for a period of one year from date of issuance unless sooner revoked, shall be on a form prescribed by the Department, shall not be transferable or assignable, shall be issued only for the person and premises named in the application, shall be posted in a conspicuous place on the licensed premises, and may be renewed from year to year upon application and payment of the license fee as in the case of the procurement of an original license.

DHH interprets the language in 2107B "shall be issued for the person and premises named in the application" to mean that all premises on which hospital services are provided and that are not physically connected by a side walk, cross walk, elevated walkway, or parking lot to the hospital must be included on the hospital's license application to operate as a

licensed site under the hospital's license. If a site is not physically connected to the hospital and it is not listed on the hospital's license application, it is not a licensed site. Premises not physically connected to the hospital means the same as satellite facilities in SCR-35.

II. Procedure for Applying for Retroactive License Under Senate Concurrent Resolution Number 35

SCR-35 establishes five (5) criteria to qualify for retroactive licensure of satellite locations. The criteria are listed below with DHH's requirement to meet the criteria.

Criteria 1. Where there is no question about quality or appropriateness of medical and other services rendered by the satellite facilities of a hospital.

DHH Requirement for Criteria 1: The hospital attests that the above condition was satisfied.

Criteria 2. Where satisfactory fire and health inspections have been made prior to application. Facilities no longer in operation do not have to satisfy this criteria provided the owner of the hospital at the time services were rendered in the satellite facility files an assurance with the Department of Health and Hospitals that safety standards appropriate to the services provided were satisfied.

DHH Requirement for Criteria 2: A copy of the fire and health inspection must be provided with the retroactive licensure application, or for facilities no longer in operation, the retroactive licensure application must include either a copy of the fire and safety inspections during the time sought for retroactive licensure or an assurance from the owner of the hospital at the time services were rendered in the satellite facility that safety standards appropriate to the services provided were satisfied.

Criteria 3. Where a satellite facility is certified to be in substantive compliance from the date of its opening by the hospital owning and managing such facility.

DHH Requirement for Criteria 3: The hospital owning and managing such facility attest that the above condition was satisfied.

Criteria 4. Where appropriate, the licensed hospital has been and is accredited by the Joint Commission on Accreditation of Healthcare Organizations.

DHH Requirement for Criteria 4: The hospital attests that the above condition was satisfied. If the facility is not accredited by the JCAHO, an explanation must be provided why it is not appropriate for the facility to be JCAHO, such as the facility has been licensed by state survey since or accredited by the American Osteopathic Association (AOA) since.

Criteria 5. When the hospital owning and managing such facility will hold harmless and indemnify the Department of Health and Hospitals in any action in which the licensure status of the satellite is at issue.

DHH Requirement for Criteria 5: The hospital owning and managing such facility agrees to hold harmless and indemnify the Department of Health and Hospitals in any action in which the licensure status of the satellite facilities is at issue.

The submission of the above attestations with any supporting documentation must be modeled after the application, certification, affidavit and hold harmless agreement shown herein. The submission should be made

immediately. The Department of Health and Hospitals will not accept submissions after December 9, 1998. The submission should be addressed to:

Department of Health and Hospitals
Bureau of Health Standards
Attention: Patricia Pittman
655 North 5th Street, Third Floor
Baton Rouge, Louisiana 70802

Retroactive licensure under Senate Concurrent Resolution 35 does not automatically mean the facilities are certified under Medicare and/or Medicaid. The certification process is not affected by the resolution and must be accomplished through the existing procedures.

Any questions on the information that should be included in the submission for retroactive licensure can be addressed to Jerry Phillips, (225)342-1128.

Application, Certification, Affidavit and Hold Harmless Agreement to Louisiana Department of Health and Hospitals In Connection with the Licensure of Satellite Facilities of

(Name of Hospital)

State of Louisiana
Parish of _____

BEFORE ME, the undersigned Notary Public, personally came and appeared: _____, authorized representative of the hospital owning and managing the facilities listed herein for which _____ hospital seeks to obtain retroactive licensure, who after first being duly sworn, did depose and state the following:

WHEREAS, Senate Concurrent Resolution Number 35 of the Regular Session of 1998 resolved *that the Department of Health and Hospitals is hereby authorized to issue retroactive licenses for satellite facilities of hospitals, including those satellites no longer in operation, to the date the satellite facility services were first offered by the hospital, or to retroactively amend a hospital license issued by the Department to the hospital facility owning and managing a satellite facility to include such facility upon timely application to the Department and upon meeting certain criteria;* and

WHEREAS, _____ Hospital does meet all of the criteria as provided in SCR Number 35 as attested to and certified herein with respect to those satellite facilities as shown on Attachment 1 hereto:

NOW THEREFORE, Affiant, _____, does hereby affirm and certify as follows with respect to all of those facilities shown on Attachment 1.

Attachment 1 contains the location of the satellite facilities for which retroactive licensure is sought and the dates that services were first offered by _____ Hospital at said sites. We request retroactive licensure to be effective from the dates services were first offered.

1. There is no question about the quality or

appropriateness of medical and other services rendered by the satellite facilities of _____ Hospital shown on Attachment 1.

2. Satisfactory Fire and Health inspections have been made prior to this application for all satellite facilities as shown on Attachment 1. Attachment 2 contains copies of the fire and health inspections of the facilities listed on Attachment 1 or an assurance from the owner of the hospital at the time services were rendered in the satellite facility that safety standards appropriate to the services provided were satisfied.

3. _____ Hospital does hereby certify that all satellite facilities as shown on Attachment 1 have been in substantive compliance with the Department of Health and Hospitals' Rules and Regulations from the date of opening.

4. _____ Hospital has been and is accredited by the Joint Commission on Accreditation of Healthcare Organizations since _____ or an explanation why JCAHO accreditation was not appropriate, such as the facility has been licensed by state survey since _____ or accredited by the American Osteopathic Association (AOA) since _____.

5. _____ Hospital does hereby agree to hold harmless and indemnify the Department of Health and Hospitals in any action in which the licensure status of the satellite facilities shown on Attachment 1 are at issue.

Considering the foregoing and Senate Concurrent Resolution Number 35 of the 1998 Regular Session, _____ Hospital does hereby apply for and requests retroactive licensure for the facilities shown on Attachment 1, effective from the dates services were first offered also as shown on Attachment 1.

WITNESSES: _____

Authorized Representative _____

SWORN TO AND SUBSCRIBED BEFORE ME
THIS _____ DAY OF _____, 1998.

(Notary Public)

Attachment I

**Attachment to
Application, Certification, Affidavit and
Hold Harmless Agreement to
Louisiana Department of Health and Hospitals in
Connection with the Licensure of Satellite Facilities of**

(Name of Hospital)

This Attachment 1 contains the following information:

1. the location of the satellite facilities for which retroactive licensure is sought on the Application to which this is an attachment;

2. the dates that services were first offered by _____ Hospital at said sites and to which date retroactive licensure is requested;

3. the date that licensure for the location was previously granted, if applicable; and

4. if closed, date closed.

Location of the Satellite Facilities for Which Retroactive Licensure Is Sought	Dates that Services Were First Offered By Hospital; the Date from Which We Request Retroactive Licensure to Be Effective	Date That Licensure Was Previously Granted, if Applicable	If Closed, Date Closed
1.			
2.			
3.			

Attachment 2

**Attachment to
Application, Certification, Affidavit and
Hold Harmless Agreement to
Louisiana Department of Health and Hospitals
in Connection with the Licensure of
Satellite Facilities of**

(Name of Hospital)

This Attachment 2 contains the following information:

1. copies of the fire and health inspections of the facilities listed on Attachment 1; or

2. for facilities no longer in operation, either a copy of the fire and safety inspections during the time sought for retroactive licensure shown on Attachment 1 or an assurance from the owner of the hospital at the time services were rendered in the satellite facilities as shown on Attachment 1 that safety standards appropriate to the services provided were satisfied.

David W. Hood
Secretary

9809#083

POTPOURRI

**Department of Labor
Office of Workers' Compensation**

Average Weekly Wage Rate

Pursuant to Act 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon

which the maximum workers' compensation weekly benefit amount will be based, effective September 1, 1998, has been determined by the Department of Labor to be \$489.95.

Gary J. Forster
Secretary

9809#078

POTPOURRI

**Department of Labor
Office of Workers' Compensation**

Weekly Compensation Benefit Limits

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Department of Labor, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 1998 through August 31, 1999.

Average Weekly Wage	Maximum Compensation	Minimum Compensation
\$489.95	\$367.00	\$98.00

Gary J. Forster
Secretary

9809#080

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, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well Number	Serial Number
Creek Operating Company, Inc.	Simon Pass	CAM 1A RA SUA; Hebert	002	138218
Creek Operating Company, Inc.	Simon Pass	ROBU 1 SUA; Hebert	2-D	138870
Creek Operating Company, Inc.	Simon Pass	Louis C Hebert et al	003	138871
Creek Operating Company, Inc.	North Bayou Cholpe	F WILSON RA SUB; Rougon	001	207068
Creek Operating Company, Inc.	North Bayou Cholpe	F WILSON RA SUC; Rougon	002	207653

Creek Operating Company, Inc.	Simon Pass	Norman et al	001	139390
Creek Operating Company, Inc.	Simon Pass	Norman et al	1-D	139671
Ed I. Estis	Garden City	MA 5 RB SUA: B L Smith	001	142431
Ed I. Estis	Iberia	D Baez	001	151243
Ed I. Estis	Section 28	Henry Melancon	002	104805
Gas Transportation Corporation	Little Pecan Lake	Miami Corporation I R AA	001	076866
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Philip N. Asprodites
Commissioner

9809#081

POTPOURRI

Department of Natural Resources Office of Conservation Injection and Mining Division

Public Hearing—Nonhazardous Oilfield Waste Treatment Facility

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana revised Statutes of 1950 as amended, and the provisions of the Statewide Order Number 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Wednesday October 21, 1998, in the Vermilion Parish Courthouse, Court Room Number 1, located on the 2nd floor, in Abbeville, Louisiana.

At such hearing, the Commissioner, or his designated representative will hear testimony relative to the application of Miller S.W.D., Inc., P.O. Box 32, Lacassine, Louisiana 70650. The applicant intends to construct and operate a commercial nonhazardous oilfield waste treatment facility in Section 5, Township 12 South, Range 02 West, approximately 4 mile from Gueydan, Louisiana.

The application is available for inspection by contacting Mr. Pierre Catrou, Office of Conservation, Injection and Mining Division, Room 257 of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana, or by visiting the Vermilion Parish Police Jury Office or the Vermilion Parish Library branch at 605 McMurtry Street in Guedan, Louisiana. Verbal information may be received by calling Mr. Catrou at 504/342-5567.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 5:00 p.m., October 29, 1998, at the Baton Rouge Office. Comments should be directed to:

Office of Conservation
Injection and Mining Division
P.O. Box 94275
Baton Rouge, Louisiana 70804
Re: Docket Number IMD 98-10
Commercial Facility
Vermilion Parish

Philip N. Asprodites
Commissioner

9809#082

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Secretary, Office of the

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State Employees Group Benefits Program, Board of Trustees of the
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Management and Finance, Office of

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