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Executive Orders

EXECUTIVE ORDER KBB 06-49

Bond Allocation—The Finance Authority of New Orleans
Amends Executive Order No. KBB 06-18

WHEREAS, Executive Order No. KBB 2006-18, issued on March 28, 2006, granted a private activity bond allocation from the 2006 private activity bond volume limit to The Finance Authority of New Orleans in accordance with the requirements of Section 146 of the Internal Revenue Code of 1986, as amended; and

WHEREAS, it is necessary to amend Executive Order No. KBB 2006-18 in order to correct the amount of the allocation and to extend the time period in which the bonds may be delivered to initial purchasers;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, 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 1 of Executive Order No. KBB 2006-18, issued on March 28, 2006, is hereby amended to provide as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$25,000,000	The Finance Authority of New Orleans	Qualified Mortgage Revenue and Refunding Bonds Series 2006

SECTION 2: Section 3 of Executive Order No. KBB 2006-18, issued on March 28, 2006, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through December 31, 2006, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 2006.

SECTION 3: All other sections of Executive Order No. KBB 2006-18 shall remain in full force and effect.

SECTION 4: 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 20th day of November, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0612#090

EXECUTIVE ORDER KBB 06-50

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

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. KBB 2005-12 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2006 (hereafter "the 2006 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2006 Ceiling; and

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

WHEREAS, the Industrial Development Board of the Parish of Calcasieu, Inc., has requested an allocation from the 2006 Ceiling to be used to finance the acquisition, construction and installation of certain wastewater treatment facilities at the refinery facilities of CITGO Petroleum Corporation located at 4401 Highway 108, city of Lake Charles, parish of Calcasieu, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2006 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$20,000,000	Industrial Development Board of the Parish of Calcasieu, Inc.	CITGO Petroleum Corporation

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

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2006, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 2006.

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

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

Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of November, 2006.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0612#091

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Office of Business Development

Enterprise Zone Program (LAC 13:I.701)

The Louisiana Department of Economic Development, Office of Business Development, pursuant to the Emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), amends the rules for the Louisiana Enterprise Zone Program. This Rule change, adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective November 14, 2006, and shall remain in effect for the maximum period allowed under the Act, or until the adoption of a permanent Rule, whichever occurs first.

The Department of Economic Development, Office of Business Development, has found an immediate need to allow for the qualification of multi-family housing for the Enterprise Zone Program to immediately provide an incentive for the restoration of residential housing within the Gulf Opportunity Zone and Rita Gulf Opportunity Zone to replace housing destroyed by Hurricanes Katrina and Rita. An immediate threat to the public welfare exists due to the lack of adequate housing in these areas.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 7. Enterprise Zone Program

§701. Scope

A. - C.4. ...

D. Qualifications

1. The applicant's current level of employment must be increased by 10 percent (minimum of one net new job) within the first 12 months or a minimum of five net new jobs must be added to the current payroll within the first two years of the contract period. See §703. Minimum Net New Jobs Required. Thirty-five percent net new employees must meet §§709, 711, 713, or 715 as applicable.

2. a. Except as provided in Subparagraph b, any business, except residential developments, (including but not limited to the construction, selling, or leasing of single-family or multi-family dwellings, apartment buildings, condominiums, town houses, etc), churches, and businesses with gaming (see LAC 13:I.Chapter 3, Gaming Ineligibility) may apply for enterprise zone benefits.

b. A residential development is eligible and may apply for enterprise zone benefits if it meets the following requirements:

- i. it is a multi-family residential development;
- ii. it is located in the areas defined in the 2005 Gulf Opportunity Zone Act as the "Gulf Opportunity Zone" or the "Rita Gulf Opportunity Zone" meaning that portion of the Hurricane Katrina disaster area or the Hurricane Rita disaster area determined by the President of the United State to warrant individual or individual and public assistance

from the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina or Hurricane Rita;

iii. it consists of a minimum of 20 units and a maximum of 100 units on a single contiguous site;

(a). unit—a "rental unit" is a dwelling unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation;

iv. the board may, in its discretion, for good cause, approve an application for a development consisting of more than 100 units;

v. it otherwise meets the requirements of the enterprise zone program; and

vi. an advance notification for the project is filed prior to January 1, 2008.

3. An applicant in an urban parish must certify that a minimum of 35 percent of its net new employees meet the requirements of §709.

4. An applicant located in a rural parish and in an enterprise zone must certify that a minimum of 35 percent of its net new employees meet the requirements of §711.

5. An applicant located in a rural parish and not in an enterprise zone must certify that a minimum of 35 percent of its net new employees meet the requirements of §713.

6. An applicant located in an economic development zone must certify that a minimum of 35 percent of its net new employees meet the requirements of §715.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5)

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:252 (March 1991), amended by Department of Economic Development, Office of Commerce and Industry, LR 22:446 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2298 (November 2003), LR 33:

Michael J. Olivier
Secretary

0611#002

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.101, 301, 503, 1301,
2103, 2105, 2109, and 2303)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the Rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)].

The Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective November 15, 2006, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0779E)

Title 28
EDUCATION

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

Chapter 1. Scope

§101. Introduction

A. ...

B. Agency's Mission Statement. The mission of LOSFA is to administer the federal and state student aid programs that are assigned to the Louisiana Student Financial Assistance Commission.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1897 (October 1998), LR 27:1841 (November 2001), LR 33:

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Eligible Noncitizen—an individual who can provide documentation from the U.S. Citizenship and Immigration Services (USCIS) or its successor that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the United States must provide documentation from the USCIS to verify permanent residency. For 1997, 1998 and 1999 high school graduates, an eligible noncitizen shall be treated as meeting the citizenship requirements for an award under this Part.

* * *

Qualified Summer Session—those summer sessions (includes terms and semesters conducted during the summer) for which the student's institution certifies that:

a. the summer session is required in the student's degree program for graduation and the student enrolled for at least the minimum number of hours required for the degree program for the session; or

b. the student can complete his program's graduation requirements in the summer session; or

c. the course(s) taken during the summer session is required for graduation in the program in which the student is enrolled and is only offered during the summer session; or

d. the course(s) taken during the summer session is in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; or

e. for the summer of 2006 only, the student is a displaced student as identified in § 2103.G.1 of these rules, whose TOPS award was not paid for one or more semesters during the 2005-2006 academic year.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:

Chapter 5. Applications, Federal Grant Aid and ACT Test

§503. Application Deadlines for High School Graduates of 2003 and Earlier

A. - B.2. ...

3. Returning Students

a. Notwithstanding the deadline established by §503.B.1 above, returning students, who graduated from high school during the 2001-2002 academic year (high school) and who enroll in an eligible college or university in the spring semester of 2003, must submit the FAFSA to be received by the federal processor no later than July 1, 2004.

b. Notwithstanding the deadline established by §503.B.1 above, returning students, who enroll in an eligible college or university in the fall semester of 2003 or later, must submit the FAFSA to be received by the federal processor no later than July 1 following the first semester of enrollment.

c. Examples

i A student who seeks to enroll in an eligible college or university for the spring semester of 2004 must submit his FAFSA to be received by the federal processor no later than July 1, 2004.

ii A student who seeks to enroll in an eligible college or university for the fall semester of 2004 must submit his FAFSA to be received by the federal processor no later than July 1, 2005.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998),

LR 24:1900 (October 1998), amended LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 26:1994 (September 2000), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 28:1760 (August 2002), LR 29:554 (April 2003), LR 30:1471 (July 2004), LR 30:2016 (September 2004), LR 33:

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. - D. ...

E.1. Allocation of Funds. Annually, funds are allocated to post-secondary institutions based on school type, the school's prior year first-time, full-time enrollment and the amount of the prior year's allocation that was expended. Initial funds, for first-time recipients, are computed as a percentage of all participating institutions first-time, full-time enrollment as of October 10 of the prior fiscal year. A student's enrollment in an undergraduate degree granting school which is a component of a state supported medical center, shall be a first-time, full-time freshman for the purpose of this program. Continuation funds for students who had previously received LEAP are computed as a percentage of the allocated funds used during the previous year. The continuation formula applies 60 percent for four-year schools and 40 percent for two-year schools.

2. For the 2006-2007 academic year (college), the allocations described in E.1 above shall be made to postsecondary institutions based on 2004-2005 academic year (college) formula data.

F. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:1860 (November 2001), amended LR 28:2332 (November 2002), LR 33:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - D.3. ...

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS, TOPS-Tech, TOPS Teacher, the Rockefeller State Wildlife Scholarship or the Louisiana GO Youth Challenge Program because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions.

1. Parental Leave

E.1.a. - F. ...

G. Natural Disaster Exceptions

1. For the purposes of this Subsection, *displaced students* are TOPS recipients and students eligible for TOPS and:

a. on August 26, 2005:

i. were enrolled at one of the following eligible college or university campuses:

- (a). University of New Orleans;
- (b). Dillard University;
- (c). Delgado Community College;

- (d). Nunez Community College;
- (e). Louisiana State University Health Sciences Center at New Orleans;
- (f). Southern University at New Orleans;
- (g). Loyola University;
- (h). New Orleans Baptist Theological Seminary;
- (i). Our Lady of Holy Cross College;
- (j). Tulane University;
- (k). Xavier University;
- (l). St. Josephs Seminary College; or
- (m). Louisiana Technical College:

- (i). Jefferson Campus;
- (ii). Sidney N. Collier Campus;
- (iii). Slidell Campus;
- (iv). Sullivan Campus;
- (v). West Jefferson Campus; or

ii. whose home of record was one of the following Louisiana parishes:

- (a). Jefferson;
- (b). Lafourche;
- (c). Orleans;
- (d). Plaquemine;
- (e). St. Bernard;
- (f). St. Tammany;
- (g). Tangipahoa; or
- (h). Washington; or

b. on September 23, 2005:

i. were enrolled at one of the following eligible college or university campuses:

- (a). SOWELA Technical Community College;
- (b). Louisiana Technical College:
 - (i). Gulf Area Campus;
 - (ii). Morgan Smith Campus;
 - (iii). Lamar Salter Campus;
 - (iv). Oakdale Campus; or
 - (v). Sabine Valley Campus; or

ii. whose home of record was one of the following Louisiana parishes:

- (a). Acadia;
- (b). Allen;
- (c). Beauregard;
- (d). Calcasieu;
- (e). Cameron;
- (f). Iberia;
- (g). Jefferson Davis;
- (h). Lafayette;
- (i). St. Mary;
- (j). Terrebonne; or
- (k). Vermilion.

2. For the purposes of this Subsection, *home of record* is:

- a. the domiciliary address of a dependent student's parent or court ordered custodian; or
- b. the domiciliary address of an independent student.

3. For the purposes of this Subsection, *natural disaster* is limited to Hurricane Katrina and/or Hurricane Rita.

4.a. For the 2005-2006 academic year (college), displaced students are not required to enroll as full time students, to maintain continuous enrollment or to earn at

least 24 hours during the 2005-2006 academic year (college).

b. Displaced students may enroll on a part-time basis in an eligible college or university without losing TOPS eligibility. Upon request by the student, the eligible college or university may bill for these part-time students.

c. The terms of eligibility for a displaced student whose part-time enrollment is paid by TOPS will be reduced by one full semester (term) for each semester (term) (part or full-time) paid.

d. Institutions must document the displaced student's request for part-time payment of the award.

e. If a displaced student enrolls in an eligible college or university during the 2005-2006 academic year (college) and receives grades, those grades will be included in calculating the student's cumulative grade point average.

5.a. For the 2005-2006 academic year (college), students who are not displaced students, but due to the effects of a natural disaster were unable to enroll for the first time as full time students by the deadline or to enroll as full time students or to maintain continuous enrollment or to earn at least 24 hours during the academic year (college), may submit a request for an exception in accordance with §2103.D, based on one of the circumstances listed in §2103.E, or in accordance with the following procedures for the circumstances described in this Subsection.

i. The student should file the application for exception as soon as it is known that the student will not meet one or more of the continuing eligibility requirements to ensure the earliest reinstatement of the award. The student must submit the application for exception no later than six months after the date of the notice of cancellation. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a dependent student, a parent or court ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

ii. If determined eligible for an exception, the recipient will be reinstated if he or she enrolls in the first fall, winter or spring semester or term immediately following the exception ending date.

b. Natural Disaster Exception (For Other Than Displaced Students)

i. Definition. The effects of a natural disaster prevented the student/recipient from enrolling as a full time student or continuing enrollment or earning 24 hours during the 2005-2006 academic year (college).

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form; and
(b). written statement detailing the natural disaster's impact on the student and/or the student's immediate family (mother, father, custodian, siblings and/or spouse and children), which prevented the student from meeting the continuation requirements, including the length of the impact; and

(c). documentation corroborating the student's statement (examples: photographs of damage; insurance, FEMA, fire and/or police reports; statements from public officials; statements from family members or other persons with actual knowledge; receipts and invoices for work done and materials purchased).

iii. Maximum Length of Exception—up to two consecutive semesters (three consecutive quarters).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330, 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373, 2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:

§2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. - B.8.b. ...

9. Natural Disaster Deferments

a. For the purposes of this subsection, *displaced students* are recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status and:

i. on August 26, 2005, whose home of record was one of the following Louisiana parishes:

- (a). Jefferson;
- (b). Lafourche;
- (c). Orleans;
- (d). Plaquemine;
- (e). St. Bernard;
- (f). St. Tammany;
- (g). Tangipahoa; or
- (h). Washington; or

ii. on September 23, 2005, whose home of record was one of the following Louisiana parishes:

- (a). Acadia;
- (b). Allen;
- (c). Beauregard;
- (d). Calcasieu;
- (e). Cameron;
- (f). Iberia;
- (g). Jefferson Davis;
- (h). Lafayette;
- (i). St. Mary;
- (j). Terrebonne; or
- (k). Vermilion.

b. For the purposes of this subsection, *home of record* is:

i. the domiciliary address of a dependent student's parent or court ordered custodian; or

ii. the domiciliary address of an independent student.

c. For the purposes of this subsection, *natural disaster* is limited to Hurricane Katrina and/or Hurricane Rita.

d. The loan payments for displaced students are deferred and accrual of interest is suspended from August 26, 2005 through August 31, 2006.

e. For the period of August 26, 2005 through August 31, 2006, recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status and who are not displaced students, but who are

unable to repay their loan during the academic year (college) due to the effects of a natural disaster, may submit a request for deferment of payments and suspension of accrual of interest in accordance with §2105.D, based on one of the circumstances listed in §2103.B.1 through 8 or the following circumstance:

i. The effects of a natural disaster prevented the student/recipient from making payments during the period of August 26, 2005, through August 31, 2006.

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form; and

(b). a written statement detailing the natural disaster's impact on the student and/or the student's immediate family (mother, father, custodian, siblings and/or spouse and children), which prevented the student from meeting the repayment requirements, including the length of the impact; and

(c). documentation corroborating the student's statement (examples: photographs of damage; insurance, FEMA, fire and/or police reports; statements from public officials; statements from family members or other persons with actual knowledge; receipts and invoices for work done and materials purchased).

iii. Maximum Length of Exception—through August 31, 2006.

C. - H.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:781 (April 2004), LR 30:1167, 1168 (June 2004), LR 33:

§2109. Agency Decisions Subject to Appeal

A. - C.3. ...

4. The petition of appeal must be addressed to the Louisiana Student Financial Assistance Commission, in care of the Executive Director, Office of Student Financial Assistance and sent to Box 91202, Baton Rouge, LA 70821-9202, or hand delivered to 1885 Wooddale Boulevard, Wooddale Tower, Room 602, Baton Rouge, LA.

C.5. - D.1. ...

2. If LOSFA's decision remains adverse, LOSFA will prepare and forward the appellate's file (including the petition of appeal, the original request for reinstatement, LOSFA records relating to the appeal, and a written statement of LOSFA's position regarding the appeal) to the rules committee of the commission.

3. If the petition of appeal contains the appellant's request to make an oral presentation or argument, LOSFA shall notify the appellant in sufficient time to permit the appellant to be present when the appeal is scheduled to be heard by the rules committee and the commission.

4. Pending a final decision by the commission, no further action will be taken in the matter by LOSFA.

5. The rules committee will review the appellate file and make one of the following recommendations to the commission:

a. recommend that LOSFA's decision be upheld; or

b. recommend that LOSFA's decision be reversed; or

c. remand the appellate file to LOSFA for further specified action(s); or

d. remand the appellate file to the commission without recommendation.

6. The rules committee will forward the appellate file and its recommendation to the commission. The commission will review the recommendations of the committee and the appellate file.

D.7. - 9. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:650 (April 1998), amended LR 24:1920 (October 1998), LR 26:1261 (June 2000), repromulgated LR 27:1870 (November 2001), amended LR 28:2333 (November 2002).

Chapter 23. Tuition Payment Program for Medical School Students

§2303. Establishing Eligibility

A. - A.5. ...

6. complete and submit such other documentary evidence as may be required by LASFAC within the deadline specified; and

7. not have a criminal conviction, except for misdemeanor traffic violations; and

8. agree that the award will be used exclusively for educational expenses.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) amended LR 25:2177 (November 1999), LR 26:2754 (December 2000), LR 27:1220 (August 2001), repromulgated LR 27:1872 (November 2001), amended LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 31:40 (January 2005) LR 33:

George Badge Eldredge
General Counsel

0612#009

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

START Savings Program
(LAC 28:VI.107, 301, 309 and 311)

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

The Emergency Rule is necessary to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LATTA has determined that this

Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective on November 15, 2006, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST0778E)

Title 28

EDUCATION

Part VI. Student Financial Assistance—Higher

Education Savings

Chapter 1. General Provisions

Subchapter A. Tuition Trust Authority

§107. Applicable Definitions

A. Words and terms not otherwise defined in this Rule shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in this Rule, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 33:

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. - E.2. ...

F. Citizenship Requirements. Both an account owner who is not a legal entity and the beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or
2. be a permanent resident of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor and provide copies of USCIS documentation with the submission of the owner's agreement.

G. - G.2. ...

H. Providing Personal Information

1. The account owner is required to disclose personal information in the owner's agreement, including:

- a. his Social Security number;
- b. the designated beneficiary's Social Security number;
- c. the beneficiary's date of birth;
- d. the familial relationship between the account owner and the designated beneficiary, if any;
- e. the account owner's prior year's federal adjusted gross income as reported to the Internal Revenue Service; and
- f. in the case of an account owner classified under §303.A.5:

- i. the Social Security number of the beneficiary's family and authorization from that person for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purpose of verifying federal adjusted gross income; and

- ii. if applicable, proof that the beneficiary is a ward of the court; or

- iii. if applicable, proof the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.).

2. ...

3. By signing the owner's agreement:

- a. the account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, certifies that:

- i. both account owner and beneficiary are United States citizens or permanent residents of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor and, if permanent residents have provided copies of USCIS documentation with the submission of the application and owner's agreement; and

- ii. the information provided in the application is true and correct;

H.3.b. - J. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004), LR 33:

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

A. - D.3. ...

E. Receipt of Scholarships

1. If the designated beneficiary of an education savings account is the recipient of a scholarship, waiver of tuition, or similar subvention which cannot be converted into money by the beneficiary, the account owner or beneficiary may request a refund from the education savings account in the amount equal to the value of the scholarship, waiver or similar subvention up to the balance of principal and interest in the account.

E.2. - G. ...

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 24:2238 (December 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:789 (April 2004), LR 30:1169 (June 2004), LR 32:1433 (August 2006), LR 33:

§311. Termination and Refund of an Education Savings Account

A. - G. ...

H. Refund Payments. Payment of refunds for voluntary termination under §311.F or partial refunds of accounts pursuant to §311.F.3 shall be made within 30 days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year. Interest earned in excess of \$3 during the calendar year of termination will be refunded within 45 days of the date the state treasurer has announced the interest rate for the preceding year. Interest earned of \$3 or less during the

calendar year of termination will be forfeited to the Louisiana Education and Tuition Savings Fund.

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 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 33:

George Badge Eldredge
General Counsel

0612#008

DECLARATION OF EMERGENCY

Office of the Governor Office of Financial Institutions

Louisiana International Banking
(LAC 10:III.1101-1105)

The Office of Financial Institutions, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:953.(B), adopts the following Emergency Rule of the International Banking Statutes as authorized by R.S. 6:551.7 and 6:551.24. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective November 20, 2006, and shall remain in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Office of Financial Institutions has found an immediate need, since no such rules exist at this time, to provide rules for the establishment of fees and assessments to ensure that the costs of regulation of international banking activities in Louisiana are adequately recaptured. Without this Emergency Rule the public welfare may be harmed as a result of the inability for international banks to establish facilities to engage in activities that could enhance economic growth in Louisiana. The failure to adopt this Rule may impede economic development in Louisiana that could improve the standard of living and enrich the quality of life for citizens of this state.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part III. Banks

Chapter 11 Louisiana International Banking

§1101. General Provisions

The Depository Institutions' Section of the Louisiana Office of Financial Institutions ("OFI") is funded entirely through assessments and fees levied on state-chartered depository institutions for services rendered. All fees detailed in this Rule are nonrefundable and must be paid at the time the application is filed with this office. An applicant may request that a reduced fee be charged for the simultaneous filing of multiple applications. This privilege

will not be afforded to applications that will not be expected to be consummated within 12 months of the filing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:551.7 and 6:551.24.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§1103. Fees and Assessments

Pursuant to the authority granted under R.S. 6:551.7 and 6:551.24, the following fee and assessment structure is hereby established to cover necessary costs associated with the administration of the International Banking Statutes, R.S. 6:551.1 et seq.

Description	Fee
A. Application for a foreign bank, bank holding company, or financial holding company, to establish and operate a subsidiary bank in Louisiana.	\$10,000
B. Application for a foreign bank to establish and operate a branch, an international banking facility, a representative office, or an agency in Louisiana.	\$2,000
C. Application for a U.S. bank or foreign bank to organize or acquire a subsidiary to engage in international banking activities specifically authorized in the Edge Act or to operate as an agreement corporation.	\$2,000
D. Application for a foreign bank to establish and operate an administrative office in Louisiana.	\$1,000
E. Examination fee for each foreign bank, branch, agency, representative office, international banking facility, administrative office, or Edge Act subsidiary operating in Louisiana. Fee per examiner.	\$50 per hour
F. Examination fee for each branch, agency, representative office, international banking facility, administrative office, or Edge Act subsidiary of an out-of-state foreign bank. This fee shall be billed to the primary state regulator of the out-of-state foreign bank being examined, and due upon receipt of the OFI invoice.	The greater of \$50 per hour per examiner or the actual expenses incurred by this office to conduct or assist in conducting such examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:551.7 and 6:551.24.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

§1105. Administration

The commissioner may increase any of the fees in §1103 when a combination of two or more of the transactions described in that Section occur, said fee not to exceed the lesser of \$50 per hour, or the combined fees as stated above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:551.7 and 6:551.24.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 33:

John Ducrest, CPA
Commissioner

0612#003

DECLARATION OF EMERGENCY

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

Intermediate Care Facilities for the Mentally Retarded Reimbursement of Medical Supplies (LAC 50:VII.32901-32903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:VII.32901-32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for intermediate care facilities for the mentally retarded (ICFs/MR) that included the Inventory for Client and Agency Planning (ICAP) instruments (*Louisiana Register*, Volume 31, Number 9). The bureau adopted an Emergency Rule to amend the provisions of the September 20, 2005 Rule governing the reimbursement methodology for ICFs/MR to include reimbursement of certain medical supply costs for Medicaid recipients who are medically fragile. (*Louisiana Register*, Volume 32, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2006 Emergency Rule.

This action is being taken to protect the health and welfare of Medicaid recipients by encouraging the continued participation of ICF/MR providers in the Medicaid Program.

Effective January 7, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the September 20, 2005 Rule governing the reimbursement methodology for intermediate care facilities for the mentally retarded.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for the Mentally Retarded

Chapter 329. Reimbursement Methodology

Subchapter A. Reimbursement Components

§32901. Cost Reports

A. - C.1 ...

2. For providers receiving pervasive plus supplements and other client specific adjustments to the rate in accordance with §32903.I., the facility wide direct care floor is established at 94 percent of the per diem direct care payment, the pervasive plus supplement, and other client specific adjustments to the rate. The direct care floor will be applied to the cost reporting year in which the facility receives a pervasive plus supplement and/or a client specific rate adjustment. In no case, however, shall a facility receiving a pervasive plus supplement and/or client specific rate adjustment have total facility payments reduced to less than 104 percent of the total facility cost as a result of imposition of the direct care floor.

3 - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1592 (July 2005), repromulgated LR 31:2252 (September 2005), amended LR 32:

§32903. Rate Determination

A. - H.2. ...

I. Other Client Specific Adjustments to the Rate. A facility may request a client specific rate supplement for reimbursement of the costs for enteral nutrition, ostomy, tracheotomy medical supplies or a vagus nerve stimulator.

1. The provider must submit sufficient medical supportive documentation to the DHH ICAP Review Committee to establish medical need for enteral nutrition, ostomy or tracheotomy medical supplies.

a. The amount of reimbursement determined by the ICAP Review Committee shall be based on the average daily cost for the provision of the medical supplies.

b. The provider must submit annual documentation to support the need for the adjustment to the rate.

2. The provider must submit sufficient medical supportive documentation to the Unisys Prior Authorization Unit to establish medical necessity for a vagus nerve stimulator.

a. The amount of reimbursement shall be the established fee on the Medicaid Fee Schedule for medical equipment and supplies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1592 (July 2005), repromulgated LR 31:2253 (September 2005), amended LR 32:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0612#079

DECLARATION OF EMERGENCY

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

Medical Transportation Program
Emergency Ambulance Services
Reimbursement Rate Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title

XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. During the 2001 and 2002 Regular Sessions of the Louisiana Legislature additional funds were allocated and the bureau subsequently increased the reimbursement rate for certain designated procedure codes for emergency ambulance transportation services (*Louisiana Register*, Volume 27, Number 11; Volume 28, Number 12).

As a result of the allocation of additional funds by the Legislature during the 2006 Regular Session, the bureau adopted an Emergency Rule to increase the base rate and ground mileage reimbursement rate for emergency ambulance transportation services. (*Louisiana Register*, Volume 32, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2006 Emergency Rule.

This action is being taken to promote the health and welfare of recipients and to maintain access to emergency ambulance transportation services by encouraging the continued participation of these providers in the Medicaid Program.

Emergency Rule

Effective for dates of service on or after December 31, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the base rate for emergency ambulance transportation services by 5 percent and ground mileage reimbursement rate for emergency ambulance transportation services by 17 percent of the rates in effect on August 31, 2006.

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

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

Frederick P. Cerise, M.D., M.P.H.
Secretary

0612#081

DECLARATION OF EMERGENCY

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

Medical Transportation Program Non-Emergency Medical Transportation Services Reimbursement Rate Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for non-emergency medical transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. During the 2003 Regular Session of the Louisiana Legislature additional funds were allocated and the bureau subsequently increased the reimbursement rates for certain designated procedures (*Louisiana Register*, Volume 30, Number 1). As a result of the allocation of additional funds by the Legislature during the 2006 Regular Session, the bureau promulgated an Emergency Rule that increased the reimbursement rates for non-emergency, non-ambulance medical transportation services by 5 percent (*Louisiana Register*, Volume 32, Number 9). The bureau now proposes to amend the provisions governing non-emergency, non-ambulance medical transportation services to increase the rate on file by an additional 9 percent.

This action is being taken to promote the health and welfare of recipients and to maintain access to non-emergency medical transportation services by encouraging the continued participation of these providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for non-emergency medical transportation services by approximately \$402,240 for the state fiscal year 2006-2007.

Emergency Rule

Effective for dates of service on or after December 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rate for non-emergency, non-ambulance medical transportation services by 9 percent of the rates in effect on November 30, 2006. Non-emergency medical transportation provided by friends and family is not included in this reimbursement rate increase.

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

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

Frederick P. Cerise, M.D., M.P.H.
Secretary

0612#031

DECLARATION OF EMERGENCY

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

Medical Transportation Program Non-Emergency Medical Transportation Services Reimbursement Rate Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for non-emergency medical transportation services. Reimbursement for these services is the base rate established by the Bureau minus the amount which any third party coverage would pay. During the 2003 Regular Session of the Louisiana Legislature additional funds were allocated and the Bureau subsequently increased the reimbursement rates for certain designated procedures (*Louisiana Register*, Volume 30, Number 1).

As a result of the allocation of additional funds by the Legislature during the 2006 Regular Session, the bureau has adopted an Emergency Rule to increase the reimbursement rates for non-emergency, non-ambulance medical transportation services. (*Louisiana Register*, Volume 32, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2006 Emergency Rule.

This action is being taken to promote the health and welfare of recipients and to maintain access to non-emergency medical transportation services by encouraging the continued participation of these providers in the Medicaid Program.

Emergency Rule

Effective for dates of service on or after December 31, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the

reimbursement rate for non-emergency, non-ambulance medical transportation services by 5 percent of the rates in effect on August 31, 2006. Non-emergency medical transportation provided by friends and family is not included in this reimbursement rate increase.

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

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

Frederick P. Cerise, M.D., M.P.H.
Secretary

0612#080

DECLARATION OF EMERGENCY

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

Professional Services Program—Physician Services Concurrent Care

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49: 953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Human Resources, Office of Family Security adopted provisions limiting the coverage of inpatient hospital physician visits to one per day for each day of an eligible hospital admission (*Louisiana Register*, Volume 6, Number 11). The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing inpatient concurrent care services provided by physicians to Medicaid recipients under the age of 21 (*Louisiana Register*, Volume 18, Number 1). Concurrent care services are necessary when a patient's condition and diagnosis require the services of more than one physician at the same time to assure that the patient receives the appropriate standard of treatment. In compliance with Section 1905 of the Omnibus Budget Reconciliation Act of 1989, the bureau amended the provisions of the January 20, 1992 Rule governing concurrent care services by physicians for Medicaid beneficiaries up to age 21 (*Louisiana Register*, Volume 19, Number 6). The bureau now proposes to repeal the November 20, 1980 Rule and amend the January 20, 1992 Rule governing concurrent care services to allow for the

reimbursement of up to three inpatient evaluation and management services per day for recipients age 21 and over.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Medicaid Program and recipient access to providers of these medically necessary services. It is estimated that implementation of this Emergency Rule will increase expenditures for physician services by approximately \$9,525,797 for state fiscal year 2006-2007.

Emergency Rule

Effective for dates of service on or after January 1, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the November 20, 1980 Rule which limited the coverage of inpatient hospital physician visits to one per day for each day of an eligible hospital admission. The department also amends the provisions governing concurrent care to allow for the reimbursement of up to three medically necessary inpatient evaluation and management services by providers of different specialties per recipient, per day, for recipients age 21 and over.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0612#078

DECLARATION OF EMERGENCY

Department of Revenue Tax Commission

Ad Valorem Taxation

(LAC 61:V.101, 307, 309, 703, 705, 901, 907, 1103, 1307, 1503, 2501, 2503, 2901-2909, 3101, 3103, 3105, 3106, 3107, 3501, 3503, 3509, 3511, 3513, 3515, 3517, 3519, 3521, 3523, 3701, 3702)

The Louisiana Tax Commission, at its meeting of October 18, 2006, exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real/Personal Property Rules and Regulations.

This Emergency Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2007. Cost indexes required to finalize these assessment tables are not available to this office until late October 2006. The effective date of this emergency rule is January 1, 2007.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

A. - E. ...

F. Special Assessment Level

1. ...

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, as reported in the federal tax return for the year prior to the application for the special assessment, exceeds \$60,498 for tax year 2007 (2008 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:

Chapter 3. Real and Personal Property

§307. Personal Property Report Forms

A. - A.3. ...

4. LAT Form 7, Cellular Industry Form, should be furnished to all cellular industry companies doing business in the parish or taxing district.

5. LAT Form 8, Cable TV Industry Form, should be furnished to all cable television industry companies doing business in the parish or taxing district.

6. LAT Form 11, Watercraft Form, should be sent to owners of watercraft domiciled in the parish and to all owners operating watercraft out of the parish on the assessment date. This form should be used as a supplement to LAT Form 5 for companies that own such property but are not interstate towing or barge line companies, whose watercraft are assessed by the Tax Commission as public service properties.

7.a. LAT Form 11A, Watercraft-Outer Continental Shelf Waters Form, shall be furnished to all corporations, partnerships, sole proprietorships, joint ventures, partners in commendam, limited liability partnerships, limited liability corporations or individuals engaged in outer continental shelf waters operations, who shall submit said report form as follows:

i. local parish assessor;

ii. Department of Revenue and Taxation, Secretary (pursuant to Act 59 of 1994); and

iii. local tax collector.

b. All forms shall bear original signatures by the applicable taxpayer for certification purposes.

8. LAT Form 12, Oil and Gas Property Form, should be sent to any company, business or individual having such

property in the parish or taxing district. Refer to the oil and gas properties section (§903) for specific instructions on completion of this form.

9. LAT Form 13, Drilling Rig and Related Equipment Form, should be sent, in addition to LAT Form 5, to any company, business or individual having such property in the parish or taxing district. Refer to the drilling rigs and related equipment section (§1101) for specific instructions on completion of this form.

10. LAT Form 14, Pipelines Form, should be furnished to all companies owning and/or operating pipelines other than pipelines which are assessed as public service properties by the Tax Commission. This form is considered to be a supplement to LAT Form 5 and LAT Form 12. Refer to the pipelines section (§1301) for specific instructions on completion of this form.

11. LAT Form 15, Aircraft Form, should be furnished to all individuals, partnerships, corporations, associations, etc., owning and/or operating an aircraft in Louisiana as of the assessment date. This form is considered to be a supplement to LAT Form 5. Refer to the aircraft Section (§1501) for specific instructions on completion of this form.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 2:358 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 21:186 (February 1995), LR 33:

§309. Tax Commission Miscellaneous Forms

A. - G. ...

H. TC Form TC-TU01-A, Tulane Non-Exempt Property Report.

I. TC Form TC-TU01-B, Tulane Non-Exempt Property Report of the Pre-Exemption Property Values.

J. TC Form TC-TU02, Tulane University Exemption Allocation Report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1712, R.S. 47:1835, R.S. 47:1837, R.S. 47:1966, R.S. 47:1990, R.S. 47:1991 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 21:186 (February 1995), amended LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 27:424 (March 2001), LR 28:517 (March 2002), LR 30:487 (March 2004), LR 32:430 (March 2006), LR 33:

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2006	0.979	1	94	.92
2005	1.024	2	87	.89
2004	1.102	3	80	.88

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2003	1.140	4	73	.83
2002	1.159	5	66	.76
2001	1.166	6	58	.68
2000	1.176	7	50	.59
1999	1.197	8	43	.51
1998	1.201	9	36	.43
1997	1.211	10	29	.35
1996	1.231	11	24	.30
1995	1.249	12	22	.27
1994	1.294	13	20	.26

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2006	0.979	1	97	.95
2005	1.024	2	93	.95
2004	1.102	3	90	.99
2003	1.140	4	86	.98
2002	1.159	5	82	.95
2001	1.166	6	78	.91
2000	1.176	7	74	.87
1999	1.197	8	70	.84
1998	1.201	9	65	.78
1997	1.211	10	60	.73
1996	1.231	11	55	.68
1995	1.249	12	50	.62
1994	1.294	13	45	.58
1993	1.331	14	40	.53
1992	1.356	15	35	.47
1991	1.373	16	31	.43
1990	1.401	17	27	.38
1989	1.438	18	24	.35
1988	1.515	19	22	.33
1987	1.580	20	21	.33
1986	1.603	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:

§705. Tables—Watercraft

A. Table 705.A—140' - 159'

Table 705.A 140' - 159'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006 - 2002 .86	2001 - 1997 .72	1996 - 1992 .58	1991 - 1987 .44	1986 - Earlier .30
Supply Vessel (OSV)	\$4,500	\$1,400,000	1.14	1373	1149	926	703	479
Offshore Towing	\$3,300	\$1,400,000	0.97	1167	978	788	598	408

B. Table 705.B—160' - 179'

Table 705.B 160' - 179'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006 - 2002 .86	2001 - 1997 .72	1996 - 1992 .58	1991 - 1987 .44	1986 - Earlier .30
Supply Vessel (OSV)	\$5,000	\$2,400,000	1.21	2497	2091	1684	1278	871
Offshore Towing	\$5,000	\$2,400,000	1.21	2497	2091	1684	1278	871

C. Table 705.C—180' - 199'

Table 705.C 180' - 199'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006 - 2002 .86	2001 - 1997 .72	1996 - 1992 .58	1991 - 1987 .44	1986 - Earlier .30
Supply Vessel (OSV)	\$6,500	\$3,200,000	1.43	3935	3295	2654	2013	1373
Offshore Towing	\$6,250	\$3,200,000	1.39	3825	3203	2580	1957	1334

D. Table 705.D—180' - 199'

Table 705.D 180' - 199'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006 - 2002 .86	2001 - 1997 .72	1996 - 1992 .58	1991 - 1987 .44	1986 - Earlier .30
AHT Tug/Supp	\$6,500	\$3,750,000	1.43	4611	3861	3110	2360	1609

E. Table 705.E—200' - 219'

Table 705.E 200' - 219'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006 - 2002 .86	2001 - 1997 .72	1996 - 1992 .58	1991 - 1987 .44	1986 - Earlier .30
Supply Vessel (OSV)	\$8,500	\$5,400,000	1.71	7941	6649	5356	4063	2770
AHT Tug/Supp	\$8,000	\$5,400,000	1.64	7616	6376	5137	3897	2657
Offshore Towing	\$8,750	\$5,400,000	1.75	8127	6804	5481	4158	2835

F. Table 705.F—220' - 230'

Table 705.F 220' - 230'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006 - 2002 .86	2001 - 1997 .72	1996 - 1992 .58	1991 - 1987 .44	1986 - Earlier .30
Supply Vessel (OSV)	\$10000	\$6,400,000	1.93	10623	8893	7164	5435	3706
AHT Tug/Supp	\$14000	\$6,400,000	2.50	13760	11520	9280	7040	4800
Offshore Towing	\$9,000	\$6,400,000	1.78	9797	8202	6607	5012	3418

G. Table 705.G—231' and Longer

Table 705.G 231' and Longer								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
				.86	.72	.58	.44	.30
Supply Vessel (OSV)	\$11250	\$8,140,000	2.11	14770	12365	9961	7558	5153
AHT Tug/Supp	\$16300	\$8,140,000	2.83	19810	16584	13360	10137	6911

H. Table 705.H—60' - 70'

Table 705.H 60' - 70'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
				.86	.72	.58	.44	.30
Offshore Crew	\$600	\$312,000	1.10	295	248	199	151	103

I. Table 705.I—85' - 99'

Table 705.I 85' - 99'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
				.86	.72	.58	.44	.30
Offshore Crew	\$1,000	\$416,000	1.13	405	339	272	207	141

J. Table 705.J—100' - 119'

Table 705.J 100' - 119'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
				.86	.72	.58	.44	.30
Offshore Crew	\$2,500	\$884,000	1.33	1011	847	682	517	353
Utility Vessel	\$2,300	\$884,000	1.27	965	809	652	494	337

K. Table 705.K—120' - 140'

Table 705.K 120' - 140'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
				.86	.72	.58	.44	.30
Offshore Crew	\$2,900	\$1,248,000	1.23	1320	1106	891	675	460
Utility Vessel	\$2,500	\$1,248,000	1.13	1213	1016	818	620	423

L. Table 705.L—141' - 165'

Table 705.L 141' - 165'								
Type	2007 LAA Day Rate	Base Cost	Multiplier	2006	2001	1996	1991	1986
				2002	1997	1992	1987	Earlier
				.86	.72	.58	.44	.30
Offshore Crew	\$4,000	\$2,392,000	1.17	2407	2015	1624	1232	840
Utility Vessel	\$4,000	\$2,392,000	1.17	2407	2015	1624	1232	840

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:

Chapter 9. Oil and Gas Properties
§901. Guidelines for Ascertaining the Fair Market Value of Oil and Gas Properties

- A. - B.3. ...
 C. Explanations

* * *

Production Depth--is the depth from the surface to the active lower perforation in each producing zone in which the well is completed. As an example, a well completed in three separate zones is a triple completion and will have three different production depths as determined by the depth of the active lower perforation for each completion. Provided, however, that in the case of wells drilled with a minimum of 80 degrees deviation from vertical for a distance of at least 50 feet, *production depth* shall mean the true vertical distance from the surface of the earth to the lowest point in the formation that is penetrated by a horizontal lateral.

- D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 2:359 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 9:69 (February 1983), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 31:717 (March 2005), LR 33:

§907. Tables—Oil and Gas

- A. ...

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Producing Depths	Cost—New by depth, per foot		15% of Cost—New by depth, per foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	15.42	46.62	2.31	6.99
1,250-2,499 ft.	14.39	27.32	2.16	4.10
2,500-3,749 ft.	18.27	24.62	2.74	3.69
3,750-4,999 ft.	28.38	29.21	4.26	4.38
5,000-7,499 ft.	27.83	29.61	4.17	4.44
7,500-9,999 ft.	60.89	43.34	9.13	6.50
10,000-12,499 ft.	53.17	53.65	7.98	8.05
12,500-14,999 ft.	N/A	108.67	N/A	16.30
15,000-Deeper ft.	N/A	138.59	N/A	20.79

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Producing Depths	Cost—New by depth, per foot		15% of Cost—New by depth, per foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	186.98	121.55	28.05	18.23
1,250-2,499 ft.	97.70	226.09	14.66	33.91
2,500-3,749 ft.	96.47	154.15	14.47	23.12
3,750-4,999 ft.	70.77	120.96	10.62	18.14
5,000-7,499 ft.	86.53	101.74	12.98	15.26
7,500-9,999 ft.	102.81	99.35	15.42	14.90
10,000-12,499 ft.	119.99	105.29	18.00	15.79
12,500-14,999 ft.	131.60	132.79	19.74	19.92
15,000-17,499 ft.	215.81	173.56	32.37	26.03
17,500-19,999 ft.	215.66	226.64	32.35	34.00
20,000-Deeper ft.	184.09	355.33	27.61	53.30

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters*

Producing Depths	Cost—New by depth, per foot		15% of Cost—New by depth, per foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	N/A	N/A	N/A	N/A
1,250-2,499 ft.	516.47	544.41	77.47	81.66
2,500-3,749 ft.	299.82	410.71	44.97	61.61
3,750-4,999 ft.	299.77	422.88	44.97	63.43
5,000-7,499 ft.	283.82	332.95	42.57	49.94
7,500-9,999 ft.	277.72	298.87	41.66	44.83
10,000-12,499 ft.	368.39	302.23	55.26	45.33
12,500-14,999 ft.	392.48	280.02	58.87	42.00
15,000-17,499 ft.	222.45	343.97	33.37	51.60
17,500-Deeper ft.	N/A	318.87	N/A	47.83

a. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources. The listing of each well and their onshore/offshore status will also be posted on the Louisiana Tax Commission website on or before January 15 of each respective tax year.

- B. - B.1. Table. ...

2. Serial Number to Percent Good Conversion Chart

Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
2006	232639	Higher	96
2005	230643	232638	92
2004	229010	230642	88
2003	227742	229009	84
2002	226717	227741	80
2001	225352	226716	76
2000	223899	225351	72
1999	222882	223898	68
1998	221596	222881	64
1997	220034	221595	60
1996	218653	220033	56
1995	217588	218652	52
1994	216475	217587	48
1993	215326	216474	44
1992	214190	215325	40
1991	212881	214189	36
1990	211174	212880	32
1989	209484	211173	28
1988	207633	209483	24
1987	Lower	207632	20*
VAR.	900000	Higher	50

- B.3. -C.6.Tables ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR

17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission. LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29: 368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:

Chapter 11. Drilling Rigs and Related Equipment
§1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	627,800	94,200
4,000	729,500	109,400
5,000	908,000	136,200
6,000	1,219,000	182,900
7,000	1,554,500	233,200
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	1,914,400	287,200
9,000	2,298,800	344,800
10,000	2,707,700	406,200
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	3,141,100	471,200
12,000	3,598,900	539,800
13,000	4,081,200	612,200
14,000	4,587,900	688,200
15,000	5,119,200	767,900
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	5,674,900	851,200
17,000	6,255,000	938,300
18,000	6,859,700	1,029,000
19,000	7,488,800	1,123,300
20,000	8,142,400	1,221,400
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	8,820,400	1,323,100
25,000 +	9,584,100	1,437,600

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment

IC	200-299 FT.	40,000,000	6,000,000
	300-Up FT.	55,000,000	8,250,000

C. ...

D. Well Service Rigs Land Only (Good Condition)

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
I	72' X 125M# 75' X 150M#	6V71	217,875	32,680

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	295,750	44,400
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	346,500	51,980
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	409,500	61,430
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	393,750	59,100
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	490,000	73,500
VII	117' X 215M#	(2) 8V92 (2) 12V71	551,250	82,700

E. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines Onshore

Table 1307.A Current Costs for Other Pipelines Onshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	\$ 129,140	\$ 19,370
4	152,490	22,870
6	180,070	27,010
8	212,620	31,890
10	251,070	37,660
12	296,460	44,470
14	350,070	52,510
16	413,360	62,000
18	488,100	73,220
20	576,360	86,450
22	680,570	102,090
24	803,620	120,540
26	948,920	142,340

Table 1307.A Current Costs for Other Pipelines Onshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
28	1,120,500	168,080
30	1,323,090	198,460
32	1,562,320	234,350
34	1,844,800	276,720
36	2,178,360	326,750
38	2,572,230	385,830
40	3,037,310	455,600
42	3,586,480	537,970
44	4,234,950	635,240
46	5,000,670	750,100
48	5,904,840	885,730

B. Current Costs for Other Pipelines Offshore

Table 1307.B Current Costs for Other Pipelines Offshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
6	\$ 1,053,120	\$ 157,970
8	1,069,160	160,370
10	1,085,440	162,820
12	1,101,970	165,300
14	1,119,180	167,880
16	1,148,070	172,210
18	1,188,650	178,300
20	1,240,910	186,140
22	1,304,860	195,730
24	1,380,490	207,070
26	1,467,810	220,170
28	1,566,810	235,020
30	1,677,500	251,630
32	1,799,880	269,980
34	1,933,940	290,090
36	2,079,680	311,950
38	2,237,110	335,570
40	2,406,230	360,930
42	2,587,030	388,050
44	2,779,520	416,930
46	2,983,690	447,550
48	3,199,550	479,930

C. - Table[Note] ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Age	Percent Good	Composite Multiplier
2006	0.979	1	97	.95
2005	1.024	2	93	.95
2004	1.102	3	90	.99
2003	1.140	4	86	.98

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Age	Percent Good	Composite Multiplier
2002	1.159	5	82	.95
2001	1.166	6	78	.91
2000	1.176	7	74	.87
1999	1.197	8	70	.84
1998	1.201	9	65	.78
1997	1.211	10	60	.73
1996	1.231	11	55	.68
1995	1.249	12	50	.62
1994	1.294	13	45	.58
1993	1.331	14	40	.53
1992	1.356	15	35	.47
1991	1.373	16	31	.43
1990	1.401	17	27	.38
1989	1.438	18	24	.35
1988	1.515	19	22	.33
1987	1.580	20	21	.33
1986	1.603	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:

Chapter 25. General Business Assets
§2501. Guidelines for Ascertaining the Fair Market Value of Office Furniture and Equipment, Machinery and Equipment and Other Assets Used In General Business Activity

A. - B. ...

1. total acquisition costs of equipment including freight, installation, taxes and fees, as well as, date of purchase;

B.2. - F.1.d. ...

e. in the year in which the personal property has reached its minimum percent good, the applicable composite multiplier in use at that time is "frozen". For the assessment years that follow, the RCNLD value does not change until the personal property is permanently taken out of service. An exception to this rule applies when the property has been reconditioned to extend its remaining economic life.

F.2. - G.1.e. ...

f. in the year in which the personal property has reached its minimum percent good, the applicable composite multiplier in use at that time is "frozen". For the assessment years that follow, the RCNLD value does not change until the personal property is permanently taken out of service. An exception to this rule applies when the property has been reconditioned to extend its remaining economic life.

G.2. - H.2.e. ...

f. in the year in which the personal property has reached its minimum percent good, the applicable composite

multiplier in use at that time is "frozen". For the assessment years that follow, the RCNLD value does not change until the personal property is permanently taken out of service. An exception to this rule applies when the property has been reconditioned to extend its remaining economic life.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:719 (March 2005), LR 33:

§2503. Tables Ascertain Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. ...

Table 2503.A Suggested Guidelines for Ascertain Economic Lives of Business and Industrial Personal Property	
Business Activity/Type of Equipment	Average Economic Life in Years
Agricultural Machinery and Equipment	***
Feed Mill Equipment (Production Line)	20
Air Conditioning & Heat Repair	10
Air Conditioning Single Room Unit	8
Aircraft Parts Mfg. M&E	12

Amusement Devices (Music, Pinball Mach., etc.)	***
VCR and DVD Players	5

Amusement and Theme Parks	12
Antenna (ex. Mounted on Towers)for Telephone Cellular and CATV, etc.	8

Auto Parts Retail	10
Auto Quick Service	10
Auto Repair M & E	8
Diagnostic Equipment (Electronic)	5

Small Tools	5

Banks	
Alarm Systems	5

Vault Doors	25
Video Equipment	5

C.A.T.V. Equipment	

Headend Active (Equipment & Tower)	8
House Drops & Converters	3
P & E (Distribution)	10
Test Equipment and Tools	5
Tower	20
Cabinet Shop M & E	8

Cash Registers & Scanners (Also See Supermarkets)	5
Cellular Telephone Handset	3

Chiropractic Equipment	10

Cold Storage Warehouse Equipment	12
Compressors (General Business Assets Only)	12
Computers	
Desktops	3

Table 2503.A Suggested Guidelines for Ascertain Economic Lives of Business and Industrial Personal Property	
Business Activity/Type of Equipment	Average Economic Life in Years
Handhelds	3
Laptops	3
Main Frame	5
Midrange	5
Peripherals	3
Personal Computers	3
Servers	5

Construction M & E	

Mobile Telescopic	8

Converters (Residential Type)	3

Coolers	
Water (Installed/Water Fountain)	10
Water (Portable)	5
Water Bottles (5 gallon)	3
Copy Machines	3

Cotton Gins	12

Credit Card Machine (In Store Swipe-Type)	5
Credit Card Machines (See Supermarket POS)	

Day Care (Exclude Office, Kitchen and Computer Assets)	5

Digital Cameras & Recorders	5

Electronic Equipment	5

Fitness Equipment	
Manual	8
Electronic	5
Florist Retail (Except Computers and Other Office Equipment)	8

Gaming Equipment	

Lotto Machines	3

Garage M&E	8
General Contractor M&E	8

GPS Receivers (Hand Held)	3

Hospital and Nursing Home Equipment	***
High Tech (Computer Integrated) Equipment	3

Machine Shop M & E (Maintenance)	8
Machine Shop M & E (Production)	8

Medical Equipment	***
Computer Driven	5

Metal Sheet Fabrication	8

Movie (Film Making)	8

Music Studio Recording Equipment	5
Music Systems (Background)	5

Newspaper M&E	
Press	***
Photographic	***

Table 2503.A Suggested Guidelines for Ascertaining Economic Lives of Business and Industrial Personal Property	
Business Activity/Type of Equipment	Average Economic Life in Years
Other M&E	***
Nursing Home Equipment	
Mattresses	3
Nursing & Greenhouse M&E	***
Office Copy Machines, Faxes & Printers	3
Office Electronic Machines	5
Office F&F	12
Office Mailing Machines	***

Photography Equipment	8

Plumbing Shop Equipment	8

Portalets	5

Radio & Television	
Broadcasting Equipment	8

Digital Radio Equipment	5

Rental Equipment	
Public U-Rent (except heavy equipment)	5

Video Tape, DVD & Game Rental	3

Sheet Metal Fabrication	8

Supermarkets	

PA Systems (Public Address)	5
POS Computer Systems	3

Surveying Equipment (Also See Professional Equipment)	8

Theater	
Projection Equipment	8

Table 2503.A Suggested Guidelines for Ascertaining Economic Lives of Business and Industrial Personal Property	
Business Activity/Type of Equipment	Average Economic Life in Years

VCR & DVD Equipment (If Rental Units, See Rental)	5

Woodworking Shop M&E	8

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2006 = 100*
2006	1	1302.3	0.979
2005	2	1244.5	1.024
2004	3	1157.3	1.102
2003	4	1118.6	1.140
2002	5	1100.0	1.159
2001	6	1093.4	1.166
2000	7	1084.3	1.176
1999	8	1065.0	1.197
1998	9	1061.8	1.201
1997	10	1052.7	1.211
1996	11	1036.0	1.231
1995	12	1020.4	1.249
1994	13	985.0	1.294
1993	14	958.0	1.331
1992	15	939.8	1.356
1991	16	928.5	1.373
1990	17	910.2	1.401
1989	18	886.5	1.438
1988	19	841.4	1.515
1987	20	806.9	1.580
1986	21	795.4	1.603
1985	22	787.9	1.618
1984	23	776.4	1.642
1983	24	755.8	1.687
1982	25	742.4	1.717
1981	26	709.2	1.798

*Reappraisal Date: January 1, 2006 – 1274.8 (Base Year)

C. ...

D. Composite Multipliers 2007 (2008 Orleans Parish)

Table 2503.D Composite Multipliers 2007 (2008 Orleans Parish)								
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.69	.83	.88	.90	.92	.93	.95	.96
2	.50	.71	.81	.86	.89	.92	.95	.97
3	.37	.57	.74	.84	.88	.94	.99	1.02
4	.18	.39	.62	.76	.83	.90	.98	1.03
5		.27	.50	.67	.76	.85	.95	1.01
6		.21	.38	.57	.68	.79	.91	.98
7			.31	.46	.59	.73	.87	.95
8			.26	.36	.51	.66	.84	.93
9			.24	.29	.43	.59	.78	.90
10				.25	.35	.52	.73	.86
11				.25	.30	.46	.68	.84
12					.27	.39	.62	.80
13					.26	.34	.58	.78
14						.31	.53	.75
15						.28	.47	.71
16						.27	.43	.66

Table 2503.D								
Composite Multipliers								
2007 (2008 Orleans Parish)								
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
17							.38	.62
18							.35	.56
19							.33	.52
20							.33	.47
21							.32	.45
22								.42
23								.39
24								.34
25								.34
26								.36

D.1. - D.1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:

Chapter 29. Public Service Properties

§2901. Non-Operating or Non-Utility Property

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1853 and R.S. 47:1855.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:30 (February 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 19:212 (February 1993), repealed by the Department of Revenue, Tax Commission, LR 33:

§2903. Immovable Property of Electric Membership Corporations, Electric Power Companies, Gas Companies, Pipeline Companies, Railroad Companies, Telegraph Companies, Telephone Companies and Water Companies Assessed as Public Service Companies by the Louisiana Tax Commission

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1853 and R.S. 47:1855.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:30 (February 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 19:212 (February 1993), LR 20:198 (February 1994), repealed by the Department of Revenue, Tax Commission, LR 33:

§2905. Report of Values to the Assessor

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1853 and R.S. 47:1855.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:30 (February 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 19:212 (February 1993), repealed by the Department of Revenue, Tax Commission, LR 33:

§2907. Exceptions to Valuation or Allocation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1853 and R.S. 47:1855.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:30 (February 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 19:212 (February 1993), repealed by the Department of Revenue, Tax Commission, LR 33:

§2909. Appraisal of Public Service Properties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1853 and R.S. 47:1855.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), repealed by the Department of Revenue, Tax Commission, LR 33:

Chapter 31. Public Exposure of Assessments; Appeals

§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. ...

B. Each assessor shall publish the dates, time and place of the public exposure of the assessment lists of both real and personal property in a newspaper of general circulation in their respective parishes. Notice shall be published at least twice within a period of not sooner than 21 days nor later than seven days prior to the beginning of the 15 calendar day period of exposure.

C. - E. ...

F. The Parish Police Jury or Parish Council shall sit as the Board of Review. The Board of Review shall convene hearings within 10 days of its receipt of the certified rolls. The Board of Review shall conduct hearings for all persons or their representatives desiring to be heard on the assessments of immovable and movable property. On the fifteenth day after the Board of Review begins the public hearings, the assessment lists, together with any changes in connection therewith, shall be certified and sent to the Tax Commission within three days. R.S. 47:1992.

G. - K. ...

**Form 3101
Exhibit A
Appeal to Board of Review by Taxpayer
for Real and Personal Property**

Name: _____ Parish/District: _____
 Taxpayer
 Address: _____ City, State, Zip: _____
 Ward: _____ Assessment/Tax Bill Number: _____

Address or Legal Description of Property Being Appealed (Also, please identify building by place of business for convenience of appraisal)

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:

Land \$ _____ Improvement \$ _____ Personal Property* \$ _____
 Total \$ _____

I am requesting that the Fair Market Value of this property be fixed at:

Land \$ _____ Improvement \$ _____ Personal Property* \$ _____
 Total \$ _____

* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

Please notify me of the date, place and time of my appeal at the address shown below.

NOTE: If appellant disputes Board of Review's decision, appellant may appeal to La. Tax Commission by completing and submitting Appeal Form 3103.A to LTC within 10 days of postal date of BOR's written determination. For further information, call LTC at (225) 925-7830.

Appellant (Taxpayer/Taxpayer's Rep./Assessor)
 Address: _____

 Telephone No. _____

AUTHORITY NOTE: Promulgated in accordance with LSA-Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006), LR 33:

§3103. Appeals to the Louisiana Tax Commission

A. - B. ...

C. All initial filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form, and accompanied by a \$50 filing fee. All filings shall be in the form of an original and seven copies.

D. - N. ...

O. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude

evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

P. - T. ...

**Form 3103.A
Exhibit A
Appeal to Louisiana Tax Commission
by Taxpayer or Assessor
for Real and Personal Property**

L. Tax Commission
 P. O. Box 66788
 Baton Rouge, LA 70896
 (225) 925-7830

Name: _____ Parish/District: _____
 Taxpayer
 Address: _____ City, State, Zip: _____
 Board of Review

Ward: _____ Assessment Tax Bill No.: _____ Appeal No.: _____
 (Attach copy of complete appeal submitted to the Board of Review)
 Address or Legal Description of Property Being Appealed. Also, please identify building by place of business for convenience of appraisal.

I hereby appeal the decision of the Board of Review on the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my appeal as required by law.

The original Fair Market Value by the assessor was:

Land \$ _____ Improvement \$ _____ Total \$ _____

If you are appealing personal property*:

The original Fair Market Value by the assessor was:

\$ _____

The proposed Fair Market Value by the taxpayer was (at the Board of Review):

Land \$ _____ Improvement \$ _____ Total \$ _____

The revised Fair Market Value by the Board of Review was:

Land \$ _____ Improvement \$ _____ Total \$ _____

The Fair Market Value by the Board of Review was:

Personal Property: \$ _____

* If you are not appealing personal property leave this section blank.

I understand that property is assessed at a percentage of fair market value, which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller, under usual and ordinary circumstances, the highest price the property would bring on the open market, if exposed for sale for a reasonable time.

Appellant (Taxpayer/Taxpayer's Rep./Assessor)

Address: _____

Telephone No.: _____

Date of Appeal

U. - X. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:

§3105. Practice and Procedure for Public Service Properties Hearings

A. ...

B. All initial filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form,

and accompanied by a \$50 filing fee. All filings shall be in the form of an original and seven copies.

C. - N. ...

O. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

P. - T. ...

and accompanied by a \$50 filing fee. All filings shall be in the form of an original and seven copies.

C. At the close of the time period for filing protests, the commission shall assign each case to the docket and notify the parties of the time and place of the hearing.

D. Ten days prior to said hearings, the protesting taxpayer shall file a signed, pleading, specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and four copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer _____" and shall be consecutively numbered. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

E. Every taxpayer, witness, attorney or other representative shall conduct themselves in all proceedings with proper dignity, courtesy and respect for the hearing officer or the commission, and all other parties. Disorderly conduct will not be tolerated. Attorneys shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any taxpayer, witness, attorney or other representative may be excluded by the hearing officer or the commission of any hearing for such a period and upon such conditions as are just for violation of this rule.

F. Upon written notice by the commission, the parties and/or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise, prior to the hearings and/or prior to the setting of a date for a hearing, for the purpose of formulating issues and considering:

1. simplification of issues;
2. a limitation, where possible, of the number of witnesses;
3. possible consolidation of like protests;
4. the time required for presentations;
5. stipulations as to admissibility of exhibits;
6. submission of proposed findings of fact;
7. such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

G. Actions requested and agreed upon at the conference shall be recorded in an appropriate statement by the taxpayer and filed with the commission seven days prior to the hearing. In the event of a disagreement over any item discussed at the conference, the statement filed with the commission shall state the specific item as to which there is a disagreement, together with a brief summary of the nature of the disagreement.

H. A motion for consolidation of two or more protests, if made prior to hearing, shall be in writing, signed by the mover, his attorney or representative, and filed with the commission prior to the date set for the hearing. No two or more protests shall be consolidated or heard jointly without the consent of the taxpayer and by consent of the commission, unless the commission shall find that the two or more protest involve common questions of law and fact, and shall further find that separate hearings would result in unwarranted expenses, delays or substantial injustice.

LTC Docket No. _____

Form 3105.A
Exhibit A

L.a. Tax Commission
P. O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Appeal to Louisiana Tax Commission
by Taxpayer or Assessor
for Public Service Property

Name: _____ Parish/District: _____

Taxpayer

Address: _____ City, State, Zip: _____

Address or Legal Description of Property Being Appealed _____

I hereby appeal the decision of the Board of Review on the assessment of the above described property.

The Fair Market Value of the Louisiana Tax Commission is:

Land \$ _____ Improvement \$ _____

Personal Property* \$ _____ Total \$ _____

I am requesting that the Fair Market Value be fixed at:

Land \$ _____ Improvement \$ _____

Personal Property* \$ _____ Total \$ _____

* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

Appellant (Taxpayer/Taxpayer's Rep./Assessor)

Address: _____

Telephone No.: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:

§3106. Practice and Procedure for the Appeal of Bank Assessments

A. The Tax Commission or its designated representative, as provided by law, shall conduct hearings to consider the written protest of an appellant taxpayer. The appeal shall be filed within 30 days of the dated Certificate of Value to the taxpayer. In order to institute a proceeding before the commission, the taxpayer shall file Form 3106.A and, if applicable Form 3103.B.

B. All initial filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form,

I. All hearings shall be open to the public. All hearings shall be held in Baton Rouge, LA, unless the commission shall designate another place of hearing.

J. Hearings may be conducted by a hearing officer selected and appointed by the commission. The hearing officer shall have the authority to administer oaths, may examine witnesses and rule upon the admissibility of evidence and amendments to pleadings. The hearing officer shall have the authority to recess any hearing from day to day.

K. The hearing officer shall have the responsibility and duty of assimilating testimony and evidence, compiling a written summary of the testimony and evidence, and presenting a proposed order to the commission. The proposed order shall be served upon the protesting taxpayer by mailing of the notice of final decision by the commission.

L. The commission or hearing officer shall direct the taxpayer to enter their appearance on the record. In all proceedings, the protesting taxpayer shall open with a statement and/or argument. After the protesting taxpayer has presented all its evidence, the commission or hearing officer may call upon any witness or the staff of the commission for further material or relevant evidence upon any issue.

M. The commission shall provide an official reporter to make and transcribe a stenographic record of the hearing and shall provide for such copies of the transcript as may be requested by any party or as may be required for the purposes of the commission upon payment of the cost of transcribing the hearing.

N. Upon written notice by the commission the parties or their attorneys, or other representative, may be directed to file legal memorandums with the commission seven days prior to the hearing. The legal memorandum shall address in a concise manner the legal issues presented in the appeal to the commission together with a statement of any legal authority supporting the party's position.

O. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

P. Any party, with leave of the commission or hearing officer, may present prepared sworn deposition testimony of a witness, either narrative or in question and answer form, which shall be incorporated into the record as if read by the witness. The opposing party will be allowed to cross-examine the witness and/or submit any sworn testimony given by the witness in the deposition. Seven copies of the prepared deposition testimony shall be filed with the commission.

Q. The commission or hearing officer shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

R. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written motion of the taxpayer showing that there is good cause for the issuance of same. No subpoenas shall be issued until the taxpayer who wishes to

subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient.

S. The taxpayer/taxpayer agent and the assessor shall be notified in writing by certified mail of the final decision of the commission. The taxpayer or assessor shall have 30 days from receipt of the order to appeal to a court of competent jurisdiction.

T. The word "commission" as used herein refers to the chairman and the members or its delegate appointed to conduct the hearings.

LTC Docket No. _____

Form 3106.A LA Tax Commission
Appeal to Louisiana Tax Commission P.O. Box 66788
by Taxpayer Baton Rouge, LA 70896
for Bank Stock Assessments (225) 925-7830

Name: _____ Parish/District: _____
Taxpayer

Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Louisiana Tax Commission is:
\$ _____

I am requesting that the Fair Market Value be fixed at:
\$ _____

Appellant (Taxpayer/Taxpayer's Rep./Assessor)
Address: _____

Telephone No.: _____
Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:

§3107. Practice and Procedure for the Appeal of Insurance Credit Assessments

A. The Tax Commission or its designated representative, as provided by law, shall conduct hearings to consider the written protest of an appellant taxpayer. The appeal shall be filed within 30 days of the dated Certificate of Value to the taxpayer. In order to institute a proceeding before the commission, the taxpayer shall file Form 3107.A and, if applicable Form 3103.B.

B. All initial filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form, and accompanied by a \$50 filing fee, if any. All filings shall be in the form of an original and seven copies.

C. At the close of the time period for filing protests, the commission shall assign each case to the docket and notify the parties of the time and place of the hearing.

D. Ten days prior to said hearings, the protesting taxpayer shall file a signed, pleading, specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and four copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer _____" and shall be consecutively numbered. Legal memorandum submitted by the parties will

be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

E. Every taxpayer, witness, attorney or other representative shall conduct themselves in all proceedings with proper dignity, courtesy and respect for the hearing officer or the commission, and all other parties. Disorderly conduct will not be tolerated. Attorneys shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any taxpayer, witness, attorney or other representative may be excluded by the hearing officer or the commission of any hearing for such a period and upon such conditions as are just for violation of this rule.

F. Upon written notice by the commission, the parties and/or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise, prior to the hearings and/or prior to the setting of a date for a hearing, for the purpose of formulating issues and considering:

1. simplification of issues;
2. a limitation, where possible, of the number of witnesses;
3. possible consolidation of like protests;
4. the time required for presentations;
5. stipulations as to admissibility of exhibits;
6. submission of proposed findings of fact;
7. such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

G. Actions requested and agreed upon at the conference shall be recorded in an appropriate statement by the taxpayer and filed with the commission seven days prior to the hearing. In the event of a disagreement over any item discussed at the conference, the statement filed with the commission shall state the specific item as to which there is a disagreement, together with a brief summary of the nature of the disagreement.

H. A motion for consolidation of two or more protests, if made prior to hearing, shall be in writing, signed by the mover, his attorney or representative, and filed with the commission prior to the date set for the hearing. No two or more protests shall be consolidated or heard jointly without the consent of the taxpayer and by consent of the commission, unless the commission shall find that the two or more protest involve common questions of law and fact, and shall further find that separate hearings would result in unwarranted expenses, delays or substantial injustice.

I. All hearings shall be open to the public. All hearings shall be held in Baton Rouge, LA, unless the commission shall designate another place of hearing.

J. Hearings may be conducted by a hearing officer selected and appointed by the commission. The hearing officer shall have the authority to administer oaths, may examine witnesses and rule upon the admissibility of evidence and amendments to pleadings. The hearing officer shall have the authority to recess any hearing from day to day.

K. The hearing officer shall have the responsibility and duty of assimilating testimony and evidence, compiling a written summary of the testimony and evidence, and presenting a proposed order to the commission. The

proposed order shall be served upon the protesting taxpayer by mailing of the notice of final decision by the commission.

L. The commission or hearing officer shall direct the taxpayer to enter their appearance on the record. In all proceedings, the protesting taxpayer shall open with a statement and/or argument. After the protesting taxpayer has presented all its evidence, the commission or hearing officer may call upon any witness or the staff of the commission for further material or relevant evidence upon any issue.

M. The commission shall provide an official reporter to make and transcribe a stenographic record of the hearing and shall provide for such copies of the transcript as may be requested by any party or as may be required for the purposes of the commission upon payment of the cost of transcribing the hearing.

N. Upon written notice by the commission the parties or their attorneys, or other representative, may be directed to file legal memorandums with the commission seven days prior to the hearing. The legal memorandum shall address in a concise manner the legal issues presented in the appeal to the commission together with a statement of any legal authority supporting the party's position.

O. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

P. Any party, with leave of the commission or hearing officer, may present prepared sworn deposition testimony of a witness, either narrative or in question and answer form, which shall be incorporated into the record as if read by the witness. The opposing party will be allowed to cross-examine the witness and/or submit any sworn testimony given by the witness in the deposition. Seven copies of the prepared deposition testimony shall be filed with the commission.

Q. The commission or hearing officer shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

R. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written motion of the taxpayer showing that there is good cause for the issuance of same. No subpoenas shall be issued until the taxpayer who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient.

S. The taxpayer/taxpayer agent and the assessor shall be notified in writing by certified mail of the final decision of the commission. The taxpayer or assessor shall have 30 days from receipt of the Order to appeal to a court of competent jurisdiction.

T. The word "commission" as used herein refers to the chairman and the members or its delegate appointed to conduct the hearings.

**Form 3107.A
Appeal To Louisiana Tax Commission
by Taxpayer
for Insurance Assessments**

LA Tax Commission
P. O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____
Taxpayer

Address: _____ City, State, Zip: _____

Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Louisiana Tax Commission is:
\$ _____

I am requesting that the Fair Market Value be fixed at:
\$ _____

Appellant (Taxpayer/Taxpayer's Rep./Assessor)
Address: _____

Telephone No.: _____
Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:

Chapter 35. Miscellaneous

§3501. Service Fees—Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2006, and ending on June 30, 2008, in connection with services performed by the Tax Commission as follows:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:

§3503. Homestead Exemptions

A. - A.7.b. ...

8. Homestead exemptions are allowable in any year in which the owner occupied the home prior to December 31 of that year.

A.9. - C.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1064 (December 1990), amended LR 17:611 (June 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:320 (February 1999), LR 32:440 (March 2006), LR 33:

3509. Tulane University—Exemption Allocation Regulation

A. This Regulation shall be titled and known as "Tulane University—Exemption Allocation Regulation".

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1064 (December 1990), amended LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 33:

§3511. Tulane University—Purpose

A. - B.3. ...

C. Section 3509 allocates the \$5,000,000 exemption equitably among all Tulane University income producing property subject to ad valorem taxation in the state of Louisiana.

D. Louisiana Constitution, Article VII, Section 21 provides that all non-profit companies are exempt from property taxes.

E. The Supreme Court of Louisiana held in Board of Administrators of the Tulane Educational Fund vs. Louisiana Tax Commission consolidated with Thomas L. Arnold, Assessor, vs. Board of Administrators of the Tulane Educational Fund, dated January 30, 1998, denying an appeal of the decision of the Court of Appeal, Fourth Circuit, dated October 1, 1997, that non-income producing or vacant properties owned by a non-profit company are exempt from property taxes under the Louisiana Constitution. The Louisiana Attorney General agreed in Opinion Number 01-323, dated September 13, 2001.

F. Louisiana Constitution, Article VIII, Section 14, reconfirming Act No. 43 of July 21, 1884, provides that, in addition to Tulane's full exemption on properties used for educational purposes and properties that are non-income producing or vacant, Tulane is exempt from property taxes on its first \$5,000,000 in Fair Market Value of all income producing properties in Louisiana. This exemption was confirmed in the decision of the Civil District Court for the Parish of Orleans, Division "J", Case No. 89-14534, Board of Administrators of the Tulane Educational Fund vs. The Louisiana Tax Commission, dated April 19, 1990, which was never appealed and is therefore final. The Louisiana Tax Commission also confirmed this \$5,000,000 exemption in LTC Regulation No. 3509.

G. To administer this exemption, which extends throughout the state and requires coordination among all assessors, the Louisiana Tax Commission established LTC Regulation No. 3509 procedures to be followed by all assessors when assessing property owned by Tulane. The commission instructs each assessor to list each property owned by Tulane as exempt and, at the time the rolls are filed with the commission, all assessors shall deliver a list of all Tulane properties in their parish or municipal district that are not otherwise exempt from taxation pursuant to Louisiana law (i.e., not used for educational purposes or non-income producing). See: Memo of Louisiana Tax Commission to all Assessors, dated December 18, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:724 (March 2005), amended LR 33:

§3513. Tulane University—Definitions

A. For the purpose of this Section, the following definitions apply.

Allocation Formula—defined in LTC Regulation 3519.

Assessed Value (AV)—determined according to Louisiana law.

Commission—the Louisiana Tax Commission (sometimes referred to as "LTC").

Fair Market Value (FMV)—defined by Louisiana law.

FMV Each Improvement—the Fair Market Value of all buildings and improvements in each tax assessment. (Tax

assessors should issue one tax assessment amount for all buildings and improvements.)

FMV Each Land Parcel—the Fair Market Value of all land in each tax assessment included in Non-Exempt Property.

FMV Improvements Statewide—the total Fair Market Value of all buildings and improvements included in Non-Exempt Property.

FMV Land Statewide—the total Fair Market Value of all land included in Non-Exempt Property.

Improvement Assessment Ratio—for Commercial Properties, 15 percent of the Fair Market Value of the buildings and other improvements only and for Residential Properties, 10 percent of the Fair Market Value of the buildings and other improvements only.

Land Assessment Ratio—10 percent of the Fair Market Value of the land only.

Louisiana Tax Commission Form TC-TU01-A (Tulane Non-Exempt Property Report)—the form adopted by the Commission for Tulane University to provide its list of Non-Exempt Property.

Louisiana Tax Commission Form TC-TU01-B (Tulane Non-Exempt Property Report of the Pre-Exemption Property Values)—the form completed by the Tax Assessor to provide to Tulane University and the commission the Tax Assessor's proposed Fair Market Value and Assessed Value of Tulane University's Non-Exempt Property.

Louisiana Tax Commission Form TC-TU02 (Tulane University Exemption Allocation Report)—the form adopted by the commission in the form of a spreadsheet with formulas to be used for allocation of the Tulane Exemption.

Net Fair Market Value of a Property—the Fair Market Value of that property minus its Pro-rata Share.

Non-Exempt Property—any property owned by Tulane University in the state of Louisiana that is not exempt by Louisiana law for ad valorem tax purposes prior to application of the Tulane exemption.

Pro-Rata Share—that portion of the Tulane Exemption allocated to each Non-Exempt Property according to the Allocation Formula.

Tax Assessor—all tax assessors within the state of Louisiana, individually and/or jointly, whose jurisdiction includes property owned by Tulane University.

Tulane Exemption—the \$5,000,000 exemption as provided in Act 1884, No. 43.

Tulane Hearing Date—the first Wednesday and/or Thursday of each December shall be the commission hearing date for resolution of any property valuation issues, and/or allocation of the Tulane Exemption, and/or ordering issuance of supplements and change orders to the tax rolls. If after the closing of the rolls in all Louisiana parishes in which Tulane University owns Non-Exempt Property, there is no dispute as to the Fair Market Value of any Non-Exempt Property, the commission, at its discretion, may hold a hearing at an earlier date.

Tulane University—the Administrators of the Tulane Educational Fund, a Louisiana Non-Profit Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:724 (March 2005), amended LR 33:

§3515. Tulane University—General Rule

A. - D. ...

E. All Tax Assessors and related governmental entities shall use current, accurate property legal descriptions found in the public records for all real estate assessments, correspondence, and notices when complying with Section 3509.

F. All Tulane University property tax bills and related correspondence shall be sent to:

The Administrators of the Tulane Educational Fund
Office of the General Counsel
6823 St. Charles Avenue
New Orleans, Louisiana 70118

G. ...

H. All correspondence to each Tax Assessor related to Section 3509 shall be sent to its address as shown in the public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:725 (March 2005), amended LR 33:

§3517. Tulane University—Reporting and Valuation Procedure

A. ...

1. On or before June 30 of each year, Tulane University shall deliver, in writing, to the Commission and the Tax Assessor for each municipal district/parish in which Tulane University owns Non-Exempt Property a report on each Non-Exempt Property on Louisiana Tax Commission Form TC-TU01-A.

2. Each year, on or before the date the roll opens for public review and inspection, each Tax Assessor shall complete, sign and deliver to Tulane University and the Commission Louisiana Tax Commission Form TC-TU01-B for each property submitted on Louisiana Tax Commission Form TC-TU01-A and each property in such Tax Assessor's jurisdiction that the Tax Assessor intends to assess as Non-Exempt Property, showing the proposed Fair Market Value and Assessed Value of the land and of the improvements for each such property. The Tax Assessor shall determine one Assessed Value for the land and one Assessed Value for the improvements.

3. Should Tulane University agree with the Fair Market Value and Assessed Value of each Land Parcel and the Fair Market Value and Assessed Value of each Improvement proposed by the Tax Assessor, then Tulane University shall sign each form and forward it to the Commission and each respective Tax Assessor. Should Tulane University disagree with the Fair Market Value and Assessed Value of each Land Parcel and the Fair Market Value and Assessed Value of each Improvement proposed by the Tax Assessor, then Tulane University shall note its objection on each form and forward it to the Commission and each respective Tax Assessor.

4. All Tax Assessors may make reasonable inquiry of Tulane University in an effort to determine all property owned by Tulane University within the Tax Assessor's jurisdiction.

5. All Tax Assessors shall list all Non-Exempt Property as exempt and indicate the Tax Assessor's proposed Fair Market Value of each property in the tax rolls, until the

Allocation Formula is applied and approved by the Commission and the Tax Assessor receives a change order from the Commission.

6. In each Board of Review certification to the Commission, the Board of Review shall list all Non-Exempt Property as exempt and indicate the Board of Review's recommended Fair Market Value of each property in the tax rolls, until the Allocation Formula is applied and approved by the Commission and the Tax Assessor receives a change order from the Commission.

7. All Board of Review decisions on appeals of the proposed assessments by the Tax Assessor shall be delivered to the Commission according to standard procedures and deadlines as the Board of Review's recommended assessment.

8.a. On the Tulane Hearing Date of each year, the Commission shall:

i. hold all appeal hearings involving Non-Exempt Property;

ii. decide each appeal and issue written reasons for decisions on all such appeals; and

iii. allocate the Tulane Exemption across all Non-Exempt Property according to the Allocation Formula, and LTC Form TC-TU02, then order issuance of all supplements and change orders of the tax rolls to each reporting municipal district/parish, establishing the Land Parcel Assessed Value after Exemption and the Improvement Assessed Value after Exemption for each Non-Exempt Property.

b. Upon receipt of said change orders, the Tax Assessor shall adjust the tax rolls to reflect the commission's change orders.

9. Nothing in these regulations shall alter or diminish in any way Tulane University's right to appeal a proposed or actual assessment by any Tax Assessor or any decision or ruling of any Board of Review or the commission under the administrative and judicial remedies available to all taxpayers. The proposed assessment by the Tax Assessor, the Board of Review's recommended assessment, and the commission's determination shall be treated in the same manner as if the property were not marked exempt on the tax rolls and the proposed assessment was the Tax Assessor's final assessment on the tax rolls, the Board of Review's recommended assessment and/or the commission's determination was its final assessment decision.

10. Nothing in these regulations shall alter or diminish in any way Tulane University's right or any Tax Assessor's right to appeal, by all available administrative and judicial remedies the commission's allocation of the Tulane Exemption.

11. After allocation of the Tulane Exemption and issuance of the requisite supplements and change orders by the commission, the total amount of the Tulane Exemption allocated to each property (as shown in the column entitled "FMV Reduction by Exemption" of the Louisiana Tax Commission Form TC-TU02) shall remain unchanged thereafter and not be later readjusted, regardless of the outcome of subsequent appeals of valuation of assessments for that tax year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:725 (March 2005), amended LR 33:

§3519. Tulane University—Allocation Formula

A. - A.1. ...
a. (FMV Land Statewide) (x) (Land Assessment Ratio) (=) (Land Assessed Value Statewide)

b. (FMV Improvements Statewide) (x) (Improvement Assessment Ratio) (=) (Improvement Assessed Value Statewide)

c. (Land Assessed Value Statewide) (+) (Improvement Assessed Value Statewide) (=) (Total Assessed Value Statewide)

d. (Land Assessed Value Statewide) (÷) (Total Assessed Value Statewide) (=) (Land Exemption Percentage Statewide)

e. (Improvement Assessed Value Statewide) (÷) (Total Assessed Value Statewide) (=) (Improvement Exemption Percentage Statewide)

f. (Land Exemption Percentage Statewide) (x) (Tulane Exemption) (=) (Land Exemption Amount Statewide)

g. (Improvement Exemption Percentage Statewide) (x) (Tulane Exemption) (=) (Improvement Exemption Amount Statewide)

2. ...
a. (FMV each Land Parcel) (÷) (FMV Land Statewide) (=) (Land Parcel FMV %)

b. (Land Parcel FMV %) (x) (Land Exemption Amount Statewide) (=) (Land Parcel FMV Reduction by Exemption)

c. (FMV each Land Parcel) (-) (Land Parcel FMV Reduction by Exemption) (=) (Land Parcel FMV after Exemption Reduction)

d. (Land Parcel FMV after Exemption Reduction) (x) (Land Assessment Ratio) (=) (Land Parcel Assessed Value after Exemption)

3. ...
a. (FMV each Improvement) (÷) (FMV Improvements Statewide) (=) (Improvement FMV %)

b. (Improvement FMV %) (x) (Improvement Exemption Amount Statewide) (=) (Improvement FMV Reduction by Exemption)

c. (FMV each Improvement) (-) (Improvement FMV Reduction by Exemption) (=) (Improvement FMV after Exemption Reduction)

d. (Improvement FMV after Exemption Reduction) (x) (Improvement Assessment Ratio) (=) (Improvement Assessed Value after Exemption)

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:726 (March 2005), amended LR: 33:

§3521. Tulane University—Allocation Report

A. On the Tulane Hearing Date, the commission shall calculate and adopt the Allocation Formula and evidence its application on the report entitled Tulane University Exemption Allocation Report (LTC Form TC-TU02).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:726 (March 2005), amended LR 33:

§3523. Tulane University—Forms

A. ...

1. Louisiana Tax Commission Form TC-TU01-A, Tulane Non-Exempt Property Report.

2. Louisiana Tax Commission Form TC-TU01-B, Tulane Non-Exempt Property Report of the Pre-Exemption Property Values.

3. Louisiana Tax Commission Form TC-TU02, Tulane University Exemption Allocation Report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:726 (March 2005), amended LR 33:

Chapter 37. Reassessment Guidelines Pursuant to R.S. 47:1978 and 1978.1

§3701. Listing and Assessing of Overflowed Lands

A. Whenever lands or other property are overflowed by the waters of the Mississippi River, or by the waters of any other river, lake, bayou, or backwater, the assessors within whose parishes such lands or other property may be situated, shall reassess such lands or property for their actual cash value, and in so doing they shall specially take into consideration all the damages to the lands or property and the depreciation of the value of such land or property caused by the overflow. The assessors throughout the state shall make these reassessments whether the time fixed by law for filing assessment rolls has elapsed or not, and in case of reassessments, as provided by this Section, the assessor shall prepare supplemental rolls of overflowed lands and other overflowed property, which they shall file in the manner provided by law for general assessment rolls; such reassessment shall be subject to the same rights as to contest as to assessment generally.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1978 and R.S. 47:1978.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:

§3702. Listing and Assessing of Land and Property Damaged or Destroyed during a Disaster or Emergency Declared by the Governor or Fire

A. If lands or property, including buildings, structures, or personal property, are damaged or destroyed, non-operational, or uninhabitable due to an emergency declared by the governor or to a disaster or fire, the assessor or assessors within such parish shall assess such lands or property for the year in which damage has occurred at the percentage of fair market value provided in the Constitution of Louisiana by taking into consideration all the damages to the lands or other property, including obsolescence, and the depreciation of the value of such land or other property caused by the disaster, fire, or emergency described in this Section. Notwithstanding other provisions of law to the contrary, the assessor shall make these assessments whether the time fixed by law for filing assessment rolls has elapsed or not.

B. The assessments provided for in this Section and in §3701 shall be completed no later than six months following the implementation of §3701 or this Section. The Louisiana Tax Commission shall grant the assessor an additional six

months to complete the assessments referred to in §3701 or this Section upon a reasonable showing by the assessor that additional time is needed to complete the assessment of the property described in §3701 or this Section.

C. The assessor shall assess such damaged, destroyed, non-operational, or uninhabitable property in one of the following three manners.

1. The assessments of such property shall be reflected on the general assessment roll if at the time lands and other property are damaged, destroyed, non-operational, or uninhabitable due to an emergency declared by the governor or due to a disaster or fire, the general assessment roll has not been certified by the assessor to the local Board of Review. The procedures for public inspection of the general assessment rolls, review of assessments by the Board of Review, and certification of the assessment rolls to the Louisiana Tax Commission shall be followed. The rolls shall be open for public inspection for a period of 15 days, and the assessor shall advertise such public exposure dates and dates for board of review as provided for by existing law. If the dates provided for by existing law have expired, the assessor shall advertise new exposure dates and dates for the board of review even if those dates are not within the time period provided for by existing law.

2. If, at the time such lands and other property are damaged, destroyed, non-operational, or uninhabitable due to an emergency declared by the governor or due to a disaster or fire, the general assessment rolls have already been certified by the assessor to the local Board of Review, the assessor shall prepare a supplemental roll of land or property damaged or destroyed as the result of the events described in this Section, which rolls shall be filed in the same manner as provided for in this Section for general assessment rolls, and such assessments shall be subject to the same rights as to contest as to assessments generally.

3. If, after the filing of the assessment roll with the Louisiana Tax Commission, the assessor requests a change order as a result of the events described in this Section, such request for change order shall be signed by the assessor or his deputy and shall contain a declaration that the property owner agrees to the change in the assessment and that the property owner waives any right to further contest the correctness of the assessment. In the event the request for change order is not agreed upon by the assessor and the property owner, the assessor shall mail to the property owner the assessor's determination of the assessed value of the property. If the property owner is dissatisfied with the assessor's determination of assessed value, the property owner shall have 15 days from the mailing of the notification by the assessor of the determination of assessed value to contest the assessment to the Louisiana Tax Commission. All decisions by the Louisiana Tax Commission are final unless appealed to the district court within 15 days from the mailing of the decision of the Louisiana Tax Commission. If the assessor requests change orders in lieu of an original assessment roll or supplemental roll under this Section, the assessor shall submit an amended grand recap reflecting the changes in assessed values requested in such change orders.

D. The assessment provided for in this Section shall not be considered an implementation of the reappraisal and valuation provisions of Article VII, Section 18(F) of the

Constitution of Louisiana, nor shall such assessment result in the adjustment of ad valorem tax millages pursuant to Article VII, Section 23 of the Constitution of Louisiana.

E. The provisions of this Section shall apply to the Louisiana Tax Commission in the assessment of public service properties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1978 and R.S. 47:1978.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:

Elizabeth L. Guglielmo
Chairman

0612#060

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Homeless Initiative (LAC 67:III.5589)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt LAC 67:III, Subpart 15, Chapter 55, §5589, Homeless Initiative as a new TANF Initiative. This Emergency Rule effective December 1, 2006, will remain in effect for a period of 120 days.

Pursuant to Act 17 of the 2006 Regular Session of the Louisiana Legislature, the agency is adopting the Homeless Initiative to end the cycle of homelessness in Louisiana by stabilizing homeless families and aiding these families in establishing permanent housing and becoming self-sufficient.

The authorization for emergency action in this matter is contained in Act 17 of the 2006 Regular Session of the Louisiana Legislature.

Title 67 SOCIAL SERVICES Part III. Family Support

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

Chapter 55. TANF Initiatives

§5589. Homeless Initiative

A. Effective December 1, 2006, the Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to end the cycle of homelessness in Louisiana by providing services to homeless families which include but are not limited to comprehensive case management, educational and employment opportunities for adult participants, community referrals, life skill modules, housing options and direct services to provide for basic needs.

B. These services meet the TANF goals to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health

Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial parents, legal guardians, or caretaker relatives of minor children.

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

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 17, 2006 Reg. Session

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

Ann Silverberg Williamson
Secretary

0612#016

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Red Snapper Season Extension

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in its resolution of January 5, 2006 to re-open the fall commercial red snapper season in Louisiana state waters if the commercial season dates in the Federal waters of the Gulf of Mexico have been modified, and that NMFS requests that the season be modified in Louisiana state waters, the secretary hereby declares:

The commercial fishery for red snapper in Louisiana waters will be extended through noon, December 26, 2006 unless the secretary is informed by the Regional Administrator of the National Marine Fisheries Service that the season date in federal waters has been modified. Nothing herein shall preclude the legal harvest of red snapper by legally licensed commercial fishermen during the commercial season. Upon closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure provided that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by National Marine Fisheries Service that the commercial red snapper season in Federal waters of the Gulf of Mexico will remain open through noon, December 26, 2006. Closing the season in State waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

The commercial fishery for red snapper in Louisiana waters will re-open at noon, December 31, 2006, unless the Secretary is informed by the Regional Administrator of the

National Marine Fisheries Service that season dates in federal waters have been modified.

Nothing herein shall preclude the legal harvest of red snapper by legally licensed commercial fishermen during open commercial seasons. Upon closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure provided that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Bryant O. Hammett, Jr.
Secretary

0612#059

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of Fisheries

Invasive Noxious Aquatic Plants (LAC 76:VII.1101)

The Secretary of the Department of Wildlife and Fisheries does hereby exercise the emergency provision of the Administrative Procedure Act, R.S. 49:953(B). A Notice of Intent was filed in late October announcing the department's intent to promulgate rules to control, eradicate, and prevent the spread or dissemination within the state of Louisiana of all invasive noxious aquatic plants that pose a threat to the wildlife and fisheries resources of the state. Act 400 of the 2006 Legislative Session goes into effect on January 1, 2007 and abolishes the list of prohibited noxious, aquatic plants from R.S. 56:358(B). This Declaration of Emergency shall become effective January 1, 2007 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. The emergency procedure is necessary to ensure that there is a list of prohibited noxious, aquatic plants between January 1, 2007 and such time that the Rule goes into effect. The absence of a specific list of prohibited noxious, aquatic plants during this period of time will pose an imminent peril to the public health, safety and welfare. In addition to being a navigational impediment or hazard and providing a breeding ground for pests such as mosquitoes, noxious aquatic plants have a serious negative effect on the state's aquatic resources.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 11. Invasive Noxious Aquatic Plants

§1101. Invasive Noxious Aquatic Plants

A. Definitions. The following words and phrases for purposes of these regulations shall have the meaning ascribed to them in this section, unless the context wherein the particular word or phrase is used clearly indicates a different meaning:

Department—the Louisiana Department of Wildlife and Fisheries or an authorized employee of the Department.

Invasive Noxious Aquatic Plant Permit—the official document that identifies the terms of and allows for the

importation, transportation or possession of any of the listed prohibited aquatic plants.

Listed Plant—any of the listed invasive, noxious aquatic plants.

Permittee—person or organization that possesses a valid permit to possess, import or transport invasive noxious aquatic plants. A permittee may represent himself, a business, corporation or organization. The permittee is responsible for compliance with all stipulations in the permit.

Secretary—the Secretary of the Louisiana Department of Wildlife and Fisheries.

B. Importation, transportation and possession of invasive noxious aquatic plants; permit required.

1. No person shall at any time import or cause to be transported into the jurisdiction of the state of Louisiana, from any other state or country any of the invasive noxious aquatic plants listed below, without first obtaining an Invasive, Noxious Aquatic Plant permit from the department. Prohibited Invasive Noxious Aquatic Plants:

- a. *Eichhornia azurea* (rooting or anchoring hyacinth);
- b. *Elodea canadensis* (Elodea);
- c. *Hydrilla verticillata* (Hydrilla);
- d. *Lagarosiphon muscoides* and *Lagarosiphon major* (African Elodea);
- e. *Myriophyllum spicatum* (Eurasian watermilfoil);
- f. *Najas marina* (Marine naiad);
- g. *Najas minor* (Slender naiad);
- h. *Panicum repens* (torpedograss);
- i. *Pontederia rotundifolia* (Pickerelweed);
- j. *Spirodela oligorrhiza* (giant duckweed);
- k. *Trapa natans* (waterchestnut);
- l. *Melaleuca quinquenervia* (kapok tree);
- m. *Pistia stratiotes* (Water lettuce);
- n. *Salvinia spp.* (Salvinia);
- o. *Lythrum salicaria* (Purple loosestrife);
- p. *Eichhornia crassipes* (Water hyacinth);
- q. *Limnophila sessiliflora* (Asian marshweed);
- r. *Hygrophila polysperma* (Indian swampweed);
- s. *Solanum tampicense* (Aquatic soda apple or Wetland nightshade);
- t. *Urochloa mutica* (Paragrass);
- u. *Nymphoides indica* and *Nymphoides cristata* (Little floating hearts);
- v. *Rotala rotundifolia* (roundleaf toothcup);
- w. *Marsilea mutica* (Australian water clover);
- x. *Marsilea minuta* (Asian water clover).

C. Permits may be issued by the Secretary of the Department of Wildlife and Fisheries or his designee for the importation, transportation or possession of any invasive noxious aquatic plant for the purpose of conducting scientific investigations.

1. Application Requirements

a. Individuals wishing to import, transport, or possess any listed plant for the purpose of conducting scientific investigations in Louisiana must first request an Invasive Noxious Aquatic Plant permit from the department through an application form furnished by the department.

b. Site visits will be made to inspect the facility and determine if all possible safeguards have been taken to prevent escape into the natural habitat.

c. The department shall ensure that the applicant is furnished with a copy of the terms and conditions pertaining to the importation, transportation or possession of any of the listed plants.

d. The secretary or his designee shall notify the applicant in writing as to whether or not the permit has been granted and if not, the reasons therefore. In the event of disapproval, applicants may re-apply after meeting department requirements.

2. Terms and Conditions of Permit

a. Permits are not transferable from person to person or from site location to site location.

b. Specimens of the listed plant(s) shall be handled deliberately, cautiously, and in controlled settings to avoid contamination of state habitats.

c. Specimens shall be processed and grown within the confines of controlled facilities (growth chambers, greenhouses, laboratories, etc.).

d. Reproductive parts of plants (seeds, tubers, roots, etc.) that are collected in the field shall be transported in double zip lock bags such that the reproductive part cannot escape en route.

e. A U.S. Department of Agriculture (USDA) permit shall be required to import and possess specimens of prohibited plants from other countries and such plants shall be sent through a USDA inspection center at a port of entry as described by the USDA permit.

f. Before processing, the plants or plant parts shall be stored in a locked office or laboratory. Only qualified individuals shall have access to these materials.

g. Any part of the plant used for molecular work shall be subjected to a departmentally approved procedure that will render the plant material incapable of further growth or reproduction.

h. Specimens to be used for environmental studies (e.g., climate, shading, etc.) shall be grown in pots within the confines of growth chambers or greenhouses.

i. After the experimental work is completed, all plant materials, and the soil within the growth pots, and the pots shall be sterilized in some manner (e.g., autoclaved) to kill any remaining seeds or living plant material to render the plant material incapable of further growth or reproduction.

j. All collections by and shipments to or from the permittee shall be reported to the department one week prior to said collections or shipments. Information to be included shall be the type of material (whole plant, leaves, seeds, etc.) and the quantity collected or shipped.

k. The disposition of the plant material at the conclusion of the experimental work shall be reported to the department.

l. Personnel from the department shall have the authority to inspect the facility and operation with 24 hours notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:328 (C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 33:

Bryant O. Hammett, Jr.
Secretary

0612#058

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Initial Classification for New and Existing Schools and Instructional Staff (LAC 28:LXXIX.109, 110 and 303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to Nonpublic *Bulletin 741—Louisiana Handbook for Nonpublic School Administrators*: §303, Instructional Staff; §109, Initial Classification for Existing Schools; and §110, Initial Classification for New Schools. The revision to §303 allows a graduate of a foreign university to teach a foreign language if that language is his/her native tongue notwithstanding his/her college major. The teacher must also earn 12 semester hours of professional education courses within a three year period. The addition of §110 provides a policy for approving new nonpublic schools in the first year of operation. The revisions to §109 restrict that policy to existing nonpublic schools. BESE approved the revision to §303 as a means of providing more foreign language teachers more foreign language teachers for nonpublic schools. Section 110 was added at the request of the Nonpublic School Commission so that new nonpublic schools could be approved and receive funding in their first year of operation.

Title 28 EDUCATION

Part LXXIX. Louisiana Handbook for Nonpublic School Administrators—Programs of Study

Chapter 1. Operation and Administration

§109. Initial Classification for Existing Schools

A. Existing schools seeking initial approval must be classified as either approved or provisionally approved and must show evidence of one year of successful operation.

B. Existing schools seeking initial approval must report their October 1 enrollment along with an Annual School Report.

C. Upon receipt of the initial classification and BESE approval, Brumfield-Dodd approval may be requested through the Office of Communications and Legislative Services.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:3073 (December 2005), LR 32:1416 (August 2006), LR 32:2237 (December 2006).

§110. Initial Classification for New Schools

A. In January of the year prior to opening, the school must notify the DOE that the school will be opening the next August.

1. The school should complete a new school application form which will include information on staff credentials, school calendar, daily schedule, projected class size, projected student registrations, and other information to meet provisional approval.

2. The DOE will examine the information and give provisional approval by June.

B. After the school receives provisional approval, the DOE will provide information to the school concerning applying for Brumfield v Dodd approval.

C. In August, the DOE will allocate nonpublic textbook funds and transportation funds as applicable based on the registered student count and compliance with academic approval requirements and Brumfield v Dodd approval.

D. Beginning in August, the DOE will schedule site visits to verify that the school is open and in compliance.

E. Upon verification of compliance with all criteria, the DOE will release funds.

1. If the school fails to receive full academic approval or Brumfield v Dodd approval, the allocation will be removed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:2237 (December 2006).

Chapter 3. Certification of Personnel

§303. Instructional Staff

A. - A.3. ...

B. A secondary teacher may teach in areas other than the major field for a period of time that is less than one-half of the school day provided that he has earned at least 12 semester hours in each such area. (Exception may be made for teachers in trade and industrial education classes.) These teachers must hold a degree from a regionally accredited institution and have earned 12 semester hours of professional education courses.

1. A graduate of a foreign university or college, notwithstanding his/her major in college, may teach a foreign language if that language is his/her native tongue. The teacher must also earn 12 semester hours of professional education courses within a three year period.

C. - I.1. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:3075 (December 2005), LR 32:1417 (August 2006), LR 32:2237 (December 2006).

Weegie Peabody
Executive Director

0612#001

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.505, 507, 703 and 1301)

The Louisiana Student Financial Assistance Commission (LASFAC) amended its Scholarship/Grant Rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1). (SG0672R)

Title 28 EDUCATION

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

Chapter 5. Application; Application Deadlines, and Proof of Compliance

§505. Application Deadlines for High School Graduates and Home Study Completers of 2004 and Later and Eligible Non-Graduates

A. - A.3. ...

B. Deadline to Facilitate Timely Payment

B.1. - C.1. ...

2. Returning Students

a. Beginning with the 2002-2003 through the 2004-2005 academic year (college), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is May 1 of the academic year (college) he first enrolls as a full-time student in an eligible college or university.

b. Beginning with the 2005-2006 academic year (college), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of the student's initial FAFSA or the on-line application is the July 1 immediately preceding the academic year (college) he first enrolls as a full-time student in an eligible college or university.

3. - 3.c. ...

d. If a returning student graduates in the 2003-2004 academic year (high school) and will be a first-time student in the fall semester of 2006, the student must submit the initial FAFSA or the on-line application no later than July 1, 2007.

C.4. - E. ...

F. Renewal FAFSA

1.a. Through the 2004-2005 academic year (college), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by May 1 of each academic year (college) after initial eligibility is established.

b. Beginning with the 2005-2006 academic year (college), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by the July 1 immediately preceding each academic year (college) after initial eligibility is established.

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition are not required to submit a renewal FAFSA.

3.a. In the event of a budgetary shortfall, applicants who do not file a renewal FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

b. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition and do not want to be the first denied a TOPS award must file a renewal FAFSA so that it is received by the July 1 immediately preceding each academic year (college) after initial eligibility is established.

F.4. - G. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 30:2017 (September 2004), LR 31:37 (January 2005), LR 32:2238 (December 2006).

§507. Final Deadline for Submitting Documentation of Eligibility

A. LASFAC will continue to process eligibility for both new and renewal applicants during each award year until July 1 after the spring term of that award year.

B.1. Through the 2004-2005 academic year (college), all documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 2004-2005 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 2005.

2. Beginning with the 2005-2006 academic year (college), all documentation and certifications necessary to establish student initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later the July 1 immediately following the academic year (college) the student enrolls as a first-time, full-time student in an eligible college or university. For example, to receive an award for the 2006-2007 academic year (college), LASFAC must have in its possession all documents relevant to establishing eligibility by July 1, 2007.

C.1. Returning students, who graduated high school during the 2001-2002 academic years (high school) and who enroll in an eligible college or university in the spring semester 2003, must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

2. Returning students, who enroll in an eligible college or university in the fall semester of 2003 through the spring semester of 2005, must submit documentation that establishes TOPS eligibility no later than May 1 of the academic year (college) the student enrolls in an eligible

college or university. For example, a student who seeks to enroll in an eligible college or university in the fall semester of 2003 must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

3. Returning students, who enroll in an eligible college or university in the fall semester of 2005 or later, must submit documentation that establishes TOPS eligibility no later than July 1 immediately following the academic year (college) the student enrolls as a full-time student in an eligible college or university. For example, a student who seeks to enroll in an eligible college or university in the fall semester of 2006 must submit documentation that establishes TOPS eligibility no later than July 1, 2007.

D.1. A student who successfully completed an undergraduate degree prior to or during the 2001-2002 academic year (college) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1, 2004.

2. A student who successfully completes an undergraduate degree during the 2002-2003 through the 2004-2005 academic year (college) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1 of the academic year (college) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2003-2004 academic year (college), the student must submit the required documents no later than May 1, 2004.

3. A student who successfully completes an undergraduate degree during the 2005-2006 academic year (college) or later and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than July 1 immediately following the academic year (college) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2006-2007 academic year (college), the student must submit the required documents no later than July 1, 2007.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 30:1161 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 32:2238 (December 2006).

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

§703. Establishing Eligibility

A. - A.5.a.i.(d). ...

5.a.ii. for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

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

A.5.a.iii. - I.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999); LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006).

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. - E. ...

F. Reallocation of Funds. Uncommitted institutional allotted funds are reallocated if not committed by the deadline of November 1 for colleges and universities and campuses of Louisiana Technical College and January 1 for proprietary schools. The method of reallocation is dependent upon the amount of funds available for reallocation. If the reallocation amount is less than \$50,000, then only two- and four-year colleges and universities, which have fully committed their original allotment by the appropriate deadline, receive a reallocation. If \$50,000 or more is available for reallocation, it is reallocated to eligible schools of all types, which have fully committed their original allotment by the appropriate deadline.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999),

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RULE

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

START Savings Program
(LAC 28:VI.107, 305, 311 and 315)

The Louisiana Tuition Trust Authority has amended its START Savings Program (R.S. 17:3091 et seq.) Rules. (ST0674R)

**Title 28
EDUCATION**

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

Chapter 1. General Provisions

§107. Applicable Definitions

Variable Earnings—refers to that portion of funds in an ESA, invested in equities, bonds, short-term fixed income investments or a combination of any of the three.

Variable Earnings Transaction Fund—the subaccount established within the Louisiana Education Tuition and Savings Fund to receive funds as directed by rule.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006).

Chapter 3. Education Savings Account

§305. Deposits to Education Savings Accounts

A. - E.1. ...

2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.

a. Deposits by check will be assigned a trade date three business days after the business day during which they were received.

b. Deposits made by electronic funds transfer through the Automated Clearing House (ACH) Network, or its successor, will be assigned a trade date of three business days after the business day during which they were received.

c. Deposits made by all other means of electronic funds transfer will be assigned a trade date of one business day after the business day during which they were received.

3. Deposits for investment options that include variable earnings, which are received via check or electronic funds transfer through the Automated Clearing House Network, will be deposited into the fixed earnings option until the trade date. Earnings accrued on these deposits prior

to the trade date shall be deposited in the Variable Earnings Transaction Fund.

4. Deposits received on weekends and holidays will be considered received on the next business day.

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 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006).

**§311. Termination and Refund of an Education
Savings Account**

A. - C.2.b. ...

c. the deposits to or the current value of an account invested in a variable earnings option, whichever is less, less earning enhancements allocated to the account and earnings thereon if the account has been open for less than 12 months. Any increase in the value of an account invested in a variable earnings option over the amount deposited shall be forfeited by the account owner and deposited in the Variable Earnings Transaction Fund, if the account was invested in a variable earnings option and terminated within 12 months of the date the account was opened;

C.2.d. - H. ...

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 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006).

§315. Miscellaneous Provisions

A. - M.2. ...

3. Earnings reported by the state treasurer on deposits made by check or an ACH transfer, which is not honored by the financial institution on which it was drawn subsequent to the trade date, shall be forfeited by the account owner and deposited into the Variable Earnings Transaction Fund.

N. - R. ...

S. Variable Earnings Transaction Fund

1. Monies in the Variable Earnings Transaction Fund shall be used to pay any charges assessed to the START Saving Program by a financial institution and any loss of value between the purchase and redemption of units in a variable earnings option that are incurred when a check or ACH transfer is dishonored after the trade date by the financial institution on which it was drawn.

2. After the payment of expenses as provided in Paragraph 1, above, LATTAs may declare monies remaining in the Variable Earnings Transaction Fund as surplus. Such surplus shall be appropriated to the Saving Enhancement Fund to be used as earnings enhancements.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003),

amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006).

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0612#006

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Construction and Demolition Debris Tonnage Fee (LAC 33:VII.529)(SW041)

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 Solid Waste regulations, LAC 33:VII.529 (Log #SW041).

This Rule will promulgate the provisions of Act 718 of the 2006 Regular Session of the Louisiana Legislature regarding the imposition of a \$0.20 per ton disposal fee assessed on construction or demolition debris not otherwise exempted by the statute. Currently, the department incurs an annual cost of approximately \$755,000 for monitoring and maintaining construction and demolition debris solid waste facilities, but does not collect any fees to fund this cost. This rule authorizes the department to collect from each facility permitted as a construction or demolition debris landfill, as part of the annual monitoring and maintenance fee, a fee not exceeding \$0.20 per ton of construction or demolition debris deposited in the facility. This fee will only apply to construction or demolition debris that is subject to a fee imposed by the facility. Submittal of this fee is not due to the department until the invoicing for fiscal year 2007-2008. Recordkeeping of data on which invoicing will be based begins on July 1, 2006. An Emergency Rule to implement these provisions was effective on July 10, 2006, and published in the *Louisiana Register* on July 20, 2006. The basis and rationale for this rule are to promulgate the provisions of Act 718 of the 2006 Regular Session of the Louisiana Legislature and to ensure continued oversight and surveillance activities to prevent improper disposal of solid waste in order to protect public health and the environment.

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

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter D. Solid Waste Fees

§529. Annual Monitoring and Maintenance Fee

A. - B.2.b. ...

c. for construction or demolition debris deposited at permitted construction or demolition debris facilities (Type

III facilities), \$0.20/ton; and the fee is only applicable to construction or demolition debris that is subject to a fee imposed by the facility;

d. for surface impoundments, no tonnage fee;

e. for publicly operated facilities that treat domestic sewage sludge, no tonnage fee; and

f. for Type I-A, II-A, III (except construction or demolition debris disposal facilities), and beneficial-use facilities, no tonnage fee.

B.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 2014(D)(5).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:2241 (December 2006).

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0612#026

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Expedited Penalty Agreement (LAC 33:I.801, 803, 805, and 807)(OS054)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Office of the Secretary regulations, LAC 33:I.801, 803, 805, and 807 (Log #OS054).

Delays in enforcement actions reduce the effectiveness of the department, unnecessarily utilize resources, and slow down the enforcement process. In the past three years, the department has received 8,139 referrals and has issued 4,259 actions. Current budget and resource issues pose a danger of imminent impairment to the department's ability to address minor and moderate violations. This rule will provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases. The department issued an emergency rule to set up a pilot program for the process on March 10, 2004. The department has determined, through data gathered during the pilot program, that the trial period should end and a permanent program for assessing expedited penalties (XPs) should be established. The report to the Governor by the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality recommended this action as a pilot program. The legislature approved the report and passed Act 1196 in the 2003 Regular Session of the Louisiana Legislature allowing the department to promulgate rules for the program. This rule formalizes the directive set forth in Act 1196. The basis and rationale for this rule are to abate the delay in correcting minor and moderate violations of the Environmental Quality

Act to achieve expeditious protection of public health and the environment.

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

Title 33
ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures
Chapter 8. Expedited Penalty Agreement

§801. Definitions

Agency Interest Number—a site-specific number assigned to a facility by the department that identifies the facility in a distinct geographical location.

Expedited Penalty Agreement—a predetermined penalty assessment issued by the department and agreed to by the respondent, which identifies violations of minor or moderate gravity as determined by LAC 33:I.705, caused or allowed by the respondent and occurring on specified dates, in accordance with R.S. 30:2025(D).

LPDES General Permit—for the purposes of this Chapter, any Louisiana Pollutant Discharge Elimination System Permit in the LAG530000, LAG540000, LAG750000, LAR050000, or LAR100000 series.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2242 (December 2006).

§803. Purpose

A. The purpose of this Chapter is to provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty assessments in appropriate cases. This Chapter:

1. addresses common violations of minor or moderate gravity;
2. quantifies and assesses penalty amounts for common violations in a consistent, fair, and equitable manner;
3. ensures that the penalty amounts are appropriate, in consideration of the nine factors listed in R.S. 30:2025(E)(3)(a);
4. eliminates economic incentives for noncompliance for common minor and/or moderate violations; and
5. ensures expeditious compliance with environmental regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2242 (December 2006).

§805. Applicability

A. Limit of Penalty Amount. The total penalty assessed for the expedited penalty agreement shall not exceed \$1,500 for one violation or \$3,000 for two or more violations.

B. Departmental Discretion. The secretary of the department or his designee, at his sole discretion, may propose an expedited penalty agreement for any violation described in LAC 33:I.807.A and considered in accordance with Subsection E of this Section. The expedited penalty

agreement shall specify that the respondent waives any right to an adjudicatory hearing or judicial review regarding violations identified in the signed expedited penalty agreement. The respondent must concur with and sign the expedited penalty agreement in order to be governed by this Chapter and R.S. 30:2025(D).

C. Notification to the Respondent. The expedited penalty agreement shall serve as notification to the respondent of the assessed penalty amount for the violations identified on the specified dates.

D. Certification by the Respondent. By signing the expedited penalty agreement, the respondent certifies that all cited violations in the expedited penalty agreement have been or will be corrected, and that the assessed penalty amount has been or will be paid, within 30 days of receipt of the expedited penalty agreement.

E. Nine Factors for Consideration. An expedited penalty agreement may be used only when the following criteria for the nine factors for consideration listed in R.S. 30:2025(E)(3)(a) are satisfied.

1. The History of Previous Violations or Repeated Noncompliance. The violation identified in the expedited penalty agreement is not the same as or similar to a violation that occurred within the previous two years at the facility under the same agency interest number, and that was identified in any compliance order, penalty assessment, settlement agreement, or expedited penalty agreement issued to the respondent by the department. Site-specific enforcement history considerations will only apply to expedited penalty agreements.

2. The Nature and Gravity of the Violation. The violation identified is considered to be minor or moderate with regard to its nature and gravity.

a. The violation identified in the expedited penalty agreement deviates somewhat from the requirements of statutes, regulations, or permit; however, the violation exhibits at least substantial implementation of the requirements.

b. The violation identified is isolated in occurrence and limited in duration.

c. The violation is easily identifiable and corrected.

d. The respondent concurs with the violation identified and agrees to correct the violation identified and any damages caused or allowed by the identified violation within 30 days of receipt of the expedited penalty agreement.

3. The Gross Revenues Generated by the Respondent. By signing the expedited penalty agreement, the respondent agrees that sufficient gross revenues exist to pay the assessed penalty and correct the violation identified in the expedited penalty agreement within 30 days of receipt of the expedited penalty agreement.

4. The Degree of Culpability, Recalcitrance, Defiance, or Indifference to Regulations or Orders. The respondent is culpable for the violation identified, but has not shown recalcitrance, defiance, or extreme indifference to regulations or orders. Willingness to sign an expedited penalty agreement and correct the identified violation within the specified time frame demonstrates respect for the regulations and a willingness to comply.

5. The Monetary Benefits Realized Through Noncompliance. The respondent's monetary benefit from

noncompliance for the violation identified shall be considered. The intent of these regulations is to eliminate economic incentives for noncompliance.

6. The Degree of Risk to Human Health or Property Caused by the Violation. The violation identified does not present actual harm or substantial risk of harm to the environment or public health. The violation identified is isolated in occurrence or administrative in nature, and the violation identified has no measurable detrimental effect on the environment or public health.

7. Whether the Noncompliance or Violation and the Surrounding Circumstances Were Immediately Reported to the Department and Whether the Violation or Noncompliance Was Concealed or There Was an Attempt to Conceal by the Person Charged. Depending upon the type of violation, failure to report may or may not be applicable to this factor. If the respondent concealed or attempted to conceal any violation, the violation shall not qualify for consideration under these regulations.

8. Whether the Person Charged Has Failed to Mitigate or to Make a Reasonable Attempt to Mitigate the Damages Caused by the Noncompliance or Violation. By signing the expedited penalty agreement, the respondent states that the violation identified and the resulting damages, if any, have been or will be corrected. Violations considered for expedited penalty agreements are, by nature, easily identified and corrected. Damages caused by any violation identified are expected to be nonexistent or minimal.

9. The Costs of Bringing and Prosecuting an Enforcement Action, Such as Staff Time, Equipment Use, Hearing Records, and Expert Assistance. Enforcement costs for the expedited penalty agreement are considered minimal. Enforcement costs for individual violations are covered with the penalty amount set forth for each violation in LAC 33:I.807.

F. Schedule. The respondent must return the signed expedited penalty agreement and payment for the assessed amount to the department within 30 days of the respondent's receipt of the expedited penalty agreement. If the department has not received the signed expedited penalty agreement and payment for the assessed amount by the close of business on the thirtieth day after the respondent's receipt of the expedited penalty agreement, the expedited penalty agreement may be withdrawn at the department's discretion.

G. Extensions. If the department determines that compliance with the cited violation is technically infeasible or impracticable within the initial 30-day period for compliance, the department, at its discretion, may grant additional time in order for the respondent to correct the violation cited in the expedited penalty agreement.

H. Additional Rights of the Department

1. If the respondent signs the expedited penalty agreement, but fails to correct the violation identified, pay the assessed amount, or correct any damages caused or allowed by the cited violation within the specified time frame, the department may issue additional enforcement actions, including but not limited to, a civil penalty assessment, and may take any other action authorized by law to enforce the terms of the expedited penalty agreement.

2. If the respondent does not agree to and sign the expedited penalty agreement, the department shall consider the respondent notified that a formal civil penalty is under consideration. The department may then pursue formal enforcement action against the respondent in accordance with R.S. 30:2025(C), 2025(E), 2050.2, and 2050.3.

I. Required Documentation. The department shall not propose any expedited penalty agreement without an affidavit, inspection report, or other documentation to establish that the respondent has caused or allowed the violation to occur on the specified dates.

J. Evidentiary Requirements. Any expedited penalty agreement issued by the department shall notify the respondent of the evidence used to establish that the respondent has caused or allowed the violation to occur on the specified dates.

K. Public Enforcement List. The signed expedited penalty agreement is a final enforcement action of the department and shall be included on the public list of enforcement actions referenced in R.S. 30:2050.1(B)(1).

L. Date of Issuance. When an expedited penalty agreement is issued in conjunction with a Notice of Potential Penalty, the issuance date shall be the date on the document of initial signature by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2242 (December 2006).

§807. Types of Violations and Expedited Penalty Amounts

A. The types of violations listed in the following table may qualify for coverage under this Chapter; however, any violation listed below, which is identified in an expedited penalty agreement, must also meet the conditions set forth in LAC 33:I.805.E.

Expedited Penalties			
Violation	Citation	Amount	Frequency
ALL MEDIA			
Failure to provide timely notification for the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition.	LAC 33:I.3917.A	\$500	Per occurrence
Failure to provide prompt notification of any unauthorized discharge that results in the contamination of the groundwaters of the state or that otherwise moves in, into, within, or on any saturated subsurface strata in accordance with LAC 33:I.3923.	LAC 33:I.3919.A	\$500	Per occurrence
Failure to provide timely written notification of the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition.	LAC 33:I.3925.A	\$500	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
AIR QUALITY			
40 CFR Part 70 General Permit conditions (Part K, L, M, or R): Failure to timely submit any applicable annual, semiannual, or quarterly reports.	LAC 33:III.501.C.4	\$500	Per occurrence
Failure to submit an Annual Criteria Pollutant Emissions Inventory in a timely and complete manner when applicable.	LAC 33:III.919	\$500	Per occurrence
Failure to submit an Annual Toxic Emissions Data Inventory in a timely and complete manner when applicable.	LAC 33:III.5107	\$500	Per occurrence
Control of Fugitive Emissions, sandblasting facilities: Failure to take all reasonable precautions to prevent particulate matter from becoming airborne.	LAC 33:III.1305.A	\$250	Per occurrence
Failure to provide notice of change of ownership within 45 days after the change.	LAC 33:III.517.G	\$200	Per occurrence
Failure to timely submit any applicable Specific Condition or General Condition report as specified in a minor source permit.	LAC 33:III.501.C.4	\$250	Per occurrence
Failure to timely submit any applicable Specific Condition or General Condition report (other than those specified elsewhere in this Section) as specified in a Part 70 (Title V) air permit.	LAC 33:III.501.C.4	\$350	Per occurrence
Failure to submit an updated Emission Point List, Emissions Inventory Questionnaire (EIQ), emissions calculations, and certification statement as described in LAC 33:III.517.B.1 within seven calendar days after effecting any modification to a facility authorized to operate under a standard oil and gas permit.	LAC 33:III.501.C.4	\$750	Per occurrence/ emission point
Failure to submit the Title V permit renewal application at least six months prior to the date of expiration, applicable only when the renewal application is submitted prior to permit expiration and a renewal permit is issued on or before the expiration date.	LAC 33:III.507.E.4	\$1,000	Per occurrence
Failure to maintain records for glycol dehydrators subject to LAC 33:III.2116.	LAC 33:III.2116.F	\$250	Per occurrence
Failure to submit an initial perchloroethylene inventory report.	LAC 33:III.5307.A	\$250	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to submit a perchloroethylene usage report by July 1 for the preceding calendar year.	LAC 33:III.5307.B	\$250	Per occurrence
Stage II Vapor Recovery			
Note: LAC 33:III.2132 is only applicable to subject gasoline dispensing facilities in the parishes of Ascension, East Baton Rouge, West Baton Rouge, Iberville, Livingston, and Pointe Coupee.			
Failure to submit an application to the administrative authority prior to installation of the Stage II vapor recovery system.	LAC 33:III.2132.B.6	\$500	Per occurrence
Failure to have at least one person trained as required by the regulations.	LAC 33:III.2132.C	\$300	Per occurrence
Failure to test the vapor recovery system prior to start-up of the facility and annually thereafter.	LAC 33:III.2132.D	\$750	Per occurrence
Failure to post operating instructions on each pump.	LAC 33:III.2132.E	\$100	Per occurrence
Failure to maintain equipment and tag defective equipment "out of order."	LAC 33:III.2132.F.1 and 3-4	\$500	Per inspection
Failure to perform daily inspections and accurately record results.	LAC 33:III.2132.F.2	\$300	Per inspection
Failure to maintain records on-site for at least two years and present them to an authorized representative upon request.	LAC 33:III.2132.G.1-7	\$300	Per compliance inspection
Failure to use and/or diligently maintain, in proper working order, all air pollution control equipment installed at the site.	LAC 33:III.905	\$100	Per occurrence
HAZARDOUS WASTE			
Used Oil			
Failure of a used oil generator to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4013.E	\$500	Per occurrence
Failure of a used oil transfer facility to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4035.H	\$500	Per occurrence
Failure of a used oil processor or re-refiner to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4049.G	\$500	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure of a used oil burner to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4069.G	\$500	Per occurrence
SOLID WASTE			
Failure to report any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land.	LAC 33:VII.315.K	\$500	Per occurrence
Waste Tires			
Storage of more than 20 whole tires without authorization from the administrative authority.	LAC 33:VII.10509.B	\$200	Per occurrence
Transporting more than 20 tires without first obtaining a transporter authorization certificate.	LAC 33:VII.10509.C	\$200	Per occurrence
Storing tires for greater than 365 days.	LAC 33:VII.10509.E	\$200	Per occurrence
Failure to maintain all required records for three years on-site or at an alternative site approved in writing by the administrative authority.	LAC 33:VII.10509.G	\$200	Per occurrence
Failure to obtain a waste tire generator identification number within 30 days of commencing business operations.	LAC 33:VII.10519.A	\$300	Per occurrence
Failure to accept one waste tire for every new tire sold unless the purchaser chooses to keep the waste tire.	LAC 33:VII.10519.B	\$100	Per occurrence
Failure to remit waste tire fees to the state on a monthly basis as specified.	LAC 33:VII.10519.D	\$100	Per occurrence
Failure to post required notifications to the public.	LAC 33:VII.10519.E	\$100	Per occurrence
Failure to list the waste tire fee on a separate line on the invoice so that no tax will be charged on the fee.	LAC 33:VII.10519.F	\$100	Per occurrence
Failure to keep waste tires or waste tire material covered as specified.	LAC 33:VII.10519.H	\$200	Per occurrence
Failure to segregate waste tires from new or used tires offered for sale.	LAC 33:VII.10519.M	\$200	Per occurrence
Failure to provide a manifest for all waste tire shipments containing more than 20 tires.	LAC 33:VII.10533.A	\$200	Per occurrence
Failure to maintain completed manifests for three years and have them available for inspection.	LAC 33:VII.10533.D	\$200	Per occurrence
Failure to collect appropriate waste tire fee for each new tire sold.	LAC 33:VII.10519.C, 10535.B	\$200	Per occurrence
Failure to submit application and fees for transporter authorization.	LAC 33:VII.10523.A	\$300	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to use a manifest when transporting greater than 20 waste tires.	LAC 33:VII.10523.C	\$200	Per occurrence
Failure of transporter to transport all waste tires to an authorized collection center or a permitted processing facility.	LAC 33:VII.10523.D	\$300	Per occurrence
Failure of out-of-state or out-of-country transporter to comply with state waste tire regulations.	LAC 33:VII.10523.E	\$200	Per occurrence
Failure to provide notification in writing within 10 days when any information on the authorization certificate form changes, or if the business closes and ceases transporting waste tires.	LAC 33:VII.10523.G	\$100	Per occurrence
Failure by a collector or collection center to follow the requirements for receipt of tires.	LAC 33:VII.10527.A	\$200	Per occurrence
Failure of collection center operator to meet the standards in LAC 33:VII.10525.D.1-10 and 12-24.	LAC 33:VII.10527.B	\$300	Per occurrence
Failure of recycler to provide notification of its existence and obtain an identification number.	LAC 33:VII.10531.A	\$300	Per occurrence
Failure of waste tire or waste tire material recycler to meet the requirements of LAC 33:VII.10525.D.	LAC 33:VII.10531.B	\$300	Per occurrence
Failure to follow the requirements for manifest discrepancies.	LAC 33:VII.10533.C	\$300	Per occurrence
WATER QUALITY			
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$200 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$300 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$500 and completion of a department-sponsored compliance class	More than 10 violations

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to develop and/or implement a Spill Prevention and Control Plan (SPC):			
1. Failing to develop an SPC plan for any applicable facility.	LAC 33:IX.905	\$500	Per occurrence
2. Failing to implement any component of an SPC plan.	LAC 33:IX.905	\$100	Per occurrence
Failure to submit certain reports as required by any LPDES permit not previously defined as an LPDES General Permit in LAC 33:1.801, including noncompliance reports, storm water reports, pretreatment reports, biomonitoring reports, overflow reports, construction schedule progress reports, environmental audit reports as required by a municipal pollution prevention plan, and toxicity reduction evaluation reports.	LAC 33:IX.2701.A	\$300	Per required submittal
Failure to prepare and/or implement any portion or portions of a Storm Water Pollution Prevention Plan (SWPPP), Pollution Prevention Plan (PPP), or Best Management Practices/Plan (BMP) as required by any LPDES permit not previously defined as an LPDES General Permit in LAC 33:1.801.	LAC 33:IX.2701.A	\$500	Per occurrence
Failure to submit a Notice of Intent for coverage under the LAR050000 or LAR100000 LPDES Storm Water General Permit.	LAC 33:IX.2511.C.1	\$1,000	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Unauthorized discharge of oil field wastes, including produced water.	LAC 33:IX.1901.A	\$1,000	Per occurrence
Unauthorized discharge of oily fluids.	LAC 33:IX.1701.B	\$1,000	Per occurrence
UNDERGROUND STORAGE TANKS			
Failure to register an existing or new UST containing a regulated substance.	LAC 33:XI.301.A-B	\$300	Per inspection
Failure to certify and provide required information on the department's approved registration form.	LAC 33:XI.301.B.1-2	\$300	Per inspection
Failure to provide notification within 30 days after selling a UST system or acquiring a UST system; failure to keep a current copy of the registration form on-site or at the nearest staffed facility.	LAC 33:XI.301.C.1-3	\$300	Per inspection
Failure to provide corrosion protection to tanks that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.1	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to piping that routinely contains regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$250 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to flex hoses and/or sub-pumps that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$100 and completion of a department-sponsored compliance class	Per inspection
Failure to provide spill and/or overflow prevention equipment as specified.	LAC 33:XI.303.B.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to upgrade an existing UST system to new system standards as specified.	LAC 33:XI.303.C	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to pay fees by the required date.	LAC 33:XI.307.D	\$200	Per inspection
Failure to report, investigate, and/or clean up any spill and overflow.	LAC 33:XI.501.C	\$1,500	Per inspection
Failure to continuously operate and maintain corrosion protection to the metal components of portions of the tank and piping that routinely contain regulated substances and are in contact with the ground or water.	LAC 33:XI.503.A.1	\$300 and completion of a department-sponsored compliance class	Per inspection

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to have a UST system equipped with a cathodic protection system inspected for proper operation as specified.	LAC 33:XI.503.A.2	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to inspect a UST system with an impressed current cathodic protection system every 60 days to ensure that the equipment is running properly.	LAC 33:XI.503.A.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with recordkeeping requirements.	LAC 33:XI.503.B	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to meet requirements for repairs to UST systems.	LAC 33:XI.507	\$300	Per inspection
Failure to follow reporting requirements, maintain required information, and/or keep records at the UST site and make them immediately available or keep them at an alternative site and provide them after a request.	LAC 33:XI.509	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to meet the performance requirements when performing release detection required in LAC 33:XI.703.	LAC 33:XI.701	\$750 and completion of a department-sponsored compliance class	Per inspection
Failure to use a method or combination of methods of release detection described in LAC 33:XI.701 for all new or existing tank systems.	LAC 33:XI.703.A.1	\$1,500 and completion of a department-sponsored compliance class	Per inspection
Failure to satisfy the additional requirements for petroleum UST systems as specified.	LAC 33:XI.703.B	\$350 and completion of a department-sponsored compliance class	Per inspection
Failure to maintain release detection records.	LAC 33:XI.705	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to report any suspected release within 24 hours after becoming aware of the occurrence or when a leak detection method indicates that a release may have occurred.	LAC 33:XI.703.A.2 or 707	\$500 and completion of a department-sponsored compliance class	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Failure to investigate and confirm any suspected release of a regulated substance that requires reporting under LAC 33:XI.707 within seven days.	LAC 33:XI.711	\$1,500	Per occurrence
Failure to maintain corrosion protection and/or release detection on a UST system that is temporarily closed and contains more than 2.5 cm (1 inch) of residue, or 0.3 percent by weight of the total capacity of the UST system.	LAC 33:XI.903.A	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with permanent closure and/or changes in service procedures.	LAC 33:XI.905	\$500	Per inspection

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2243 (December 2006).

Herman Robinson, CPM
Executive Counsel

0612#024

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

IBR of Administrative Reporting Exemption for Certain Air Releases of NO_x (NO and NO₂) (LAC 33:I.3931)(OS076ft)

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 Office of the Secretary regulations, LAC 33:I.3931 (Log #OS076ft).

This rule is identical to federal regulations found in 71 FR 58525-58533, No. 192, October 4, 2006, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule incorporates by reference EPA administrative reporting exemptions for releases that are a result of combustion of less than 1000 pounds of nitrogen oxide (NO) and less than 1000 pounds of nitrogen dioxide (NO₂) to the air in 24 hours. The noncombustion-related releases of NO and NO₂ reportable quantities remain at 10 pounds. This rule

is required to make the state regulations equivalent to federal regulations. The basis and rationale for this rule are to mirror the federal regulations.

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

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations

1. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

a. 40 CFR 117.3, July 1, 2005, Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

b. 40 CFR 302.4, July 1, 2005, Table 302.4—List of Hazardous Substances and Reportable Quantities.

2. Amendments as promulgated on October 4, 2006, in the *Federal Register*, 71 FR 58525-58533, to 40 CFR Part 302, Designation, Reportable Quantities, and Notification, and 40 CFR Part 355, Emergency Planning and Notification, are hereby incorporated by reference.

B. - Note #. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006).

Herman Robinson, CPM
Executive Counsel

0612#025

RULE

Office of the Governor Board of Certified Public Accountants

Transfer of Grades, Reinstatements, Internet Practice,
CPE and Rules of Professional Conduct
(LAC 46:XIX.505, 1105, 1301, 1501,
1700, 1701, 1703, 1705 and 1707)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and of the Louisiana Accountancy Act, R.S. 37:74, the Board of Certified Public Accountants of Louisiana has amended LAC 46:XIX.505, 1105, 1301, 1501, 1700, 1701, 1703, 1705 and 1707. The objective of these revisions is to facilitate recognition of CPA exam passing grades of candidates of other states who seek to be licensed in Louisiana; to allow another method of reinstating an expired CPA license by completing board-approved continuing professional education (CPE); to allow CPE required of new licensees to be completed at any time in their first three-year CPE compliance period; to require that certain information appear on CPA firm websites; and, to update rules of professional conduct in accordance with regulatory trends. The action is necessary in order to update these rules or to align them with corresponding requirements or standards of other state and national regulatory authorities and organizations that also impose requirements upon certified public accountants. No preamble has been prepared with respect to the revised rules which appear below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XIX. Certified Public Accountants

Chapter 5. Qualifications; Education and Examination

§505. Examination

A. - F.5. ...

6. Transfer of Grades. Grades shall be accepted from other states when a candidate for transfer of grades has met all the requirements of Louisiana candidates except that he sat for the examination as a candidate for another state.

a. - b. ...

c. A bona fide examination candidate of another state who applies for transfer of grades to Louisiana who has conditioned in another state need not have satisfied this board's conditional credit rules to retain conditional credit.

F.6.d. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71, et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of

Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1119 (September 1997), LR 26:1970 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 29:1475 (August 2003), LR 32:2248 (December 2006).

Chapter 11. Issuance and Renewal of Certificate

§1105. Certificate Application, Annual Renewals, Inactive Registration, Reinstatement, Notification under Substantial Equivalency

A. - C.6. ...

D. Reinstatement of Certificate of Certified Public Accountant

1. An individual whose certificate has expired by virtue of nonrenewal, or who was registered in inactive status because an exemption from CPE had been granted in a preceding year, shall present proof in a form satisfactory to the board that he has:

a. satisfied the experience requirements prescribed in R.S. 37:75.G within the four years immediately preceding the date of the application for reinstatement; and

b. satisfied the requirements for continuing professional education for the preceding reporting period as specified in §1301.A; or

2. if the experience obtained within the four years immediately preceding the date of application for licensing does not satisfy the requirements of R.S. 37:75.G, the applicant may obtain reinstatement of a license by completion of the following continuing education:

a. two hours of Ethics, including the board's Rules of Professional Conduct (LAC 46:XIX.Chapter 17) or other Ethics program that is approved by the board; and

b. 120 hours of accounting and auditing, including financial reporting and disclosures, or as an alternative, 120 hours in subject areas specific to applicant's intended areas of practice or employment provided that such courses have been submitted to and pre-approved by the board;

3. continuing education courses used to reinstate a certificate under Subparagraph D.1.b or Paragraph D.2 above may be used to satisfy the requirements of either the preceding or current CPE reporting period but not both periods;

4. applications for reinstatement of certificates pursuant to R.S. 37:76.F shall:

a. be made on a form provided by the board;

b. be submitted on or before the last day of the month preceding the month in which a regularly schedule meeting of the board is held in order for such application to be considered by the board at that meeting; and

c. contain all of the information required by the board including but not limited to information regarding the satisfaction and verification of the experience and/or continuing education requirements referred to in Subparagraph D.1.b.or Paragraph D.2.

E. - E.4.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1974 (September 2000), amended by the Office of the Governor,

Board of Certified Public Accountants, LR 32:2249 (December 2006).

Chapter 13. Maintenance of Competency; Continuing Professional Education (CPE)

§1301. Basic Requirements

A. - D. ...

E. Effective Date

1. As to any certificate holder who was licensed as of January 1, 1998, the effective date of these requirements was January 1, 1998; except for §1301.A.1, which will be effective January 1, 2001.

2. As to any individual who obtains an initial certificate, the effective date of these requirements shall be January 1, of the first calendar year of the then current three-year CPE compliance period. The hours required are reduced pro rata for the first CPE compliance period, as follows:

a. an individual initially licensed during the first calendar year of his first three-year CPE compliance period shall have an 80 hour requirement;

b. an individual initially licensed during the second calendar year of his first three-year CPE compliance period shall have a 40 hour requirement;

c. an individual initially licensed during the third calendar year of his first three-year CPE compliance period shall not have any hours required.

F. - F.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:4 (January 1980), amended LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 23:1116 (September 1997), LR 26:1976 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006).

Chapter 15. Firm Permits to Practice; Attest Experience; Peer Review

§1501. CPA Firm Permits; Attest Experience; Application, Renewal, Reinstatement; Internet Practice

A. - E.5. ...

F. Internet Practice. A CPA firm offering or performing services via a web site shall provide on the web site the firm's name, address, and the states in which the CPA firm holds a license or permit to practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 3:308 (July 1977), amended LR 6:9 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1980 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006).

Chapter 17. Rules of Professional Conduct

§1700. General

A. - A.4. ...

B. Definitions. The following terms have meanings which are specific to §1700-1703.

Attest Engagement Team—firm owners, employees, and contractors participating in an attest engagement, including

those who perform concurring and second reviews, irrespective of classification (e.g., audit, tax, advisory, consulting), but excluding specialists referenced in SAS No. 73 and those performing only routine clerical functions.

Audit Sensitive Activities—those activities normally an element of or subject to significant internal accounting controls. For example, the following positions, which are not intended to be all-inclusive, would normally be considered audit sensitive, even though not positions of significant influence: a cashier, internal auditor, accounting supervisor, purchasing agent, or inventory warehouse supervisor.

Close Relatives—parent, sibling, or nondependent child.

Covered Licensee—

a. individual on the attest engagement team;
b. individual in a position to influence the attest engagement;
c. firm owner or manager who provides nonattest services to the attest client beginning once he or she provides 10 hours of such services within any fiscal year and ending on the later of the date:

i. the firm signs the report on the financial statements for the fiscal year during which those services were provided; or

ii. he or she no longer expects to provide 10 or more hours of nonattest services to the attest client on a recurring basis;

d. firm owner in the office in which the lead attest engagement practitioner primarily practices in connection with the attest engagement;

e. the firm, including its employee benefit plans; or
f. an entity whose operating, financial, or accounting policies can be controlled by any of the individuals or entities described in Subparagraphs a through e or by two or more such individuals or entities if they act together;

g. an individual is not included solely because he was formerly associated with the client in any capacity described in §1701.A.1.b, if such individual has disassociated from the client and does not participate in the engagement for the client covering any period of his association with the client.

Immediate Family—spouse, spousal equivalent, or dependent (whether or not related).

Grandfathered Loans—those loans which were made under normal lending procedures, terms, and requirements by a financial institution before January 1, 1992, or prior to its becoming a client for which independence was required. Such loans must not be renegotiated after independence became required and must be kept current as to all terms. Such loans shall be limited to:

a. loans obtained by the licensee which are not material in relation to the net worth of the borrower; or
b. home mortgages; or
c. any other fully secured loan, except one secured solely by a guarantee of the licensee.

Office—a reasonably distinct subgroup within a firm, whether constituted by formal organization or informal practice, where personnel who make up the subgroup generally serve the same group of clients or work on the same categories of matters. Substance should govern the office classification. For example, the expected regular personnel interactions and assigned reporting channels of an

individual may well be more important than an individual's physical location.

Period of Professional Engagement—the period during which professional services are provided, with such period starting when the licensee is engaged or begins to perform professional services requiring independence and ending with the notification of the termination of that professional relationship by the licensee or by the client.

Permitted Personal Loans—

a. automobile loans and leases collateralized by the automobile;

b. loans of the surrender value of an insurance policy;

c. borrowing fully collateralized by cash deposits at the same institution;

d. credit cards, overdraft reserve accounts, and cash advances on checking accounts with an aggregate unpaid balance of \$10,000 or less, provided that these are obtained from a financial institution under its normal lending procedures, terms, and requirements and are at all times kept current as to all terms.

Professional Services—services arising out of or related to the specialized knowledge or skills associated with certified public accountants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997), LR 26:1982 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006).

§1701. Independence, Integrity and Objectivity

A. Independence

1. A covered licensee shall not issue a report on the financial statements of a client or in connection with any attest engagement for a client in such a manner as to imply that he is acting as an independent public accountant with respect thereto, nor shall he perform any other service in which independence is required under professional standards, unless he is independent. Independence shall be considered to be impaired if, for example:

a. during the period of professional engagement or at the time of issuing a report, the covered licensee:

i. had or was committed to acquire any direct or material indirect financial interest in the client; or

ii. was a trustee of any trust or executor or administrator of any estate if such trust or estate had, or was committed to acquire, any direct or material indirect financial interest in the client and the covered licensee (individually or with others) had the authority to make investment decisions for the trust or estate; or the trust or estate owned or was committed to acquire more than 10 percent of the client's outstanding equity securities or other ownership interests; or the value of the trust's or estate's holdings in the client exceeded 10 percent of the total assets of the trust or estate; or

iii. had any joint, closely-held business investment with the client or any officer, director, or principal stockholder thereof which was material in relation to the net worth of either the covered licensee or the client; or

iv. had any loan to or from the client or any officer, director, principal stockholder or individual having 10 percent or more of ownership interests thereof, other than permitted personal loans and grandfathered loans;

b. during the period covered by the financial statements, during the period of the professional engagement, or at the time of issuing a report, the firm, or owner or professional employee of the firm:

i. was connected with the client as a promoter, underwriter, or voting trustee, a director or officer, or in any capacity equivalent to that of an owner, a member of management, or of an employee; or

ii. was a trustee for any pension or profit sharing trust of the client; or

iii. receives a commission or had a commitment to receive a commission from the client or a third party with respect to services or products procured for the client, including any related pension or profit-sharing trust, in violation of R.S. 37:83.K; or

iv. receives a contingent fee or had a commitment to receive a contingent fee from the client or a third party with respect to professional services performed for the client, including any related pension or profit-sharing trust, in violation of R.S. 37:83.L;

c. during the period of the professional engagement, an owner or professional employee of the firm, his or her immediate family, or any group of such persons acting together owned more than 5 percent of a client's outstanding equity securities or other ownership interests.

2. With respect to a covered licensee's relatives, independence may be impaired depending on the nature of the financial interest, relationships, the strength of the family bond which depends on the degree of closeness, the employment or audit sensitive activities of the individuals, or whether the individuals have significant influence over the engagement or the client, as applicable to the circumstances. Therefore, §1701.A.1 is applicable and independence would be impaired in the same manner as to the covered licensee, with respect to the following relatives:

a. immediate family of a covered licensee, except in cases solely in which the family member is or was a client employee or contractor in capacity that excludes all of the following: an audit sensitive activity; a key position with the client; or, one with significant influence;

b. close relatives of an individual on the attest engagement team, if such relative has or had any of the following: an audit sensitive activity; a key position with the client; significant influence; or a material financial interest in the client of which the individual has knowledge.

3. As in other matters involving professional judgment, the licensee is responsible for assessing his or her independence in appearance as well as in fact. Therefore, in making that determination, the licensee shall consider whether independence is affected by the circumstances of any relationships or transactions, including those listed in Paragraph 1701.A.1 above, between the licensee and the client, together with its affiliated entities, owners, principals, officers, directors, and management and audit committee members, who are in a position to control, engage, terminate or otherwise influence an attest engagement or whose representations are relied upon during the engagement.

4. The foregoing examples are not intended to be all inclusive. It is impossible to enumerate all circumstances in which the appearance of independence might be questioned. In the absence of an independence rule that addresses a particular circumstance, a licensee should evaluate whether that circumstance would lead a reasonable person aware of all the relevant facts to conclude that there is an unacceptable threat to independence.

B. - B.2. ...

3. A licensee in the performance of professional services shall be free of conflicts of interest that would impair objectivity. A conflict of interest may occur if a licensee performs a professional service for a client or employer and the licensee or his firm has a relationship with another person, entity, product, or service that could be viewed by the client, employer, or other appropriate parties as impairing the licensee's objectivity. If the licensee believes that the professional service can be performed with objectivity this rule shall not operate to prohibit the performance of the professional service provided that the relationship is disclosed to and consent is obtained from such client, employer, or other appropriate parties, and the licensee documents such consent in the working papers of the engagement or by other appropriate written means. (Certain professional services, such as attest engagements, require independence. Independence impairments cannot be eliminated by such disclosure and consent.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1114 (September 1997), LR 26:1983 (September 2000), repromulgated LR 26:2240 (October 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2250 (December 2006).

§1703. Competence and Professional Standards

A. Definition

Professional Standards—include but are not limited to those standards defined by Statements on Auditing Standards (SAS); Statements on Standards for Accounting and Review Services (SSARS); Statements on Standards for Consulting Services (SSCS); Statements on Standards for Attestation Engagements (SSAE); and Standards for Performing and Reporting on Peer Reviews or Quality Reviews issued by the American Institute of Certified Public Accountants; auditing standards issued by the Comptroller General of the United States for governmental audits and those issued by the PCAOB for public company audits.

B. Competence. A licensee shall not undertake any engagement for performance of professional services which he cannot reasonably expect to complete with due professional competence.

C. Professional Standards. A licensee shall not act or imply that he is acting as a CPA by permitting association of his name or firm's name, issuing a report, or expressing an opinion, in connection with financial statements, elements thereof, or the written assertions and representations of a client, or by the performance of professional services, unless he has complied with applicable professional standards. This rule does not apply in any instance in which such

compliance would otherwise be prohibited by the act or by rule of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1115 (September 1997), LR 26:1984 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2251 (December 2006).

§1705. Responsibilities to Clients

A. - A.2. ...

B. Records

1. A licensee shall furnish to his client or former client upon request:

a. a copy of a tax return issued by the licensee to or for such client; and

b. a copy of any report, or other document, issued by the licensee to or for such client; and

c. any accounting or other records belonging to, or obtained from, or on behalf of, the client which the licensee removed from the client's premises or received for the client's account, but the licensee may make and retain copies of such documents when they form the basis for work done by him; and

d. a copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client;

e. examples of records described in this Section include but are not limited to computer generated books of original entry, general ledgers, subsidiary ledgers, adjusting, closing and reclassification entries, journal entries and depreciation schedules, or their equivalents.

C. Fee for issuing and reproducing records, format, timely response, and record retention period.

1. A licensee shall be permitted to collect in advance of issuance a reasonable fee for time and expenses of issuing or copying records referred to in §1705.B.1.a, b, d and e.

2. The information should be provided in the medium in which it is requested if it exists in that format (for example electronic or hard copy). The licensee is not required to convert information to another format.

3. The requested information shall be furnished by the licensee to the client in a timely manner.

4. A licensee is not required to retain any documents beyond the period prescribed by professional standards.

D. The intent of §1705.B and C is not to require that a licensee provide copies of a work product or record for which the client has not paid. A licensee may require that the fees due for the work product or record in question be paid before records are provided. However, a licensee must be able to substantiate which work products or services have and have not been paid for.

E. In all cases, the client's records, described in §1705.B.1.c, must be returned upon request by the client. If an engagement is terminated prior to its completion, unless the licensee and client otherwise agree to modify the engagement, the licensee is required to return only client records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:3 (January 1980), amended LR 11:757 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1067 (November 1991), LR 23:1115 (September 1997), LR 26:1984 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2252 (December 2006).

§1707. Other Responsibilities and Practices

A. - A.11. ...

B. Acting through Others

1. A CPA or CPA firm shall not permit others to carry out on his behalf or on the firm's behalf, either with or without compensation, acts which, if carried out by the CPA or CPA firm, would place him or the CPA firm in violation of the rules of professional conduct, professional standards, or any provisions of the Act.

2. Acting through an affiliated entity (an entity that is related to or affiliated by ownership to the CPA firm and/or its owners) that has a similar name. On and after January 1, 2008, a CPA firm shall not affiliate with an entity that has a similar name unless:

a. the affiliated entity is owned in accordance with §1707.B.2.e.i, or has been issued a firm permit by the board pursuant to §1707.B.2.e.ii; or

b. the CPA firm has entered into a written agreement with the board pursuant to §1707.B.2.e.ii;

c. a CPA firm seeking issuance, renewal, or reinstatement of a firm permit, to be effective on and after January 1, 2008 shall, as a condition thereof, satisfy the requirements of this Paragraph §1707.B.2;

d. affiliated entities for purpose of this rule refers to entities which offer to clients or the public professional services or products related to the skills associated with CPAs. Conversely, entities that offer services or products that do not relate to matters of accounting and financial reporting, tax, finance, investment advice or financial planning, management, or consultation are excluded;

e. depending on the ownership structure, an affiliated entity may be required to obtain a firm permit in order to use a similar name which indicates that the CPA or CPA firm is providing services through the affiliated entity. A similar name is one that contains one or more names, or initials of the names, or reference to that/those names that are included in a CPA firm applying for or currently holding a firm permit, or one tending to indicate that such firm is a CPA firm:

i. affiliated entities wholly owned either by the owners of the CPA firm, on the same basis as the CPA firm is owned, or directly by the CPA firm may use a similar name and would not be required to obtain a firm permit;

ii. affiliated entities that are majority-owned (not wholly owned) by the owners of the CPA firm or by the CPA firm, or that are wholly owned but in different percentages are required to obtain a firm permit if the affiliated entity uses a similar name. If the affiliated entity does not qualify for a firm permit under R.S. 37:77, the CPA firm (i.e., one that does hold a firm permit) must enter into a written agreement with and acceptable to the board that sets forth that the CPA firm is responsible to the board for the actions of the affiliated entity and its owners;

iii. if the CPA firm and/or its owners (whether individually CPA licensed or not) own 50 percent or less of the other affiliated entity, a similar name may not be used for the affiliated entity;

f. under R.S. 37:77(C), a majority of the ownership of a CPA firm (in terms of financial interests and voting rights of all partners, officers, shareholder, members, or managers) must belong to holders of valid licenses. Thus an unlicensed "holding company" cannot own a majority or 100 percent of a CPA firm. Therefore, such a "holding company" would have to apply for a CPA firm permit and qualify as such. The holding company and the CPA firm must both be registered as firms with the board even though the holding company will not directly offer services to clients. If the holding company does not otherwise meet the requirements to be licensed (e.g., the requirements that a majority ownership interest is held by licensees; the owners must be active in the firm or affiliates; and, the name must not be misleading) then such a firm structure would not be permissible.

C. - I. ...

J. Cooperation with Board Inquiry or Investigation. A licensee or CPA inactive status registrant shall fully cooperate with the board in connection with any inquiry or investigation made by the board. Full cooperation includes, but is not limited to, fully responding in a timely manner to all inquiries of the board or representatives of the board and claiming board correspondence from the U.S. Postal Service and from other delivery services used by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended 4:358 (October 1978), LR 6:3 (January 1980), LR 9:207 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1115 (September 1997), LR 26:1985 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2252 (December 2006).

Michael A. Henderson
Executive Director

0612#066

RULE

Office of the Governor Division of Administration Office of Group Benefits

PPO, EPO, and MCO Plans of Benefits
Hyperbaric Oxygen Therapy
(LAC 32:III.309, V.309, IX.309)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to

adopt and promulgate rules with respect thereto, OGB hereby amends the provisions of the PPO, EPO, and MCO plan documents to require prior authorization for hyperbaric oxygen therapy in order to identify unnecessary or inappropriate uses before the expenses are incurred, effective January 1, 2007.

The following Rule to become effective January 1, 2007.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider Organization (PPO)

Plan of Benefits

Chapter 3. Medical Benefits

§309. Outpatient Procedure Certification (OPC)

A. - B. ...

1. cataract; and
2. hyperbaric oxygen therapy.
3. - 7. repealed.

C. ...

D. repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Board of Trustees, State Employees Group Benefits Program, LR 25:1832 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 32:1890 (October 2006), LR 32:2253 (December 2006).

Part V. Exclusive Provider Organization (EPO)

Plan of Benefits

Chapter 3. Medical Benefits

§309. Outpatient Procedure Certification (OPC)

A. - B. ...

1. cataract; and
2. hyperbaric oxygen therapy.
3. - 7. repealed.

C. ...

D. repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Board of Trustees, State Employees Group Benefits Program, LR 25:1812 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 32:1862 (October 2006), LR 32:2253 (December 2006).

Part IX. Managed Care Option (MCO) Plan of Benefits

Chapter 3. Medical Benefits

§309. Outpatient Procedure Certification (OPC)

A. - B.7 ...

8. hyperbaric oxygen therapy.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:891 (June 2003), amended LR 32:1877 (October 2006), LR 32:2253 (December 2006).

Tommy D. Teague
Chief Executive Officer

0612#049

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO, EPO, and MCO Plans of Benefits
Prescription Drug Benefits Dispensing Limits
(LAC 32:III.323, V.325, IX.323)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB hereby amends the provisions of the PPO, EPO, and MCO Plan Documents to change current dispensing limits for outpatient prescription drugs from 34, 68, and 102 days supplies to 30, 60, and 90 days supplies, which are the standards in the pharmacy benefits industry effective January 1, 2007.

**Title 32
EMPLOYEE BENEFITS**

**Part III. Preferred Provider Organization (PPO)
Plan of Benefits**

Chapter 3. Medical Benefits

§323. Prescription Drug Benefits

A. - C.4. ...

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations.

a. Up to a 30-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill.

b. For refills dispensed within 120 days of the most recent fill, up to a 90-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows.

i. For a supply of 1-30 days the *plan member* will be responsible for payment of 50 percent of the *eligible expense* for the drug, up to a maximum of \$50 per prescription dispensed, and 100 percent of excess cost.

ii. For a supply of 31-60 days the *plan member* will be responsible for payment of fifty percent of the *eligible expense* for the drug, up to a maximum of \$100 per prescription dispensed, and 100 percent of excess cost.

iii. For a supply of 61-90 days the *plan member* will be responsible for payment of 50 percent of the *eligible expense* for the drug, up to a maximum of \$150 per prescription dispensed, and 100 percent of excess cost.

NOTE: There is no per prescription maximum on the *plan member's* responsibility for payment of excess cost. *Plan member* payments for excess costs are not applied toward satisfaction of the annual out-of-pocket threshold (above).

iv. Once the out-of-pocket threshold for *eligible expenses* for prescription drug is reached, the *plan member's* co-payment responsibility for brand drugs on the Pharmacy

Benefits Manager's list of preferred drugs will be \$15 for a 1-30 days supply, \$30 for a 31-60 days supply, and \$45 for a 61-90 days supply, with no co-pay for up to a 90-days supply of generic drugs.

6. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Board of Trustees, State Employees Group Benefits Program, LR 25:1835 (October 1999), amended LR 27:720,721 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2344 (November 2002), LR 29:342 (March 2003), LR 32:2254 (December 2006).

**Part V. Exclusive Provider Organization (EPO)
Plan of Benefits**

Chapter 3. Medical Benefits

§325. Prescription Drug Benefits

A. - C.4. ...

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations.

a. Up to a 30-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill.

b. For refills dispensed within 120 days of the most recent fill, up to a 90-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows.

i. For a supply of 1-30 days the *plan member* will be responsible for payment of 50 percent of the *eligible expense* for the drug, up to a maximum of \$50 per prescription dispensed, and 100 percent of excess cost.

ii. For a supply of 31-60 days the *plan member* will be responsible for payment of fifty percent of the *eligible expense* for the drug, up to a maximum of \$100 per prescription dispensed, and 100 percent of excess cost.

iii. For a supply of 61-90 days the *plan member* will be responsible for payment of 50 percent of the *eligible expense* for the drug, up to a maximum of \$150 per prescription dispensed, and 100 percent of excess cost.

NOTE: There is no per prescription maximum on the *plan member's* responsibility for payment of excess cost. *Plan member* payments for excess costs are not applied toward satisfaction of the annual out-of-pocket threshold (above).

iv. Once the out-of-pocket threshold for *eligible expenses* for prescription drug is reached, the *plan member's* co-payment responsibility for brand drugs on the Pharmacy Benefits Manager's list of preferred drugs will be \$15 for a 1-30 days supply, \$30 for a 31-60 days supply, and \$45 for a 61-90 days supply, with no co-pay for up to a 90-days supply of generic drugs.

6. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Board of Trustees, State Employees Group Benefits Program, LR 25:1815 (October 1999), amended LR 27:717,718 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:2340 (November 2002), LR 29:337 (March 2003), LR 32:2254 (December 2006).

Part IX. Managed Care Option (MCO) Plan of Benefits

Chapter 3. Medical Benefits

§323. Prescription Drug Benefits

A. - C.4. ...

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations.

a. Up to a 30-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill.

b. For refills dispensed within 120 days of the most recent fill, up to a 90-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows.

i. For a supply of 1-30 days the *plan member* will be responsible for payment of 50 percent of the *eligible expense* for the drug, up to a maximum of \$50 per prescription dispensed, and 100 percent of excess cost.

ii. For a supply of 31-60 days the *plan member* will be responsible for payment of fifty percent of the *eligible expense* for the drug, up to a maximum of \$100 per prescription dispensed, and 100 percent of excess cost.

iii. For a supply of 61-90 days the *plan member* will be responsible for payment of 50 percent of the *eligible expense* for the drug, up to a maximum of \$150 per prescription dispensed, and 100 percent of excess cost.

NOTE: There is no per prescription maximum on the *plan member's* responsibility for payment of excess cost. *Plan member* payments for excess costs are not applied toward satisfaction of the annual out-of-pocket threshold (above).

iv. Once the out-of-pocket threshold for *eligible expenses* for prescription drug is reached, the *plan member's* co-payment responsibility for brand drugs on the Pharmacy Benefits Manager's list of preferred drugs will be \$15 for a 1-30 days supply, \$30 for a 31-60 days supply, and \$45 for a 61-90 days supply, with no co-pay for up to a 90-days supply of generic drugs.

6. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:893 (June 2003), amended LR 32:1878 (October 2006), LR 32:2255 (December 2007).

Tommy D. Teague
Chief Executive Officer

0612#048

RULE

**Department of Health and Hospitals
Board of Nursing**

Domicile of Board and Verification of License
(LAC 46:XLVII.3305 and 3339)

The Louisiana State Board of Nursing amends LAC 46:XLVII.3305 and 3339 in accordance with R.S. 37:918, R.S. 37:919 and R.S 37:920 and in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

This Rule, LAC 46:XLVII.3305, provides for the domicile of the board to be Baton Rouge, LA, but offices for the purpose of administering the provisions of the law governing the practice of nursing may be established by the board in any of the principal cities or metropolitan areas of such principal cities in Louisiana. The language in the Rule is amended to be consistent with R.S 37:919. Employees of the board and their families have been impacted by a change of duty station due to the necessity to establish administrative offices in Baton Rouge in the aftermath of Hurricane Katrina. Displaced employees have benefited from the change in duty station. Additional employment opportunities have become available to meet the needs of the Baton Rouge office.

Further, the Rule LAC 46:XLVII.3339 provides for on-line verification of the licensure status of registered nurses, which is consistent with current technology to provide a user friendly method for licensure verification.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter A. Board of Nursing

§3305. Official Office of the Board

A. The domicile of the board is Baton Rouge, LA1q, but offices for the purpose of administering the provisions of this Part may be established by the board in any of the principal cities or metropolitan areas of such principal cities in Louisiana.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:919 and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of nursing, LR 7:73 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:104 (February 1996), LR 24:1293 (July 1998), LR 26:1615 (August 2000), LR 32:2255 (December 2006).

Subchapter C. Registration and Registered Nurse

Licensure

§3339. Verification of Licensure

A. - B. ...

C. Before employing a person as a registered nurse, current licensure should be verified by inspection of the document and by on-line verification. Failure to do so may result in aiding and abetting an unlicensed person to practice nursing in violation of the law.

D. Annually, on or before January 31, current licensure of registered nurses should be verified by directors of nursing or supervisors. Documentation of visual inspection of license and/or on-line verification is necessary to ascertain that the year is current.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:920.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended by the Department of Health and Hospitals, Board

of Nursing, LR 24:1293 (July 1998), LR 32:2255 (December 2006).

Barbara L. Morvant
Executive Director

0612#047

RULE

Department of Health and Hospitals Board of Pharmacy

Certified Pharmacist Preceptor Program
and Intern Practical Experience
(LAC 46:LIII.513 and 705)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby repeals LAC 46:LIII.513, and further, amends certain portions of LAC 46:LIII.705. The effect of these changes will be to repeal the board's Certified Pharmacist Preceptor Program, and further, to repeal the requirement that all hours of practical experience be earned under the supervision of certified pharmacist preceptors.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 5. Pharmacists

Subchapter A. Licensure Procedures

§513. Certified Pharmacist Preceptor Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2084 (October 2003), effective January 1, 2004, repealed LR 32:2256 (December 2006).

Chapter 7. Pharmacy Interns

§705. Practical Experience

A. - B. ...

1. The practical experience earned shall have been under the supervision of a pharmacist.

B.2 - C.1. ...

a. Prior to beginning his final academic year in a board-approved college of pharmacy, the intern shall earn a minimum of 500 hours under the supervision of a pharmacist at a permitted pharmacy site; and

b. ...

2. If credit is not received for the total required 1,500 hours upon certification of graduation pursuant to the provisions of §705.C.1, the intern shall earn 1,500 hours of practical experience under the supervision of a pharmacist at a permitted pharmacy site after certification of graduation from a board-approved college of pharmacy.

3. Practical experience hours earned either prior to the final academic year, or after certification of graduation from a board-approved college of pharmacy, that are submitted to the board for credit consideration shall be listed on an affidavit form supplied by the board office, and signed by the pharmacist and pharmacy intern.

3.a. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2086 (October 2003), effective January 1, 2004, amended LR 32:636 (April 2006), LR 32:2256 (December 2006).

Malcolm J. Broussard
Executive Director

0612#019

RULE

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

Home and Community Based Services Waivers
Adult Day Health Care
(LAC 50:XXI.2105, 2107, 2305, 2309, and 2901)

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amends LAC 50:XXI.2105, 2107, 2305, 2309, and 2901 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services

Waivers

Subpart 3. Adult Day Health Care

Chapter 21. General Provisions

§2105. Definitions

* * *

Participant—Title XIX applicant or recipient.

Recipient—an individual who has been found eligible for Title XIX benefits or vendor payments.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:623 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), LR 25:1100 (June 1999), repromulgated, LR 30:2035 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2256 (December 2006).

§2107. Request for Services Registry

A. The Department of Health and Hospitals, (DHH) is responsible for the Request for Services Registry, hereafter referred to as "the registry", for the Adult Day Health Care Waiver (ADHC). An individual who wishes to have his or her name placed on the registry shall contact a toll free telephone number which shall be maintained by the department.

B. When funding is appropriated for a new ADHC waiver opportunity or an existing opportunity is vacated, the department shall send a written notice to an individual on the registry indicating that a waiver opportunity is available.

That individual shall be evaluated for a possible ADHC waiver opportunity assignment.

C. Adult Day Health Care Waiver opportunities shall be offered based upon the date of first request for services, with priority given to individuals who are in a nursing facility but could return to their home if ADHC Waiver services are provided. Priority shall also be given to those persons who have indicated that they are at imminent risk of nursing facility placement.

1. Remaining waiver opportunities, if any, shall be offered on a first-come, first-serve basis to individuals who qualify for a nursing facility level of care, but who are not at imminent risk of nursing facility placement.

D. If an applicant is determined to be ineligible for any reason, the next individual on the registry is notified and the process continues until an individual is determined eligible. An ADHC Waiver opportunity is assigned to an individual when eligibility is established and the individual is certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:835 (April 2002), repromulgated LR 30:2035 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2256 (December 2006).

Chapter 23. Provider Participation

§2305. Medical Certification Process

A. The adult day health care provider must submit a complete admissions packet to the department within 20 working days of the date of admission.

1. The date of admission or the date of the plan of care, whichever is later, shall be the effective date of certification. If the admission packet is incomplete, a denial of certification notice will be issued indicating the reason(s) for denial.

2. ...

3. If the missing information is received after the 20-day time frame and the applicant meets all eligibility criteria, certification shall be issued with an effective date no earlier than the date that all required documents were received by the Department.

B. A complete admission packet must contain the following forms:

1. Form 148W which includes the date of Medicaid application if the date of application is later than the date of admission;

2. Adult Day Health Care Social Assessment (ADHC I) which shall not be completed more than 30 days prior to admission and is completed, signed and dated by a social worker with a masters degree;

3. Adult Day Health Care Nursing Assessment (ADHC 2) which shall not be completed more than 30 days prior to admission, and if completed by a licensed practical nurse, must be countersigned by a registered nurse who must also provide recommendations, if necessary; and

4. a plan of care which shall not be completed more than 30 days prior to admission and shall include:

- a. problems and needs identified in the assessments;
- b. approaches/services to be used for each problem;

c. discipline or job title of staff member responsible for each approach;

d. frequency of each approach/service;

e. review/resolution dates; and

f. discharge as a goal.

NOTE: The diagnosis should not be used as a problem.

C. When an individual presents with a psychiatric disorder, a psychiatric evaluation is required with the admission packet and must include the following components:

1. history of present illness;

2. mental status;

3. diagnostic impression;

4. assessment of strengths and weaknesses;

5. recommendations for therapeutic interventions; and

6. prognosis.

D. When there is a diagnosis of mental retardation/developmental disability, a psychological evaluation is required with the admission packet and must include the following components:

1. intellectual quotient; and

2. adaptive level functioning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:633 (June 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1155 (September 1997), repromulgated LR 30:2038 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2257 (December 2006).

§2309. Interdisciplinary Team Assessments

A. - D.2. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:625 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1152 (September 1997), repromulgated LR 30:2039 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2257 (December 2006).

Chapter 29. Patient Rights

§2901. Recipient Rights/Privileges

A. - E.1. ...

2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:626 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1154 (September 1997), repromulgated LR 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2257 (December 2006).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0612#085

RULE

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

Intermediate Care Facilities for the Mentally Retarded—Community Homes Licensing—Emergency Preparedness (LAC 48:I.51188)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 48:I.51188 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 51. Licensing Requirements for Community Homes

§51188. Emergency Preparedness

A. The community home, also known as an intermediate care facility for the mentally retarded (ICF/MR), shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of declared disasters or other emergencies that disrupt the community home's ability to provide care and treatment or threatens the lives or safety of the community home residents. The community home shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

B. At a minimum, the community home shall have a written plan that describes:

1. the evacuation of residents to a safe place either within the community home or to another location;
2. the delivery of essential care and services to community home residents, whether the residents are housed off-site or when additional residents are housed in the community home during an emergency;
3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the community home or at another location;
4. a plan for coordinating transportation services required for evacuating residents to another location; and
5. the procedures to notify the resident's family, guardian or primary correspondent if the resident is evacuated to another location.

C. The community home's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The community home's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the community home's performance during the planned drill.

D. The community home's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

E. The plan shall be available to representatives of the Office of the State Fire Marshal.

F.1. In the event that a community home evacuates, temporarily relocates or temporarily ceases operation at its

licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding or power outages longer than 48 hours, the community home shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

a. The purpose of these surveys is to assure that the community home is in compliance with the licensing standards including, but not limited to, the areas of the structural soundness of the building, the sanitation code, and staffing requirements.

b. The Health Standards Section will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

2. If a community home evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the community home may be reopened.

G.1. Before reopening at its licensed location, the community home must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to the detailed summary. The detailed summary must contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
- e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

2. Before reopening, the community home must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening, subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

H. If it is necessary for a community home to temporarily relocate beds and/or increase the number of beds in the home as a result of a declared disaster, the community home may request a waiver from the licensing agency to

operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its clients. Extension requests will be considered on a case-by-case basis and must include a plan of action which specifies timelines in which the beds will either be moved back to the original licensed location or permanently relocated as specified in Paragraphs I.1-2.

I. The permanent relocation of community home beds as a result of a declared disaster or other emergency must be approved by the Office for Citizens with Developmental Disabilities and the Bureau of Health Services Financing, Health Standards Section in order to assure that:

1. the new location has either the same number or fewer of the previously licensed beds; and
2. the location of the residents' family members is taken into consideration in the selection of the new site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2258 (December 2006).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0612#086

RULE

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

Intermediate Care Facilities for the Mentally
Retarded—Group Homes Licensing—Emergency
Preparedness (LAC 48:I.63188)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 48:I.63188 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 63. Licensing Requirements for Group Homes

§63188. Emergency Preparedness

A. The group home, also known as an intermediate care facility for the mentally retarded (ICF/MR), shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of declared disasters or other emergencies that disrupt the group home's ability to provide care and treatment or threatens the lives or safety of the group home residents. The group home shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

B. At a minimum, the group home shall have a written plan that describes:

1. the evacuation of residents to a safe place either within the group home or to another location;
2. the delivery of essential care and services to residents, whether the residents are housed off-site or when additional residents are housed in the group home during an emergency;
3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the group home or at another location;
4. a plan for coordinating transportation services required for evacuating residents to another location; and
5. the procedures to notify the resident's family, guardian or primary correspondent if the resident is evacuated to another location.

C. The group home's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The group home's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the group home's performance during the planned drill.

D. The group home's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

E. The plan shall be available to representatives of the Office of the State Fire Marshal.

F.1. In the event that a group home evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding or power outages longer than 48 hours, the group home shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

a. The purpose of these surveys is to assure that the group home is in compliance with the licensing standards in the areas of the structural soundness of the building, the sanitation code and staffing requirements.

b. The Health Standards Section will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services, and necessary supplies.

2. If a group home evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the group home may be reopened.

G.1. Before reopening at its licensed location, the group home must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to

the detailed summary. The detailed summary must contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
- e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

2. Before reopening, the group home must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening, subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

H. If it is necessary for a group home to temporarily relocate beds and/or increase the number of beds in the home as a result of a declared disaster, the group home may request a waiver from the licensing agency to operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its clients. Extension requests will be considered on a case-by-case basis and must include a plan of action which specifies timelines in which the beds will either be moved back to the original licensed location or permanently relocated as specified in Paragraphs I.1. and 2.

I. The permanent relocation of group home beds as a result of a declared disaster or other emergency must be approved by the Office for Citizens with Developmental Disabilities and the Bureau of Health Services Financing, Health Standards Section in order to assure that:

1. the new location has either the same number or fewer of the previously licensed beds; and

2. the location of the residents' family members is taken into consideration in the selection of the new site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2259 (December 2006).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0612#087

RULE

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

Intermediate Care Facilities for the Mentally Retarded—Residential Homes Licensing—Emergency Preparedness (LAC 48:I.7927)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.7927 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 79. Licensing Requirements for Residential Homes

§7927. Core Requirements

A. - G.6. ...

H. Emergency Preparedness

1. The residential home, also known as an intermediate care facility for the mentally retarded (ICF-MR), shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of declared disasters or other emergencies that disrupt the residential home's ability to provide care and treatment or threatens the lives or safety of the residential home residents. The residential home shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

2. At a minimum, the residential home shall have a written plan that describes:

a. the evacuation of residents to a safe place either within the residential home or to another location;

b. the delivery of essential care and services to residential home residents, whether the residents are housed off-site or when additional residents are housed in the residential home during an emergency;

c. provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the residential home or at another location;

d. a plan for coordinating transportation services required for evacuating residents to another location; and

e. procedures to notify the resident's family, guardian or primary correspondent if the resident is evacuated to another location.

3. The residential home's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The residential home's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the residential home's performance during the planned drill.

4. The residential home's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

5. The plan shall be available to representatives of the Office of the State Fire Marshal.

6.a. In the event a residential home evacuates, temporarily relocates, or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding, or power outages longer than 48 hours, the residential home shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

i. The purpose of these surveys is to assure that the residential home is in compliance with the licensing standards including, but not limited to, the areas of the structural soundness of the building, the sanitation code, and staffing requirements.

ii. The Health Standards Section will determine the facility's access to the community service infrastructure such as hospitals, transportation, physicians, professional services, and necessary supplies.

b. If a residential home evacuates, temporarily relocates, or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the residential home may be reopened.

7. Before reopening at its licensed location, the residential home must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to the detailed summary. The detailed summary must contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
- e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

8. Before reopening, the residential home must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

9. If it is necessary for a residential home to temporarily relocate beds and/or increase the number of beds in the home as a result of a declared disaster, the residential home may request a waiver from the licensing agency to operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its clients. Extension requests will be considered on a case-by-case basis and must include a plan of action which specifies timelines in which the beds will either be moved back to the original licensed location or permanently relocated as specified in Subparagraphs 10.a-b.

10. The permanent relocation of residential home beds as a result of a declared disaster or other emergency must be approved by the Office for Citizens with Developmental Disabilities and the Bureau of Health Services Financing, Health Standards Section in order to assure that:

a. the new location has either the same number or fewer of the previously licensed beds; and

b. the location of the residents' family members is taken into consideration in the selection of the new site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2260 (December 2006).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0612#088

RULE

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

Nursing Facility Minimum Licensing Standards—Emergency Preparedness (LAC 48:I.9729)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.9729 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter B. Organization and General Services

§9729. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan designed to manage the consequences of declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its approved emergency

preparedness plan in the event of the occurrence of a declared disaster or other emergency.

B. At a minimum, the nursing facility shall have a written plan that describes:

1. the evacuation of residents to a safe place either within the nursing facility or to another location;

2. the delivery of essential care and services to residents, whether the residents are housed off-site or when additional residents are housed in the nursing facility during an emergency;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

4. a plan for coordinating transportation services required for evacuating residents to another location; and

5. the procedures to notify the resident's family or responsible representative if the resident is evacuated to another location.

C. The nursing facility's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The nursing facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the nursing facility's performance during the planned drill.

D. The nursing facility's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

E. The plan shall be available to representatives of the Office of the State Fire Marshal.

F.1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding or power outages longer than 48 hours, the nursing facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

a. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards in the areas of the structural soundness of the building, the sanitation code and staffing requirements.

b. The Health Standards Section will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

2. If a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the nursing facility may be reopened.

G.1. Before reopening at its licensed location, the nursing facility must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to the detailed summary. The detailed summary must contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

2. Before reopening, the nursing facility must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening, subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:49 (January 1998), amended LR 32:2261 (December 2006).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0612#089

RULE

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

Nursing Facilities—Reimbursement Methodology
(LAC 50:VII.1301-1305, 1309, 1311 and 1317)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:VII.1301-1305, 1309, 1311, and adopts §1317 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1301. Definitions

* * *

Facility Cost Report Period Case-Mix Index—the average of quarterly facility-wide average case-mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the facility's cost reporting period that is used to determine the medians. This average includes any revisions made due to an on-site MDS review.

Example: A January 1, 2001-December 31, 2001 cost report period would use the facility-wide average case-mix indices calculated for April 1, 2001, July 1, 2001, October 1, 2001 and January 1, 2002.

1. When this system is implemented, if four quarters of acuity data are not available that coincide with the cost report period, a two-quarter average of acuity data that most closely matches the cost reporting period will be used.

Facility-Wide Average Case-Mix Index—the simple average, carried to four decimal places, of all resident case-mix indices based on the first day of each calendar quarter. If a facility does not have any residents as of the first day of a calendar quarter or the average resident case mix indices appear invalid due to temporary closure or other circumstances, as determined by the department, a statewide average case mix index using occupied and valid statewide facility case mix indices may be used.

* * *

Supervised Automatic Sprinkler System—a system that operates in accordance with the latest adopted edition of the National Fire Protection Association's Life Safety Code. It is referred to hereafter as a fire sprinkler system.

Two-Hour Rated Wall—a wall that meets American Society for Testing and Materials International (ASTM) E119 standards for installation and uses two-hour rated sheetrock.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006).

§1303. Cost Reports

A. ...

1. Providers of nursing facility level of care are required to report all reasonable and allowable cost on a regular nursing facility cost report. Effective for periods ending on or after June 30, 2002, the regular nursing facility cost report will be the skilled nursing facility cost report adopted by the Medicare program, hereafter referred to as the Medicare cost report. This cost report is frequently referred to as the Health Care Financing Administration (HCFA) 2540. The cost reporting period begin date shall be the later of the first day of the facility's fiscal period or the facility's certification date. The cost reporting end date shall be the earlier of the last day of the facility's fiscal period or the final day of operation as a nursing facility.

2. In addition to filing the Medicare cost report, nursing facility providers must also file supplemental schedules designated by the bureau. Facilities shall submit their Medicare cost report and their state Medicaid supplemental cost report in accordance with procedures established by the department.

3. Providers of skilled nursing-infectious disease (SN-ID), skilled nursing-technology dependent care (SN-TDC)

and skilled nursing neurological rehabilitation treatment program (SN-NRTP) services must file additional supplemental schedules designated by the bureau documenting the incremental cost of providing SN-ID, SN-TDC and SN-NRTP services to Medicaid recipients.

4. ...

B. Cost reports must be prepared in accordance with the cost reporting instructions adopted by the Medicare Program using the definition of allowable and nonallowable cost contained in the CMS Publication 15-1, Provider Reimbursement Manuals, with the following exceptions.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2263 (December 2006).

§1305. Rate Determination

A. ...

B. For dates of service on or after January 1, 2003, the Medicaid daily rates shall be based on a case-mix price-based reimbursement system. Rates shall be calculated from cost report and other statistical data. Effective January 1, 2003, the cost data used in rate setting will be from cost reporting periods ending July 1, 2000 through June 30, 2001. Effective July 1, 2004, and every second year thereafter, the base resident-day-weighted median costs and prices shall be rebased using the most recent four month or greater unqualified audited or desk reviewed cost reports that are available as of the April 1 prior to the July 1 rate setting. For rate periods between rebasing, an index factor shall be applied to the base resident-day weighted medians and prices.

C. - C.2. ...

3. each facility's capital rate component;
4. each facility's pass-through rate component;
5. adjustments to the rate; and
6. the statewide durable medical equipment price.

D. - D.1d. ...

e. The statewide direct care and care related floor is established at 94 percent of the direct care and care related resident-day-weighted median cost. For periods prior to January 1, 2007 the statewide direct care and care related floor shall be reduced to 90 percent of the direct care and care related resident-day-weighted median cost in the event that the nursing wage and staffing enhancement add-on is removed. Effective January 1, 2007 the statewide direct care and care related floor shall be reduced by one percentage point for each 30 cent reduction in the average Medicaid rate due to a budget reduction implemented by the department. The floor cannot be reduced below 90 percent of the direct care and care related resident-day-weighted median cost.

f. For each nursing facility, the statewide direct care and care related price shall be apportioned between the per diem direct care component and the per diem care related component using the facility-specific percentages determined in §1305.D.1.c. On a quarterly basis, each facility's specific direct care component of the statewide price shall be multiplied by each nursing facility's average case-mix index for the prior quarter. The direct care component of the statewide price will be adjusted quarterly

to account for changes in the facility-wide average case-mix index. Each facility's specific direct care and care related price is the sum of each facility's case mix adjusted direct care component of the statewide price plus each facility's specific care related component of the statewide price.

g. For each nursing facility, the statewide direct care and care related floor shall be apportioned between the per diem direct care component and the per diem care related component using the facility-specific percentages determined in §1305.D.1.c. On a quarterly basis, each facility's specific direct care component of the statewide floor shall be multiplied by each facility's average case-mix index for the prior quarter. The direct care component of the statewide floor will be adjusted quarterly to account for changes in the facility-wide average case-mix index. Each facility's specific direct care and care related floor is the sum of each facility's case mix adjusted direct care component of the statewide floor plus each facility's specific care related component of the statewide floor.

h. Effective with cost reporting periods beginning on or after January 1, 2003, a comparison will be made between each facility's direct care and care related per diem cost and the direct care and care related cost report period per diem floor. If the total direct care and care related per diem cost the facility incurred is less than the cost report period per diem floor, the facility shall remit to the bureau the difference between these two amounts times the number of Medicaid days paid during the cost reporting period. The cost report period per diem floor shall be calculated using the calendar day-weighted average of the quarterly per diem floor calculations for the facility's cost reporting period.

Example: A May 1, 2003–April 30, 2004 cost report period would use the average of the per diem floor calculations for April 1, 2003 (weighted using 61 days), July 1, 2003 (weighted using 92 days), October 1, 2003 (weighted using 92 days), January 1, 2004 (weighted using 91 days) and April 1, 2004 (weighted using 30 days).

2. - 3. ...

a. The capital cost component rate shall be based on a fair rental value (FRV) reimbursement system. Under a FRV system, a facility is reimbursed on the basis of the estimated current value, also referred to as the current construction costs, of its capital assets in lieu of direct reimbursement for depreciation, amortization, interest and rent/lease expenses. The FRV system shall establish a nursing facility's bed value based on the age of the facility and its total square footage.

b. Effective January 1, 2003, the new value per square foot shall be \$97.47. This value per square foot shall be increased by \$9.75 for land plus an additional \$4,000 per licensed bed for equipment. This amount shall be trended forward annually to the midpoint of the rate year using the change in the unit cost listed in the three-fourths column of the R.S. Means Building Construction Data Publication or a comparable publication if this publication ceases to be published, adjusted by the weighted average total city cost index for New Orleans, Louisiana. The cost index for the midpoint of the rate year shall be estimated using a two-year moving average of the two most recent indices as provided in this Subparagraph. A nursing facility's fair rental value per diem is calculated as follows.

i. - ii. ...

iii. The nursing facility's annual fair rental value shall be divided by the greater of the facility's annualized actual resident days during the cost reporting period or 70 percent of the annualized licensed capacity of the facility to determine the FRV per diem or capital component of the rate. Annualized total patient days will be adjusted to reflect any increase or decrease in the number of licensed beds as of the date of rebase by applying to the increase or decrease the greater of the facility's actual occupancy rate during the base year cost report period or 70 percent of the annualized licensed capacity of the facility.

iv. The initial age of each nursing facility used in the FRV calculation shall be determined as of January 1, 2003, using each facility's year of construction. This age will be reduced for replacements, renovations and/or additions that have occurred since the facility was built provided there is sufficient documentation to support the historical changes. The age of each facility will be further adjusted each July 1 to make the facility one year older, up to the maximum age of 30 years. Beginning January 1, 2007 and the first day of every calendar quarter thereafter, the age of each facility will be reduced for those facilities that have completed and placed into service major renovation or bed additions. This age of a facility will be reduced to reflect the completion of major renovations and/or additions of new beds. If a facility adds new beds, these new beds will be averaged in with the age of the original beds and the weighted average age for all beds will be used as the facility's age. Changes in licensed beds are only recognized, for rate purposes, at July 1 of a rebase year unless the change in licensed beds is related to a change in square footage. The occupancy rate applied to a facility's licensed beds will be based on the base year occupancy.

v. If a facility performed a major renovation/improvement project (defined as a project with capitalized cost equal to or greater than \$500 per bed), the cost of the renovation project will be used to determine the equivalent number of new beds that the project represents. The equivalent number of new beds from a renovation/improvement project will be determined by dividing the cost of the renovation/improvement project by the accumulated depreciation per bed of the facility's existing beds immediately before the renovation/improvement project. The equivalent number of new beds will be used to determine the weighted average age of all beds for this facility.

(a). Major renovation/improvement costs must be documented through cost reports, depreciation schedules, construction receipts or other auditable records. Costs must be capitalized in compliance with the Medicare provider reimbursement manual in order to be considered in a major renovation/improvement project. The cost of the project shall only include the cost of items placed into service during a time period not to exceed the previous 24 months prior to a re-aging. Entities that also provide non-nursing facility services or conduct other non-nursing facility business activities must allocate their renovation cost between the nursing facility and non-nursing facility business activities. Documentation must be provided to the department or its designee to substantiate the accuracy of the

allocation of cost. If sufficient documentation is not provided, the renovation/improvement project will not be used to re-age the nursing facility.

(b). Weighted average age changes as a result of replacements/improvements and/or new bed additions must be requested by written notification to the department prior to the rate effective date of the change and separate from the annual cost report. The written notification must include sufficient documentation as determined by the department. All valid requests will become part of the quarterly case-mix FRV rate calculation beginning January 1, 2007.

4. - 4.a. ...

b. Effective August 1, 2005, the pass-through rate will include a flat statewide fee for the cost of durable medical equipment and supplies required to comply with the plan or care for Medicaid recipients residing in nursing facilities. The flat statewide fee shall remain in place until the cost of the durable medical equipment is included in rebase cost reports, as determined under §1305.B, at which time the department may develop a methodology to incorporate the durable medical equipment cost in to the case-mix rate.

5. Adjustment to the Rate. Adjustments to the Medicaid daily rate may be made when changes occur, that will eventually be recognized in updated cost report data (such as a change in the minimum wage, a change in FICA or a utility rate change). These adjustments would be effective until the next rebasing of cost report data or until such time as the cost reports fully reflect the change. In the event the department is required to implement reductions in the nursing facility program as a result of a budget shortfall, a budget reduction category shall be created. This category shall reduce the statewide average Medicaid rate, without changing the parameters established in this rule, by reducing the reimbursement rate paid to each nursing facility using an equal amount per patient day.

E. All capitalized costs related to the installation or extension of supervised automatic fire sprinkler systems or two-hour walls placed in service on or after July 1, 2006 will be excluded from the renovation/improvement costs used to calculate the FRV to the extent the nursing home is reimbursed for said costs in accordance with §1317.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1474 (June 2002), repromulgated LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006).

§1309. State-Owned or Operated and Non-State Government-Owned or Operated Facilities

A. Services Provided on or Before June 30, 2005

1. Non-state government-owned or operated nursing facilities will be paid a prospective reimbursement rate. Each facility will receive a Medicaid base rate calculated in accordance with other sections of this rule. Nonstate government-owned or operated nursing facilities may also receive a supplemental Medicaid payment on a quarterly basis. The aggregate supplemental payments for these facilities, calculated on a quarterly basis, will be the state's best estimate of what nonstate government-owned or operated facilities would be paid under Medicare's prospective payment system for skilled nursing facilities less

the aggregate Medicaid base payments for these facilities. The acuity measurements used in the supplemental Medicaid payment calculations will be the acuity of each facility's Medicaid residents, as determined under Medicare's 44 RUG classification methodology. Adjustments to the aggregate supplemental Medicaid payments will be made to account for differences in coverage between the Medicare and Medicaid programs.

B. Services after June 30, 2005

1. Non-state government-owned or operated nursing facilities will be paid a case-mix reimbursement rate in accordance with §1305.C.

2. State-owned or operated nursing facilities will be paid a prospective per diem reimbursement rate. The per diem payment rate for each of these facilities will be calculated annually on July 1, using the nursing facility's allowable cost from the most recently filed Medicaid cost report trended forward from the midpoint of the cost report year to the midpoint of the rate year using the index factor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1476 (June 2002), repromulgated LR 28:1793 (August 2002), amended LR 30:53 (January 2004), LR 31:1596 (July 2005), LR 32:2265 (December 2006).

§1311. New Facilities, Changes of Ownership of Existing Facilities and Existing Facilities with Disclaimer or Non-Filer Status

A. New facilities are those entities whose beds have not previously been certified to participate, or otherwise participated, in the Medicaid program. New facilities will be reimbursed in accordance with this rule using the statewide average case mix index to adjust the statewide direct care component of the statewide price and the statewide direct care component of the floor. The statewide direct care and care related price shall be apportioned between the per diem direct care component and the per diem care related component using the statewide average of the facility-specific percentages determined in §1305.D.1c. After the second full calendar quarter of operation, the statewide direct care and care related price and the statewide direct care and care related floor shall be adjusted by the facility's case mix index calculated in accordance with §1305.D.1.f-g and §1307 of this rule. The capital rate paid to a new facility will be based upon the age and square footage of the new facility. An interim capital rate shall be paid to a new facility at the statewide average capital rate for all facilities until the start of a calendar quarter two months or more after the facility has submitted sufficient age and square footage documentation to the department. Following receipt of the age and square footage documentation, the new facility's capital rate will be calculated using the facility's actual age and square footage and the statewide occupancy from the most recent base year and will be effective at the start of the first calendar quarter two months or more after receipt. New facilities will receive the statewide average property tax and property insurance rate until the facility has a cost report included in a base year rate setting. New facilities will also receive a provider fee that has been determined by the department.

B. A change of ownership exists if the beds of the new owner have previously been certified to participate, or

otherwise participated, in the Medicaid program under the previous owner's provider agreement. Rates paid to facilities that have undergone a change in ownership will be based upon the acuity, costs, capital data and pass-through of the prior owner. Thereafter, the new owner's data will be used to determine the facility's rate following the procedures specified in this rule.

C. Existing facilities with disclaimer status includes any facility that receives a qualified audit opinion or disclaimer on the cost report used for rebase under §1305.B. Facilities with a disclaimed cost report status may have adjustments made to their rates based on an evaluation by the secretary of the department.

D. Existing facilities with non-filer status includes any facility that fails to file a complete cost report in accordance with §1303. These facilities will have their case-mix rates adjusted as follows.

1. The statewide direct care and care related price shall be apportioned between the per diem direct care component and the per diem care related component using percentages that result in the lowest overall rate.

2. No property tax and insurance pass-through reimbursement shall be included in the case-mix rate.

3. The fair rental value rate calculated shall be based on 100 percent occupancy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1793 (August 2002), amended LR 32:2265 (December 2006).

§1317. Reimbursement for Fire Sprinkler Systems and Two-Hour Rated Wall Installations

A. All nursing facilities are required to be protected throughout by a fire sprinkler system by January 1, 2008. Where means of egress passes through building areas outside of a nursing facility, those areas shall be separated from the nursing facility by a two-hour rated wall or shall be protected by a fire sprinkler system.

B. Nursing Facility Procedure and Documentation Requirements

1. A completed fire sprinkler system plan or two-hour rated wall plan, or both, must be submitted to the department for review and approval by December 31, 2006.

2. Upon approval of the plans and after installation is completed, nursing facilities must submit auditable depreciation schedules and invoices to support the installation cost of all fire sprinkler systems and two-hour rated walls. The documentation must be submitted to the department or its designee.

a. All supporting documentation, including depreciation schedules and invoices, must indicate if the cost was previously included in a fair rental value re-age request.

C. Medicaid participating nursing facilities that install or extend fire sprinkler systems or two-hour rated walls, or both, after August 1, 2001, and in accordance with this section, may receive Medicaid reimbursement for the cost of installation over a five year period beginning the later of July 1, 2007 or the date of installation. The Medicaid reimbursement shall be determined as follows.

1. The annual total reimbursable cost is equal to a nursing facility's total installation cost of all qualified fire sprinkler systems and two-hour rated walls divided by five.

2. The per diem cost is calculated as the annual total reimbursable cost divided by total nursing facility resident days as determined by the nursing facility's most recently audited or desk reviewed Medicaid cost report as of April 30, 2007. If a cost report is not available, current nursing facility resident day census records may be used at the department's approval.

3. The per diem cost is reduced by any fair rental value per diem increase previously recognized as a result of the costs being reimbursed under this section. This adjusted per diem cost shall be paid to each qualifying nursing facility as and additional component of their Medicaid daily rate for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2266 (December 2006).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0612#077

RULE

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

Rural Health Clinics (LAC 50:XI.Chapters 161-167)

Editor's Note: This Rule is being repromulgated due to an error upon submission. The original Rule may be viewed on pages 1904-1905 in the October 2006 edition of the *Louisiana Register*.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XI.Chapters 161-167 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

Chapter 161. General Provisions

§16101. Purpose

A. The Rural Health Clinic (RHC) Act of 1977 authorized the development of rural health clinics to encourage and stabilize the provision of outpatient primary care in rural areas through cost-based reimbursement.

B. Rural health clinic regulations distinguish between two types of rural health clinics.

1. The independent RHC is a free-standing practice that is not part of a hospital, skilled nursing facility, or home health agency.

2. The provider-based RHC is an integral and subordinate part of a hospital, skilled nursing facility, or home health agency.

C. Rural health clinics improve the health status of Louisiana residents in rural and underserved areas by

working proactively to build community health systems' capacity to provide integrated, efficient and effective health care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1904 (October 2006), repromulgated LR 32:2266 (December 2006).

Chapter 163. Provider Participation

§16301. Provider Enrollment

A. In order to enroll and participate in the Medicaid Program, a RHC must submit a completed provider enrollment packet.

B. The effective date of enrollment to participate in the Medicaid Program shall not be prior to the date of receipt of the completed enrollment packet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1904 (October 2006), repromulgated LR 32:2267 (December 2006).

§16303. Standards for Participation

A. Rural Health Clinics must comply with the applicable licensure, accreditation and program participation standards for all services rendered. If a RHC wishes to initiate participation, it shall be responsible for meeting all of the enrollment criteria of the program. The RHC provider shall:

1. maintain an acceptable fiscal record keeping system that readily distinguishes one type of service from another type of service that may be provided;

2. retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and

3. abide by and adhere to all federal and state regulations and policy manuals.

B. Medicaid enrollment can be no sooner than Medicaid's receipt of the complete enrollment packet. A complete enrollment packet for RHCs must include a copy of the CMS provider certification letter approving rural health clinic status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006).

Chapter 165. Services

§16501. Scope of Services

A. Medicaid reimbursement is limited to medically necessary services that are covered by the Medicaid State Plan and would be covered if furnished by a physician. The following services shall be covered:

1. services furnished by a physician, within the scope of practice of his profession under Louisiana law;

2. services furnished by a:

a. physician assistant;

b. nurse practitioner;

c. nurse midwife;

d. clinical social worker;

e. clinical psychologist; or

f. dentist;

3. services and supplies that are furnished as an incident to professional services furnished by all eligible professionals; and

4. other ambulatory services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006).

§16503. Service Limits

A. Rural health clinic visits (encounters) are limited to 12 visits per year for medically necessary services rendered to Medicaid recipients who are 21 years of age or older. Visits for Medicaid recipients who are under 21 years of age and for prenatal and postpartum care are excluded from the service limitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006).

Chapter 167. Reimbursement Methodology

§16701. Prospective Payment System

A. Payments for Medicaid covered services will be made under a Prospective Payment System (PPS) and paid on a per visit basis.

B. A visit is defined as a face-to-face encounter between a facility health professional and a Medicaid eligible patient for the purpose of providing medically needed outpatient services.

1. Encounters with more than one facility health professional that take place on the same day and at a single location constitute a single encounter.

2. Services shall not be arbitrarily delayed or split in order to bill additional encounters.

NOTE: Refer to the RHC and Physician's Current Procedural Terminology (CPT) Manuals for the definition of an encounter.

C. For an RHC which enrolls and receives approval to operate, the facility's initial PPS per visit rate shall be determined through a comparison to other RHCs in the same town/city/parish. The scope of services shall be considered in determining which proximate RHC most closely approximates the new provider. If no RHCs are available in the proximity, comparison shall be made to the nearest RHC offering the same scope of service. The rate will be set to that of the RHC comparative to the new provider.

D. The PPS per visit rate for each facility will be increased on July 1 of each year by the percentage increase in the published *Medicare Economic Index (MEI)* for primary services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006).

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of

Frederick P. Cerise, M.D., M.P.H.
Secretary

0612#076

RULE

Department of Insurance Office of the Commissioner

Regulation 89—Suitability in Annuity Transactions (LAC 37:XIII.Chapter 117)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of the Louisiana Department of Insurance has adopted Regulation 89. This regulation implements standards and procedures to be adhered to by insurance producers, or an insurer where no producer is involved, with regard to determining the financial suitability of annuity products prior to recommending such a product to consumers.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 117. Regulation Number 89—Suitability in Annuity Transactions

§11701. Purpose

A. The purpose of this regulation is to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

B. Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006).

§11703. Scope

A. This regulation shall apply to any recommendation to purchase or exchange an annuity made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the recommended purchase or exchange.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006).

§11705. Authority

A. This regulation is promulgated under the authority of R.S. 22:3 and the auspices of Part XXVI:R.S. 22:1211 et seq., referred to as "Unfair Trade Practices."

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006).

§11707. Exemptions

A. Unless otherwise specifically included, this regulation shall not apply to recommendations involving:

1. direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this regulation;

2. contracts used to fund:

a. an employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

b. a plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer;

c. a government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;

d. a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

e. settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

f. formal prepaid funeral contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006).

§11709. Definitions

Annuity—a fixed annuity or variable annuity that is individually solicited, whether the product is classified as an individual or group annuity.

Insurance Producer—a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities.

Insurer—a company required to be licensed under the laws of this state to provide insurance products, including annuities.

Recommendation—advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase or exchange of an annuity in accordance with that advice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006).

§11711. Duties of Insurers and of Insurance Producers

A. In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs.

B. Prior to the execution of a purchase or exchange of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain information concerning:

1. the consumer's financial status;
2. the consumer's tax status;
3. the consumer's investment objectives; and
4. such other information used or considered to be

reasonable by the insurance producer, or the insurer where no producer is involved, in making recommendations to the consumer.

C.1. Except as provided under Paragraph 2 of this Subsection, neither an insurance producer, nor an insurer where no producer is involved, shall have any obligation to a consumer under Subsection A related to any recommendation if a consumer:

- a. refuses to provide relevant information requested by the insurer or insurance producer;
- b. decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance producer; or
- c. fails to provide complete or accurate information.

2. An insurer or insurance producer's recommendation subject to Paragraph 1 shall be reasonable under all the circumstances actually known to the insurer or insurance producer at the time of the recommendation.

D.1. An insurer either shall assure that a system to supervise recommendations that is reasonably designed to achieve compliance with this regulation is established and maintained by complying with Paragraphs 3 to 5 of this Subsection, or shall establish and maintain such a system, including, but not limited to:

- a. maintaining written procedures; and
- b. conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this regulation.

2. A general agent and independent agency either shall adopt a system established by an insurer to supervise recommendations of its insurance producers that is reasonably designed to achieve compliance with this regulation, or shall establish and maintain such a system, including, but not limited to:

- a. maintaining written procedures; and
- b. conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this regulation.

3. An insurer may contract with a third party, including a general agent or independent agency, to establish and maintain a system of supervision as required by Paragraph 1 with respect to insurance producers under contract with or employed by the third party.

4. An insurer shall make reasonable inquiry to assure that the third party contracting under Paragraph 3 of this Subsection is performing the functions required under Paragraph 1 of this Subsection and shall take such action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:

- a. the insurer annually obtains a certification from a third party senior manager who has responsibility for the delegated functions that the manager has a reasonable basis

to represent, and does represent, that the third party is performing the required functions; and

b. the insurer, based on reasonable selection criteria, periodically selects third parties contracting under Paragraph 3 of this Subsection for a review to determine whether the third parties are performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances.

5. An insurer that contracts with a third party pursuant to Paragraph 3 of this Subsection and that complies with the requirements to supervise in Paragraph 4 of this Subsection shall have fulfilled its responsibilities under Paragraph 1 of this Subsection.

6. An insurer, general agent or independent agency is not required by Paragraph 1 or 2 of this Subsection to:

- a. review, or provide for review of, all insurance producer solicited transactions; or
- b. include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer, general agent or independent agency.

7. A general agent or independent agency contracting with an insurer pursuant to Paragraph 3 of this Subsection shall promptly, when requested by the insurer pursuant to Paragraph 4 of this Subsection, give a certification as described in Paragraph 4 of this Subsection or give a clear statement that it is unable to meet the certification criteria.

8. No person may provide a certification under Paragraph 4.a of this Subsection unless:

- a. the person is a senior manager with responsibility for the delegated functions; and
- b. the person has a reasonable basis for making the certification.

E. Compliance with the National Association of Securities Dealers Conduct Rules pertaining to suitability shall satisfy the requirements under this section for the recommendation of variable annuities. However, nothing in this Subsection shall limit the insurance commissioner's ability to enforce the provisions of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006).

§11713. Mitigation of Responsibility

A. The commissioner may order:

1. an insurer to take reasonably appropriate corrective action for any consumer harmed by the insurer's, or by its insurance producer's, violation of this regulation;
2. an insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this regulation; and
3. a general agency or independent agency that employs or contracts with an insurance producer to sell, or solicit the sale of annuities to consumers, to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this regulation.

B. Any applicable penalty under R.S. 22:1217 for a violation of Section 11711.A.B or C.2 of this regulation may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2269 (December 2006).

§11715. Recordkeeping

A. Insurers, general agents, independent agencies and insurance producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for 3 years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

B. Records required to be maintained by this regulation may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2270 (December 2006).

§11717. Severability

A. If any provision or item of this regulation, or the application thereof, is held to be invalid, such invalidity shall not affect other provisions, items, or applications of the regulation, which can be given effect without the invalid provisions, item, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2270 (December 2006).

James J. Donelon
Commissioner

0612#033

RULE

**Department of Public Safety and Corrections
Corrections Services**

Death Penalty (LAC 22:I.103)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Louisiana Department of Public Safety and Corrections, Corrections Services, has amended the contents of LAC 22:I.103, Death Penalty.

The purpose of the amendment of the aforementioned regulation is to clarify the requirements regarding the number of witnesses at an execution.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 1. Secretary's Office

§103. Death Penalty

A. - I.3.a. ...

b. The number of victim relationship witnesses may be limited to two. If more than two victim relationship

witnesses desire to attend the execution, the secretary is authorized to select from the interested parties the two victim relationship witnesses who will be authorized to attend. In the case of multiple victim's families, the secretary shall determine the number of witnesses, subject to the availability of appropriate physical space.

I.4. - J.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:567-571 (as amended by Act No. 717 of the 1990 Regular Session of the Louisiana Legislature, by Act No. 159 of the 1991 Regular Session, Act No. 145 of the 2002 First Extraordinary Session and Act No. 283 of the 2003 Regular Session and as amended by Act 31 of the 2006 Regular Session of the Louisiana Legislature).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981), amended by the Department of Public Safety and Corrections, Corrections Services, LR 17:202 (February 1991), LR 18:77 (January 1992), LR 24:342 (February 1998), LR 25:2410 (December 1999), LR 28:2552 (December 2002), LR 29:2847 (December 2003), LR 31:2032 (August 2005), LR 32:2270 (December 2006).

Richard L. Stalder
Secretary

0612#050

RULE

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

**Food Stamp Program—Implementation of the Louisiana
Combined Application Project (LaCAP)
(LAC 67:III.1999 and Chapter 21)**

The Department of Social Services, Office of Family Support, amended the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps at Chapter 19, Certification of Eligible Households and adopted Chapter 21, Louisiana Combined Application Project (LaCAP).

The purpose of LaCAP is to strengthen access to nutrition benefits for disadvantaged individuals while improving the administration of the Food Stamp Program.

The agency amended §1999 to address when a concurrent notice shall be sent to a household and situations in which a concurrent notice is not necessary.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter M. Notice of Adverse Action

§1999. Reduction or Termination of Benefits

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the household at the time of action in the following situations:

1. the agency disqualifies a household member because of an intentional program violation and the benefits of the remaining household members are reduced or ended because of the disqualification;

2. benefits are reduced or terminated at the end of the certification period when the client timely reapplies;

3. the client's whereabouts are unknown and agency mail directed to him has been returned by the Post Office indicating no known forwarding address;

4. the client has been certified in another state and that fact has been established;

5. the client signs a statement requesting closure or reduction in benefits and waives the right to advance notice;

6. benefits are reduced or terminated effective the month following the semi-annual report month as a result of changes reported through the semi-annual reporting process;

7. the agency receives a written report signed by the head of the household or other responsible household member which provides sufficient information for the agency to determine the household's benefit amount or ineligibility;

8. mass changes;

9. based on reliable information, the agency determines that the household has moved or will be moving out of the state prior to the next monthly issuance;

10. the household applied for cash assistance and food stamps at the same time and has been getting food stamps while waiting for approval of the cash assistance grant;

11. the client was a certified resident in a drug or alcohol treatment center or a group living arrangement which loses its state certification or FNS disqualifies it as a retailer;

12. a household certified under expedited processing rules provides postponed verification which reduces or terminates benefits.

B. A concurrent notice shall not be sent to the household at the time of action in the following situations:

1. all members of the household have died;

2. the household's allotment changes from month to month during the certification period because of changes expected at the time of certification;

3. the agency recoups benefits from a client who previously received a repayment demand letter; and

4. the Fraud and Recovery Section converts a cash payment to allotment reduction because the household failed to make agreed payments on a claim.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55903 et seq., 7 CFR 273.13, 7 CFR 273.12(f)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:324 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998), LR 32:2270 (December 2006).

Chapter 21. Louisiana Combined Application Project (LaCAP)

§2101. General Authority

A. The Louisiana Combined Application Project (LaCAP) is established in accordance with applicable state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006).

Subchapter A. Household Concept

§2103. Household Definition

A. The definition of a household is an individual who is receiving Supplemental Security Income (SSI) and:

1. is at least 60 years old;

2. has a federal living arrangement of Code "A" as determined by the Social Security Administration (SSA);

3. is not institutionalized, or otherwise ineligible for food stamps due to immigration status, an Intentional Program Violation, or drug conviction; and

4. lives alone or declares to purchase and prepare food separately from others in a shared living situation.

B. SSI individuals whose payments are in a "suspense" or "terminated" status as coded by SSA may not participate in LaCAP.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006).

§2105. Application Process

A. The Office of Family Support shall make an eligibility determination and issue food stamp benefits within 30 days following the date of application for LaCAP.

B. LaCAP applications will be processed without a face-to-face or telephone interview.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.2(g), 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006).

§2107. Benefits

A. Participants will receive one of four standard amounts of food stamp benefits based on the household's total combined shelter (housing and utilities) costs.

B. Benefit levels and shelter thresholds used to determine benefits will be adjusted each year to reflect changes in the thrifty food plan and prevailing shelter expenses. Benefit levels will also be adjusted annually based on the cost-of-living adjustments for SSI.

C. Eligibility begins the first day of the month the LaCAP application is received. Benefits will not be prorated.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006).

§2109. Certification Period

A. A certification period of 36 months will be assigned to each eligible LaCAP case.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006).

§2111. Change Reporting

A. Households participating in LaCAP are not required, but must be allowed, to report changes in circumstances affecting their eligibility or benefit level.

B. The agency must act on changes when it becomes aware of the change from the household or another source if the change affects the household's eligibility or benefit level.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2272 (December 2006).

§2113. Household Options

A. Households may choose to opt out of LaCAP at any time and participate in the regular Food Stamp Program, if otherwise eligible.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2272 (December 2006).

§2115. Notices of Adverse Action

A. LaCAP households shall be notified of action to reduce or terminate benefits in accordance with procedures outlined in Chapter 19, Subchapter M, Notice of Adverse Action.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.13.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2272 (December 2006).

§2117. Recovery of Overissued Benefits

A. Establishment of claims, penalties, and collection methods for LaCAP households shall be handled in accordance with procedures outlined in Chapter 19, Subchapter P, Recovery of Over-Issued Food Stamp Benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.B., 7 CFR 273.18.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2272 (December 2006).

Ann S. Williamson
Secretary

0612#051

RULE

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

2007 Turkey Season (LAC 76:XIX.113-117)

The Wildlife and Fisheries Commission does hereby amend the turkey rules and regulations for the 2007 season.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§113. Turkey Hunting Regulations

A. Daily limit is one gobbler, two gobblers per season. Taking of hen turkeys, including bearded hens, is illegal.

Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzle loading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002), LR 29:2512 (November 2003), LR 30:2874 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006).

§115. Statewide Turkey Hunting Areas-Resident Game Birds and Animals

A. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	2/Season

B. Turkey season will open in designated areas on the fourth Saturday in March. The Area A turkey season will be 30 consecutive days in length, the Area B turkey season will be 23 consecutive days in length, and the Area C turkey season will be 16 consecutive days in length. Wildlife Management Areas, National Forests, National Wildlife Refuges, and U.S. Army Corps of Engineers land may vary from this framework. Deviation from this framework may occur in those years when the fourth Saturday in March falls the day before Easter.

C. Statewide Youth Turkey and Physically Challenged Season on private lands shall be the weekend prior to the statewide turkey season. Only youths younger than 16 years of age or hunters possessing a Physically Challenged Hunter Permit with wheelchair classification may hunt. Youth must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults accompanying youth may not possess a firearm or bow. Youths may possess only one firearm or bow while hunting. Legal weapons and shot are the same as described for the turkey season. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Only one gobbler per day may be taken and any gobbler taken by the hunter during this special season counts towards their seasonal bag limit of 2. Contact regional offices for a Physically Challenged Hunter Permit application.

D. 2007 Turkey Hunting Schedule

Area	Season Dates
A	March 24 - April 22
B	March 24 - April 15
C	March 24 - April 8
Private Lands Youth and Physically Challenged Hunter (Wheelchair Confined) Hunt	March 17 - 18

E. 2007 Turkey Hunting Season—Open Only in the Following Areas

1. Area A—March 24-April 22
 - a. All of the following parishes are open:
 - i. Beauregard;
 - ii. Bienville;
 - iii. Claiborne (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - iv. East Baton Rouge;
 - v. East Feliciana;
 - vi. Grant (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - vii. Jackson;
 - viii. LaSalle;
 - ix. Lincoln;
 - x. Livingston;
 - xi. Natchitoches (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - xii. Rapides (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - xiii. Sabine;
 - xiv. St. Helena;
 - xv. Tangipahoa;
 - xvi. Union;
 - xvii. Vernon (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - xviii. West Baton Rouge;
 - xix. West Feliciana (including Racourci Island);
 - xx. Winn (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - b. Portions of the following parishes are also open:
 - i. Allen—North of LA 104, west of LA 26 south of junction of LA 104 to US 190, north of US 190 east of Kinder, west of US 165 south of Kinder;
 - ii. Avoyelles—That portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;
 - iii. Calcasieu—North of I-10;
 - iv. Caldwell—West of Ouachita River southward to Catahoula Parish line;
 - v. Catahoula—South and west of the Ouachita River from the Caldwell Parish line southward to LA 8 at Harrisonburg, north and west of LA 8 from Harrisonburg to the LaSalle Parish line. ALSO that portion lying east of LA 15;
 - vi. Evangeline—North and west of LA 115, north of LA 106 from St. Landry to LA 13, west of LA 13 from Pine Prairie to Mamou and north of LA 104 west of Mamou;
 - vii. Franklin—That portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;
 - viii. Iberville—West of LA 1. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

- ix. Jefferson Davis—North of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;
- x. Madison—That portion lying east of US 65 from East Carroll Parish line to US 80 and south of US 80. Also, all lands east of the main channel of the Mississippi River;
- xi. Morehouse—West of US 165 from the Arkansas line to the junction of LA 140 at Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165 at Bastrop, south of US 165 to junction of LA 3051 (Grabault Road) south of LA 3051 to junction of LA 138, west of LA 138 to junction of LA 134, north of LA 134 to the Ouachita Parish line;
- xii. Ouachita—East of LA 143 from Union Parish line to US 80 in West Monroe, north of US 80 to LA 139, west of LA 139 to the Morehouse Parish line;
- xiii. Pointe Coupee—All of the parish except that portion bounded on the north by LA Hwy. 1, from Innis to the junction of LA Hwy 417, on the west by LA Hwy. 417 southward toward McCrea, on the south by LA Hwy. 417 from McCrea to its junction with Delhi Lane, then by Delhi Lane to LA Hwy. 418, then LA Hwy. 418 northward to LA Hwy. 1 at Innis. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
- xiv. Richland—That portion south of US 80 and east of LA 17;
- xv. St. Landry—That portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. EXCEPTION: the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;
- xvi. Upper St. Martin—All within the Atchafalaya Basin. EXCEPTIONS: Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;
- xvii. Tensas—That portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River;
2. Area B—March 24-April 15
 - a. All of the following parishes are open:
 - i. Caddo;
 - ii. DeSoto;
 - iii. Red River;
 - iv. St. Tammany;
 - v. Washington.
 - b. Portions of the following parishes are open:
 - i. Ascension—All east of the Mississippi River;
 - ii. Bossier—All open except that portion bounded on the north by I-20, on the west by LA 164, on the south by LA 164, and on the east by the Webster Parish Line;
 - iii. East Carroll—East of US 65 from Arkansas state line to Madison Parish line;
 - iv. Iberville—All east of the Mississippi River;
 - v. Webster—All open except that portion bounded on the north by I-20, on the east by U.S. 371, on the south by LA 164, and on the west by the Bossier Parish line

(Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);

3. Area C—March 24-April 8

- a. All of the following parishes are open:
 - i. Concordia;
- b. Portions of the following parishes are open:
 - i. Caldwell—All east of the Ouachita River;
 - ii. Catahoula—All of the parish EXCEPT for that portion located in Area A;

iii. Franklin—West of LA 17 from the Richland Parish line southward to Winnsboro, west of LA 15 southward to the Catahoula Parish line;

iv. Richland—West of LA 17 from Franklin Parish line to Ringle Road, south of Ringle Road to Ferguson Road, south of Ferguson Road to Little Road, south of Little Road to Big Creek, east of Big Creek to Franklin Parish line;

v. Tensas—East and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November 2002), LR 29:2512 (November 2003), LR 30:2875 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006).

§117. 2007 Wildlife Management Area Turkey Hunting Regulations

A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. ATVs, ATCs and motorcycles cannot be left overnight on WMAs EXCEPT in designated camping areas. ATVs are prohibited from two hours after sunset to 3 a.m. All roads including trails and roads designated as ATV only trails shall be closed to ATVs from March 1 through August 31 unless otherwise specified. ATV off-road or off-trail travel is prohibited. Certain trails may be open during this time period to provide access for fishing or other purposes. These trails will be marked by signs at the entrance of the trail. Otherwise, only walk-in hunting is permitted (bicycles permitted). All ATV trails on Jackson-Bienville WMA will be open for use by holders of Physically Challenged Hunter Permits (wheelchair bound classification only) during the special Physically Challenged Hunter (wheelchair bound classification) turkey season.

4. Bag limits on WMAs are part of the season bag limit. Only one turkey is allowed to be taken during special lottery hunts.

5. WMAs with youth turkey hunts are closed to all activities except turkey hunting by authorized youth hunt participants and fishing on the day(s) of the youth hunt.

B. Permits

1. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunter's possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts. All or a portion of the turkey season on Bayou Macon, Clear Creek, Loggy Bayou, Sabine, Sherburne, Sicily Island, Tunica Hills, Union and West Bay WMAs are restricted to those persons selected as a result of the pre-application lottery. Special youth only lottery hunts will be held on Big Lake, Bens Creek, Fort Polk/Peason Ridge/KNF Calcasieu Ranger District, Jackson-Bienville, Loggy Bayou, Sherburne, Sicily Island, Spring Bayou, Thistlethwaite, Union and West Bay WMAs. Deadline for receiving complete applications in the Baton Rouge office for all lottery hunts is 4:30 p.m. February 16, 2007. An application fee of \$5 must be sent with each application. Applicants for WMA youth hunts must be at least 8 years old on the day of the hunt. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements. Youths chosen for special youth only hunts will be guided by members of the Louisiana Chapter of the National Wild Turkey Federation. One family member may accompany the youth and guide, but may not hunt.

C. Wildlife Management Area Turkey Hunting Schedule*

WMA	Non-Lottery Season Dates	Lottery Dates**	Permit Requirements
Bayou Macon	None	April 7-8	Self-Clearing
Bens Creek ¹	March 24-April 8	None	Self-Clearing
Big Lake	March 24-April 8	None	Self-Clearing
Bodcau	March 24-April 8	None	Self-Clearing
Boeuf	March 24-April 1	None	Self-Clearing
Clear Creek	April 2-22	March 24-25 March 31-April 1	Self-Clearing
Camp Beaugard	March 24-April 1	None	Self-Clearing
Fort Polk	March 24-April 22	None	Self-Clearing
Grassy Lake	March 24-April 8	None	Self-Clearing
Hutchinson Creek	March 24-April 22	None	Self-Clearing
Jackson-Bienville	March 24-April 8	None	Self-Clearing
Lake Ramsey	March 24-April 8	None	Self-Clearing
Little River	March 24-April 8	None	Self-Clearing
Loggy Bayou	None	April 14-15	Self-Clearing
Peason Ridge	March 24-April 22	None	Self-Clearing
Red River	March 24-April 8	None	Self-Clearing
Sabine	None	March 24-25 March 31-April 1	Self-Clearing

WMA	Non-Lottery Season Dates	Lottery Dates**	Permit Requirements
Sandy Hollow ¹	March 24-April 8	None	Self-Clearing
Sherburne ²	March 29-April 1	March 24-25 March 26-28	Self-Clearing
Sicily Island	None	March 24-26 March 27-29 March 30-April 1 April 2-4 April 5-8	Self-Clearing
Tangipahoa Parish School Board	March 24-April 22	None	Self-Clearing
Three Rivers	March 24-April 8	None	Self-Clearing
Tunica Hills South Tract	April 9-15	March 24-25 March 31-April 1 April 7-8	Self-Clearing
Tunica Hills Angola Tract ³	April 9-15	March 24-25 March 31-April 1 April 7-8	Self-Clearing
Union	None	April 7-8	Self-Clearing
Walnut Hills	March 24-April 22	None	Self-Clearing
West Bay	None	March 24-25 March 31-April 1	Self-Clearing

*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are closed.

**The deadline for receiving applications for all turkey Lottery Hunts on WMAs is February 16, 2007.

¹No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

²All turkeys harvested on Sherburne WMA must be weighed and checked at WMA headquarters.

³Area closed to all users April 16 – August 31.

D. Wildlife Management Area Youth Hunts

WMA	Lottery Youth Hunt Date
Bens Creek	March 17
Big Lake	March 17
Fort Polk/Peason Ridge/ Calcasieu Ranger Dist.	March 17
Jackson-Bienville	March 17
Loggy Bayou	April 7
Sherburne	March 17-18
Sicily Island	March 17
Spring Bayou	March 17
Thistlethwaite	April 7
Union	March 31
West Bay	March 17

E. Wildlife Management Area Physically Challenged (Wheelchair Confined) Hunt. Jackson-Bienville WMA will be open April 14-20 to physically challenged hunters. Hunters must possess a Physically Challenged Hunter Permit with wheelchair classification. During this special hunt, ATVs may be used by physically challenged hunters on all designated ATV trails in accordance with the Physically Challenged Hunter Permit. Hunters must abide by self-clearing permit requirements. Contact regional offices for a Physically Challenged Hunter Permit application.

F. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) Turkey Hunting Schedule. Caney Ranger District, March 24-April 8; all remaining KNF lands, March 24-April 15 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. U.S. Army Corps of Engineers Turkey Hunting Schedule. Indian Bayou Area, March 17-18 physically challenged lottery only hunt, lottery hunt only on March 24-25 and March 26-28, non-lottery hunt March 29-April 1. Contact USCOE at 337-585-0853 for further information. Old River Control and Lock Areas, March 24-April 8. Contact USCOE (225) 492-2690 for further information.

3. National Wildlife Refuges. Bogue Chitto NWR, March 24-April 15; Lake Ophelia NWR, March 24-April 6 hunt ends at 12 p.m. each day; Tensas NWR, March 17-18 (youth lottery only), March 24-April 8; Upper Ouachita NWR, March 17 (youth lottery only). Contact the U.S. Fish and Wildlife Service for information regarding NWR hunts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:2265 (November 1999), amended LR 26:2636 (November 2000), LR 27:2272 (December 2001), LR 28:2377 (November 2002), LR 29:2514 (November 2003), LR 30:2876 (December 2004), LR 31:3169 (December 2005), LR 32:2274 (December 2006).

Terry D. Denmon
Chairman

0612#057

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State
Accountability System
(LAC 28:LXXXIII.4301, 4302, 4310,
4311, 4313, 4315, 4503, and 4517)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC 28:LXXXIII). The Indicators replacing the District Responsibility Index provide a more specific picture of how districts are to be held accountable. Details of the District Accountability Release required clarification because of the 2005 hurricanes.

Title 28 EDUCATION

Part LXXXIII. Bulletin 111—The Louisiana School, District and State Accountability System

Chapter 43. District Accountability

§4301. Inclusion of All Districts

A. ...

B. Indicators for District Accountability. There shall be three statistics reported for each school district for district accountability:

1. a District Performance Score (DPS);
2. a District Responsibility Index (DRI); and (the DRI shall be discontinued following the Spring 2006 District Accountability release and replaced with 3 District Responsibility Indicators).
3. a Subgroup Component.

C. - C.2. ...

D. District Responsibility Index (DRI). A District Responsibility Index (DRI) shall be the weighted average of four indicators with each indicator to be expressed as an index. A score of 100 = good and a score of 150 = excellent.

1. Spring 2006 shall be the last year the LDE will calculate a District Responsibility Index.

2. In spring 2007, 3 District Responsibility Indicators shall be calculated and reported separately (G below).

E. The DRI indicators (through the spring 2006 District Accountability Release).

E.1 - F. ...

G. Beginning with the Spring 2007 District Accountability Release, there shall be 3 District Responsibility Indicators reported.

1. Teacher Certification Indicator
2. Eighth Grade Persistence Indicator

3. Financial Risk Indicator

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2755 (December 2003), amended LR 30:1446 (July 2004), LR 32:543 (April 2006), LR 33:

§4302. District Responsibility Indicators

A. Teacher Certification Indicator. The Teacher Certification Indicator is based on the percentage of state core classes (English, mathematics, science, and social studies) taught by three categories of teachers, those with:

1. full authority to teach (standard certification);
2. provisional authority to teach (Out of Field or Temporary Authority—TAT, OFAT, TEP);
3. no authority to teach (no certification).

B. The LDE shall calculate two teacher certification indices.

1. Low Performing Schools (1 Star and Academically Unacceptable)

2. Other Schools, Not Low Performing (2 Star and above)

3. In instances when a district's schools all fall into 1 category (low performing or other), the index for that category shall also be considered the overall Teacher Certification Indicator.

4. The low performing school index is assigned a 75 percent weighting and the other school index a 25 percent weighting in the Teacher Certification Indicator.

5. Each teacher certification index is calculated by first determining the percentage of state core classes taught by each of the three categories of teachers in the appropriate school group (low performing or other, not low performing).

6. The percentages of state core classes taught by teachers in each category are weighted and converted to points by the following factors:

a. 1.0 times the percentage of classes taught by teachers with full authority to teach;

b. 0.5 times the percentage of classes taught by teachers with provisional authority to teach;

c. 0.0 times the percentage of classes taught by teachers with no authority to teach.

7. Sum the weighted points for low performing schools and again for other schools.

8. Weight the low performing schools point total by 75 percent.

9. Weight the other schools point total by 25 percent.

10. The District Teacher Certification Indicator is the sum of the values from 8 and 9 (above).

11. Example of the Calculation of the District Teacher Certification Indicator

District Teacher Certification Indicator Calculation					
Authority to Teach	Assigned Value	Percentage in Low Performing Schools	Points	Percentage in Other Schools	Points
Full	1.0	92.4%	92.4	92.2%	92.2
Provisional	0.5	5.0%	2.5	4.8%	2.4
No	0.0	2.6%	0.0	3.0%	0.0
Subtotals			94.9		94.6
Low Performing Weight		75%	x 94.9	Low Performing Weighted Value	
Other Schools Weight		25%	x 94.6	Other Schools' Weighted Value	
				Teacher Certification Indicator	
				94.9	

12. Districts shall be assigned a label based on the value of the District Teacher Certification Indicator as follows.

District Teacher Certification Indicator	
Indicator Value	Label
97.0-100.0	Exceptional
94.0-96.9	Adequate
90.0-93.9	Marginal
< 90.0	Unacceptable

B. Eighth Grade Persistence Indicator. The 8th Grade Persistence Indicator is based on a district's success at keeping 8th grade students enrolled in school.

1. The 8th Grade Persistence Indicator shall be calculated using an aggregate of two years of student data, and because of extensive time afforded districts to correct exit data, it shall use data lagged by 1 year.

a. Example: The Spring 2007 8th Grade Persistence Indicator shall be calculated using data from academic years 2003-04 and 2004-05.

2. Students enrolled in a district for at least 1 full day of a given academic year, less those students exiting the district school system for legitimate reasons (as defined in the Student Information System User Guide) shall be included in the denominator used to calculate the 8th Grade Persistence Indicator.

3. Since the calculation aggregates two years of student data, those students eligible for inclusion in the denominator in 1 or both of the appropriate two years shall provide the count to be used as the denominator.

4. The numerator is comprised of those students in the denominator who are still enrolled in public education on October 1 of the following academic year.

5. Example of the calculation of the District 8th Grade Persistence Indicator.

District 8th Grade Persistence Indicator Calculation						
Enrolled			Returned Oct 1			
2003-04	2004-05	Total	2004	2005	Total	Percent Returned
669	713	1382	650	685	1335	96.6 percent

6. Districts shall be assigned a label based on the value of the District 8th Grade Persistence Indicator as follows.

District 8th Grade Persistence Indicator	
Indicator Value	Label
99.0-100.0	Exceptional

District 8th Grade Persistence Indicator	
Indicator Value	Label
98.0-98.9	Adequate
97.0-97.9	Marginal
< 97.0	Unacceptable

C. Financial Risk Indicator. The factors included in the Financial Risk Indicator were originally developed in 2004-05. They are currently (August, 2006) under review at the request of the Board of Elementary and Secondary Education. The use of this data as a District Responsibility Indicator will be defined following any needed revisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

§4310. Subgroup Component AYP (Adequate Yearly Progress)

A. - A.1.c. ...

d. For the non-proficient reduction portion of the safe harbor test, a comparison of current year assessment data to the previous year assessment data shall be used. For the additional academic indicator check for the safe harbor test and for the whole grade-cluster check, attendance and dropout data from the prior year will be compared to data from two years prior.

i. For 2005-06 only, the safe harbor comparison of assessment results shall include only English language arts and mathematics results from grades 4, 8, and 10.

ii. Beginning in 2006-07, safe harbor shall be determined using English language arts and mathematics assessment data from grades 3-8 and 10.

e - e.iii. ...

f. To ensure high levels of reliability, Louisiana will apply a 99 percent confidence interval to the calculations of subgroup component determinations for:

B. - B.5. ...

C. AMO

1. The Annual Measurable Objective (AMO) is the percent of students required to reach the proficient level in a given year on the standards-based assessments, which through 2005 will include English language arts and mathematics tests for 4th, 8th, and 10th grades. Beginning with Spring 2006 test results, proficiency levels shall be determined using English language arts and mathematics assessment data from grades 3-8 and 10.

a. Proficient = a score of basic, mastery or advanced.

C.2. - E.2.b. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1447 (July 2004), amended LR 30:2446 (November 2004), LR 31:424 (February 2005), LR 31:633 (March 2005), LR 31:913 (April 2005), LR 32:1029 (June 2006), LR 33:

§4311. Performance Labels

A. - A.1. ...

* * *

B. A label shall be reported for the District Responsibility Index (DRI) and for each of the four indicators through the Spring 2006 district accountability release. The District Responsibility Index shall be discontinued following this release.

District Responsibility Index	DRI Label
120.0 or more	Highly responsive
100.0-119.9	Adequately responsive
80.0-99.9	Responsive
60.0-79.9	Minimally responsive
0.0-59.9	Unresponsive

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:635 (March 2005), LR 33:

§4313. Corrective Actions

A. The Louisiana Department of Education shall report district scores and labels on every school district.

B. Beginning in 2004, districts shall be evaluated on their District Responsibility Index label and on the subgroup component. districts that receive a DRI Index label of Unresponsive and/or fail all clusters, in the same subject, on the subgroup component shall complete a district self-assessment and submit it to the Louisiana Department of Education. Following the Spring 2006 district accountability release, the District Responsibility Index and the associated labels shall be discontinued. At that time, districts must complete a self-assessment only after failing all 3 clusters in the same subject.

1. The DOE shall review each self-assessment.
2. The DOE may recommend that BESE schedule a district dialogue with the district.

C. - E. ...

F. Districts in district improvement shall exit by passing the subgroup component for:

1. two consecutive years, all three clusters in the subject that placed the district in district improvement; or
2. three consecutive years, two of three clusters in the subject that placed the district in district improvement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:424 (February 2005), LR 31:635 (March 2005), LR 31:1256 (July 2005), LR 33:

§4315. Progress Report

A. The Louisiana Department of Education shall publish a district accountability report. The report shall contain the labels for the DPS and DRI and for each of the four

indicators through Spring 2006 when the DRI shall be discontinued. The report shall also contain the percent poverty, poverty ranking, and percentage of students enrolled in public education for the district, as well as data from the subgroup component.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 33:

Chapter 45. Disaster Considerations for School and District Accountability

§4503. One Year Waiver for "Severe Impact" Schools and Districts

A. - D. ...

E. Districts shall be considered "Severe Impact" districts and receive a one year waiver from accountability labels and decisions if:

1. they are closed for 18 consecutive school days; or
2. they gain or lose 25 percent of their testing population before October 1; or
3. they have 25 percent or more of their schools granted a one year waiver or classified as new schools due to a disaster.

F. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1412 (August 2006), amended LR 33:

§4517. District Performance Score Calculations with Displaced Students

A. The District Performance Scores will be calculated using the same indices as School Performance Scores with displaced students excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1414 (August 2006), amended LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office, which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., February 8, 2007, to: Nina Ford, State Board of Elementary

and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 111—The Louisiana School,
District, and State Accountability System**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The policy changes define the indicators that will now be used to determine the district accountability score and adjustments to the District Accountability Release.

There are no estimated implementation costs (savings) to state governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition and employment.

Beth Scioneaux
Acting Deputy Superintendent
0612#043

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1794—State Textbook Adoption
Policy and Procedure Manual
(LAC 28:XXXIII.301, 303, 319, 503, 723, and 2001)

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 amendments to *Bulletin 1794—State Textbook Adoption Policy and Procedure Manual* (LAC Part XXXIII). This action is required as part of U.S. Department of Education approval of IDEA, 2004 related to the purchase of K-12 Instructional Materials and by action of the State Board of Elementary and Secondary Education in exercising its administrative and oversight authority for the state textbook adoption process.

**Title 28
EDUCATION**

**Part XXXIII. Bulletin 1794—State Textbook Adoption
Policy and Procedure Manual**

Chapter 3. General Provisions

§301. Definitions

*Blind Persons or other Persons with Print Disabilities*¹—children served under these regulations who may qualify to receive books and other publications produced in specialized formats in accordance with the Act

entitled "An Act to Provide Books for the Adult Blind," approved March 3, 1931, 2 U.S.C. 135a (including footnote)

National Instructional Materials Access Center (NIMAC)—the center established in Section 674(e) of the Act, through the American Printing House for the Blind (APH), not later than one year after the date of enactment of IDEA. NIMAC's duties are:

1. to receive and maintain a catalog of print instructional materials prepared in the NIMAS, as established by the secretary, made available to such center by the textbook publishing industry, State Educational Agencies (SEAs), and LEAs;

2. to provide access to print instructional materials, including textbooks, in accessible media, free of charge, to blind or other persons with print disabilities in elementary schools and secondary schools, in accordance with such terms and procedures as the NIMAC may prescribe;

3. to develop, adopt and publish procedures to protect against copyright infringement, with respect to the print instructional materials provided in Sections 612(a)(23) and 613(a) (6) of the Act.

National Instructional Materials Accessibility Standard (NIMAS)—given that term in Section 674(e)(3)(B) of the Act (NIMAS means the standard established by the secretary to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats).

Print Instructional Materials—to be printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a SEA or LEA for use by students in the classroom.

Specialized Formats—that term in section 674(e)(3)(D) of the Act (*Specialized format* means Braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities; and with respect to print instructional materials, includes large print formats when such materials are distributed exclusively for use by blind or other persons with disabilities).

Timely Manner—at the same time as non-disabled peers.

¹The Library of Congress regulations (36 CFR 701.6(b)(1)) related to the Act to Provide Books for the Adult Blind (approved March 3, 1931, 2 U.S.C. 135a) provide that "blind persons or other persons with print disabilities" include: (i) Blind persons whose visual acuity, as determined by competent authority, is 20/200 or less in the better eye with correcting glasses, or whose widest diameter if visual field subtends an angular distance no greater than 20 degrees. (ii) Persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material. (iii) Persons certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations. (iv) Persons certified by competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner. Competent authority is defined in 36 CFR 701.6(b)(2) as follows: (i) In cases of blindness, visual disability, or physical limitations "competent authority" is defined to include doctors of medicine, doctors of osteopathy, ophthalmologists, optometrists, registered nurses, therapists, professional staff of hospitals, institutions, and public or welfare agencies (e.g., social workers, case workers, counselors, rehabilitation teachers, and superintendents). (ii) In the case of a reading disability from organic dysfunction, competent authority is defined as doctors of medicine who may consult with colleagues in associated disciplines.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1436 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 32:1030 (June 2006), LR 33:

§303. Textbook Approval

A. ...

B. The state shall adopt materials that meet the National Instructional Materials Accessibility Standards (NIMAS). The state shall coordinate with the National Instructional Materials Access Center (NIMAC) for preparation and storage of electronic files suitable and use solely for conversion into specialized formats.

C. In carrying out this Section, the state to the maximum extent possible, shall work collaboratively with all agencies responsible for assistive technology programs.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S.17:8(A)(B); R.S. 17: 351(A)(B).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1437 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 33:

§319. Establish Procedures for Concerned Citizens' Involvement in the Review Process and a Procedure for Response by Textbook Publishers

A. A minimum of eight public sites shall be established for display and review of all basal textbooks presented for consideration. Sites shall include, at a minimum, three cooperating libraries in New Orleans to be determined by the New Orleans Public Library system, two in cooperating library branches in Baton Rouge, and in cooperating libraries in Covington, Hammond, Metairie, Marrero, Bossier City, Natchitoches, Ruston, DeRidder, New Iberia, Opelousas, Bogalusa, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, and Houma.

1. A list of public review sites will be posted on the department's website for a minimum of 90 days prior to the adoption of new textbooks.

2. Four copies of each textbook under review will be provided at each participating location, three of which shall be available to check out.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999), repromulgated LR 26:996 (May 2000), amended LR 33:

Chapter 5. Local School System Responsibilities

§503. Local Planning

A. ...

B. The LEA that chooses to coordinate with the National Instructional Materials Access Center (NIMAC), when purchasing print instructional materials must acquire those instructional materials in the same manner, and subject to the same conditions as the state under §303.

1. If an LEA chooses not to coordinate with the NIMAC, the LEA must provide an assurance to the state that instructional materials will be provided to blind persons or other persons with print disabilities in a timely manner.

2. The LEA has a responsibility to ensure that children with disabilities who need instructional materials in

accessible formats but are not included under the definition of blind or other persons with print disabilities in 300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.

C. The LEA shall ensure that children with disabilities who need instructional materials in accessible formats but are not included under the definition of blind or other persons with print disabilities in 300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1442 (August 1999), repromulgated LR 26:998 (May 2000), amended LR 29:124 (February 2003), LR 33:

Chapter 7. Publishers' Responsibilities

§723. Braille Accessibility

A. ...

B. Publishers shall furnish, within 90 days of state adoption, to the National Instructional Materials Access Center electronic files containing contents of the print instruction materials using the NIMAS.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1449 (August 1999), repromulgated LR 26:1005 (May 2000), amended LR 33:

Chapter 20. Appendix G

§2001. National Instructional Materials Accessibility Standard (NIMAS)

National Instructional Materials Accessibility Standard (NIMAS)

1. TECHNICAL SPECIFICATIONS—THE BASELINE ELEMENT SET

A. The Baseline Element Set details the minimum requirement that must be delivered to fulfill the NIMAS. It is the responsibility of publishers to provide this NIMAS-conformant XML content file, a package file (OPF), a PDF-format copy of the title page (or whichever page(s) contain(s) ISBN and copyright information), and a full set of the content's images. All of the images included within a work must be provided in a folder and placeholders entered in the relevant XML document indicating their location (all images must be included). The preferred image type is SVG, next is either PNG or JPG format. Images should be rendered in the same size/proportion as their originals at 300 dpi. Images should be named with relative path filenames in XML files (example: ``). NIMAS-conformant content must be valid to the NIMAS 1.1 [see ANSI/NISO Z39.86 2005 or subsequent revisions]. In addition, files are required to use the tags from the Baseline Element Set when such tags are appropriate. Publishers are encouraged to augment the required Baseline Element Set with tags from the Optional Element Set (elements not included in the standard) as applicable. For the purposes of NIMAS, appropriate usage of elements, both baseline and optional, is defined by the DAISY Structure Guidelines. Files that do not follow these guidelines in the selection and application of tags are not conformant to this standard. Both optional elements and appropriate structure guidelines may be located within Z39.86-2002 and Z39.86-2005 available from <http://www.daisy.org/z3986/>. Use of the most current standard is recommended.

The Baseline Element Set Document-Level Tags

Element	Description
dtbook	The root element in the Digital Talking Book DTD. <dtbook> contains metadata in <head> and the contents itself in <book>.
head	Contains metainformation about the book but no actual content of the book itself, which is placed in <book>. This information is consonant with the <head> information in xhtml, see [XHTML11STRICT]. Other miscellaneous elements can occur before and after the required <title>. By convention <title> should occur first.
book	Surrounds the actual content of the document, which is divided into <frontmatter>, <bodymatter>, and <rearmatter>. <head>, which contains metadata, precedes <book>.
meta	Indicates metadata about the book. It is an empty element that may appear repeatedly only in <head>.
title	Contains the title of the book but is used only as metainformation in <head>. Use <doctitle> within <book> for the actual book title, which will usually be the same.

Structure and Hierarchy

Element	Description
frontmatter	Usually contains <doctitle> and <docauthor>, as well as preliminary material that is often enclosed in appropriate <level> or <level1> etc. Content may include a copyright notice, a foreword, an acknowledgements section, a table of contents, etc. <frontmatter> serves as a guide to the content and nature of a <book>.
bodymatter	Consists of the text proper of a book, as contrasted with preliminary material <frontmatter> or supplementary information in <rearmatter>.
rearmatter	Contains supplementary material such as appendices, glossaries, bibliographies, and indices. It follows the <bodymatter> of the book.
level1	The highest-level container of major divisions of a book. Used in <frontmatter>, <bodymatter>, and <rearmatter> to mark the largest divisions of the book (usually parts or chapters), inside which level2 subdivisions (often sections) may nest. The class attribute identifies the actual name (e.g., part, chapter) of the structure it marks. Contrast with <level>.
level2	Contains subdivisions that nest within <level1> divisions. The class attribute identifies the actual name (e.g., subpart, chapter, subsection) of the structure it marks.
level3	Contains sub-subdivisions that nest within <level2> subdivisions (e.g., sub-subsections within subsections). The class attribute identifies the actual name (e.g., section, subpart, subsection) of the subordinate structure it marks.
level4	Contains further subdivisions that nest within <level3> subdivisions. The class attribute identifies the actual name of the subordinate structure it marks.
level5	Contains further subdivisions that nest within <level4> subdivisions. The class attribute identifies the actual name of the subordinate structure it marks.
level6	Contains further subdivisions that nest within <level5> subdivisions. The class attribute identifies the actual name of the subordinate structure it marks.
h1	Contains the text of the heading for a <level1> structure.
h2	Contains the text of the heading for a <level2> structure.
h3	Contains the text of the heading for a <level3> structure.
h4	Contains the text of the heading for a <level4> structure.
h5	Contains the text of the heading for a <level5> structure.
h6	Contains the text of the heading for a <level6> structure.

Block Elements

Element	Description
author	Identifies the writer of a work other than this one. Contrast with <docauthor>, which identifies the author of this work. <author> typically occurs within <blockquote>.
blockquote	Indicates a block of quoted content that is set off from the surrounding text by paragraph breaks. Compare with <q>, which marks short, inline quotations.
list	Contains some form of list, ordered or unordered. The list may have intermixed heading <hd> (generally only one, possibly with <prodnote>) and an intermixture of list items and <pagenum>. If bullets and outline enumerations are part of the print content, they are expected to prefix those list items in content, rather than be implicitly generated.
li	Marks each list item in a <list>. content may be either inline or block and may include other nested lists. Alternatively it may contain a sequence of list item components, <lic>, that identify regularly occurring content, such as the heading and page number of each entry in a table of contents.
hd	Marks the text of a heading in a <list> or <sidebar>.
note	Marks a footnote, endnote, etc. Any local reference to <note id="yyy"> is by <noteref idref="#yyy">. [Attribute id]
p	Contains a paragraph, which may contain subsidiary <list> or <dl>.
sidebar	Contains information supplementary to the main text and/or narrative flow and is often boxed and printed apart from the main text block on a page. It may have a heading <hd>.
cite	Marks a reference (or citation) to another document.
dd	Marks a definition of the preceding term <dt> within a definition list <dl>. A definition without a preceding <dt> has no semantic interpretation, but is visually presented aligned with other <dd>.
dl	Contains a definition list, usually consisting of pairs of terms <dt> and definitions <dd>. Any definition can contain another definition list.
dt	Marks a term in a definition list <dl> for which a definition <dd> follows.

Inline Elements

Element	Description
em	Indicates emphasis. Usually is rendered in italics. Compare with .
q	Contains a short, inline quotation. Compare with <blockquote>, which marks a longer quotation set off from the surrounding text.
strong	Marks stronger emphasis than . Visually is usually rendered bold.
sub	Indicates a subscript character (printed below a character's normal baseline). Can be used recursively and/or intermixed with <sup>.
sup	Marks a superscript character (printed above a character's normal baseline). Can be used recursively and/or intermixed with <sub>.
br	Marks a forced line break.
line	Marks a single logical line of text. Often used in conjunction with <linenum> in documents with numbered lines. [Include in baseline element set. Use only when line breaks must be preserved to capture meaning (e.g., poems, legal texts).]
linenum	Contains a line number, for example in legal text. [Include in baseline element set. Use only when <line> is used, and only for lines numbered in print book.]

Element	Description
pagenum	Contains one page number as it appears from the print document, usually inserted at the point within the file immediately preceding the first item of content on a new page. [NB: Only valid when includes id attribute].
noteref	Marks one or more characters that reference a footnote or endnote <note>. Contrast with <annoref>. <noteref> and <note> are independently skippable.

Tables

Element	Description
table	Contains cells of tabular data arranged in rows and columns. A <table> may have a <caption>. It may have descriptions of the columns in <col>s or groupings of several <col> in <colgroup>. A simple <table> may be made up of just rows <tr>. A long table crossing several pages of the print book should have separate <pagenum> values for each of the pages containing that <table> indicated on the page where it starts. Note the logical order of optional <thead>, optional <tfoot>, then one or more of either <tbody> or just rows <tr>. This order accommodates simple or large, complex tables. The <thead> and <tfoot> information usually helps identify content of the <tbody> rows. For a multiple-page print <table> the <thead> and <tfoot> are repeated on each page, but not redundantly tagged.
td	Indicates a table cell containing data.
tr	Marks one row of a <table> containing <th> or <td> cells.

Images

Element	Description
imggroup	Provides a container for one or more and associated <caption>(s) and <prodnote>(s). A <prodnote> may contain a description of the image. The content model allows: 1) multiple if they share a caption, with the ids of each in the <caption imgref="id1 id2 ...">, 2) multiple <caption> if several captions refer to a single where each caption has the same <caption imgref="xxx">, 3) multiple <prodnote> if different versions are needed for different media (e.g., large print, braille, or print). If several <prodnote> refer to a single , each prodnote has the same <prodnote imgref="xxx">.
caption	Describes a <table> or . If used with <table> it must follow immediately after the <table> start tag. If used with or <imggroup> it is not so constrained.

B. The Optional Elements and Guidelines for Use

1. Publishers are encouraged to apply markup beyond the baseline (required) elements. The complete DTBook Element Set reflects the tags necessary to create the six types of Digital Talking Books and Braille output. Because of the present necessity to subdivide the creation of alternate format materials into distinct phases, the Panel determined that baseline elements would be provided by publishers, and optional elements would be added to the NIMAS conformant files by third party conversion entities. In both circumstances the protocols for tagging digital files should conform to the most current ANSI/NISO Z39.86 specification. Content converters are directed to the most current DAISY Structure Guidelines (<http://www.daisy.org/z3986/>) for guidance on their use. Since the publication of the original National File Format report from which the NIMAS technical specifications were derived, ANSI/NISO Z39.86-2002 was updated and is now ANSI/NISO Z39.86-2005. It may be best to avoid using the following optional elements which are no longer included in ANSI/NISO Z39.86-2005: style, notice, hr, and levelhd. Also, the following new elements were introduced by ANSI/NISO Z39.86-2005 and should be considered optional elements for the NIMAS: bridgehead, byline, covertitle,

dateline, epigraph, linegroup, and poem. Please refer to ANSI/NISO Z39.86-2005 for additional information regarding these elements. To access the ANSI/NISO Z39.86-2005 specification, go to <http://www.daisy.org/z3986/>.

2. Package File

(a). A package file describes a publication. It identifies all other files in the publication and provides descriptive and access information about them. A publication must include a package file conforming to the NIMAS. The package file is based on the Open eBook Publication Structure 1.2 package file specification (For most recent detail please see <http://www.openebook.org/oebps/oebps1.2/download/oeb12-xhtml.htm#sec2>).

(b). A NIMAS package file must be an XML-valid OeB PS 1.2 package file instance and must meet the following additional standards:

(i) The NIMAS Package File must include the following Dublin Core (dc:)metadata:

- dc:Title.
- dc:Creator (if applicable).
- dc:Publisher.
- dc>Date (Date of NIMAS-compliant file creation—yyyy-mm-dd).
- dc:Format (= "NIMAS 1.0").
- dc:Identifier (a unique identifier for the NIMAS-compliant digital publication, e.g., print ISBN + "- NIMAS"—exact format to be determined).
- dc:Language (one instance, or multiple in the case of a foreign language textbook, etc.).
- dc:Rights (details to be determined).
- dc:Source (ISBN of print version of textbook).

(ii). And the following x-metadata items:

- nimas-SourceEdition (the edition of the print textbook).
- nimas-SourceDate (date of publication of the print textbook).

(iii). The following metadata were proposed also as a means of facilitating recordkeeping, storage and file retrieval:

- dc:Subject (Lang Arts, Soc Studies, etc.).
- nimas-grade (specific grade level of the print textbook, e.g.; Grade 6).
- nimas gradeRange (specific grade range of the print textbook, e.g.; Grades 4–5).

(iv). An additional suggestion references the use of:

dc:audience:educationLevel (for the grade and gradeRange identifiers, noting that Dublin Core recommends using educationLevel with an appropriate controlled vocabulary for context, and recommends the U.S. Department of Education's Level of Education vocabulary online at <http://www.ed.gov/admin/reference/index.jsp>. Using education Level obviates the need for a separate field for grade Range since dc elements can repeat more than once. A book used in more than one grade would therefore have two elements, one with value "Grade 4" and another with value "Grade 5."

Note: A final determination as to which of these specific metadata elements to use needs to be clarified in practice. The package manifest must list all provided files (text, images, etc.). (Note: For purposes of continuity and to minimize errors in transformation and processing, the NIMAS compliant digital text should be provided as a single document.)

3. Modular Extensions

(a). The most current DAISY/NISO standard, formally the ANSI/NISO Z39.86, Specifications for the Digital Talking Book defines a comprehensive system for creating Digital Talking Books. A part of this standard is DTBook, an XML vocabulary that provides a core set of elements needed to produce most types of books. However, DTBook is not intended to be an exhaustive vocabulary for all types of books.

NOTE: Guidelines for the correct approach to extend the DAISY/NISO standard have been established. Mathematics, video support, testing, workbooks, music, dictionaries,

chemistry, and searching are some of the extensions that have been discussed. Visit <http://www.daisy.org/z3986/> to learn more about modular extensions.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office that has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule effect the functioning of the family? No.
4. Will the proposed Rule effect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? no.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., February 8, 2007, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 1794—State Textbook Adoption Policy and Procedure Manual

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The changes to the policy define certain terms, clarify the state's role in preparing and storing electronic files, add an appendix, and update the policy with technical changes. There will be no increase in costs for local governmental units. The estimated cost to the Department of Education for this rule change is \$135 (for printing and postage).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule change should have no significant effect on state or local revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no measurable, anticipated cost or economic benefit to any person or non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Beth Scioneaux
Deputy Superintendent
0612#042

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Bylaws—Committee Membership
(LAC 28:V.101 and 103)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Bylaws (R.S. 17:3021-3025 and R.S. 17:3048.1).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (SG0780NI)

Title 28 EDUCATION

Part V. Student Financial Assistance—Higher Education Loan Program

Chapter 1. Student Financial Assistance Commission Bylaws

§101. Definitions and Authority

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998), LR 26:1993 (September 2000), LR 33:

§103. Meetings

A. Regular Meetings. The commission shall hold regular meetings, which are limited in number to 12 per year. All regular meetings shall be held at meeting places designated by the commission. Proxy voting shall be allowed at all meetings for the chairman of: State Board of Elementary and Secondary Education; Board of Supervisors, Louisiana State University; Board of Supervisors, Southern University; Board of Regents; Board of Supervisors, University of Louisiana; and Louisiana Association of Independent Colleges and Universities, or each of their designees; however, any proxy holder must also be a member of that respective board. The superintendent of education may vote by proxy through a member of his/her executive staff. No other members shall have the right of proxy voting.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1263 (July 1998), amended LR 26:1993 (September 2000), LR 33:

Interested persons may submit written comments on the proposed changes (SG0780NI) until 4:30 p.m., January 10, 2007, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bylaws—Committee Membership**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governmental units due to the proposed changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0612#012

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Natural Disaster
(LAC 28:IV.703, 705, 803, and 805)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant Rules to incorporate Acts 64 and 65 of the First Extraordinary Session of 2005 concerning the TOPS initial and continuing eligibility requirements as they relate to students displaced by Hurricanes Katrina and Rita in accordance with R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1, and in accordance with the authority and procedures provided R.S. 17:3048.6.B(2)(a)(i), to provide waivers of certain TOPS initial eligibility requirements for students displaced by Hurricanes Katrina and Rita who will graduate from high school or complete home study programs approved by the Board of Elementary and Secondary Education (BESE) during the 2006-2007 high school academic year.

LASFAC has determined that initial eligibility requirements for a Tuition Opportunity Program for Students (TOPS) Award applicable for the 2005-2006 school year

impose program requirements or conditions that displaced students who will graduate from high school or complete home study programs approved by the BESE during the 2006-2007 high school academic year cannot comply with or meet and that the failure of these displaced students to comply with the requirements or meet the conditions, more likely than not, is due solely to a consequence of Hurricane Katrina or Rita, or both.

LASFAC has consulted with the Commissioner of Higher Education who has concurred with this proposed rulemaking.

The result of promulgating this rulemaking will be to provide a waiver of specifically cited TOPS initial eligibility requirements for displaced students graduating from eligible Louisiana high schools or completing home study programs approved by the BESE during the 2006-2007 high school academic year.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (SG0777NI)

Title 28 EDUCATION

Part IV. Student Financial Assistance↓Higher Education Scholarship and Grant Programs Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. - I.8. ...

J. Natural Disaster Initial Eligibility Requirements

1. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2005-2006 academic year (high school) must meet all of the requirements of §703.A-I.8 above, except as follows:

a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2005-2006 school year from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided such student has, for an opportunity award, a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale or, for a performance or honors award, a cumulative high school grade point average on all courses on the high school transcript of at least 3.50 calculated on a 4.00 scale.

b. The requirement that a student who graduates from an eligible Louisiana high school during the 2005-2006 school year must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 11th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.J.2.a below for at least the 12 months prior to August 26, 2005, or in a parish listed in §703.J.2.b below for at least the 12 months prior to September 20, 2005.

d. A dependent student who graduated from an eligible out-of-state high school shall be deemed to meet the Louisiana residency requirement if his parent or court-ordered custodian was displaced as a resident from a parish listed:

i. in §703.J.2.a below due to Hurricane Katrina and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to August 26, 2005; or

ii. in §703.J.2.b below due to Hurricane Rita and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to September 20, 2005.

e. A displaced student who during the 2005-2006 academic year (high school) successfully completes at the 12th grade level a home study program approved by the State Board of Elementary and Secondary Education shall not be required to have also completed the 11th grade level of an approved home study course.

2. For the purposes of this Subsection, *displaced student* means:

a. a student who on August 26, 2005, was actually residing in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by the State Board of Elementary and Secondary Education; or

b. a student who on September 20, 2005, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by the State Board of Elementary and Secondary Education.

3. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, a displaced student graduating from an eligible Louisiana high school or completing a BESE approved home study program at the 12th grade level during the 2006-2007 academic year (high school) must meet all of the requirements of §703.A -I.8 above, except as follows.

a. The requirement that a student who graduates from an eligible Louisiana high school during the 2006-2007 academic year (high school) must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due

solely to the fact that the required course or courses were not available to the student at the school attended.

b. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 10th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.J.2.a above for at least the 12 months prior to August 26, 2005, or in a parish listed in §703.J.2.b above for at least the 12 months prior to September 20, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999); LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 33:

§705. Maintaining Eligibility

A. - D. ...

E. Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Opportunity, Performance or Honors Awards, a displaced student must meet all of the criteria in §705.A-D above, except as follows.

a. The TOPS award of a displaced student who enrolls for the first-time as a full time student in an eligible out-of-state college or university during the 2005-2006 academic year (college) and subsequently enrolls at a Louisiana eligible college or university shall not be reduced due to enrollment in an eligible out-of-state institution during the 2005-2006 academic year (college).

b. The TOPS award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full time student in an eligible out-of-state institution during the 2005-2006 academic year (college) shall not be cancelled due to such out-of-state enrollment.

c. The TOPS award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full time student in an eligible out-of-state institution during the 2005-2006 academic year (college) shall not be reduced for those semesters or terms such displaced student was enrolled in an eligible out-of-state institution during the 2005-2006 academic year (college).

d. The period of suspension of a TOPS award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or term in which the student does not enroll on a full-time basis in an eligible

college or university during the 2005-2006 academic year (college).

2. For the purposes of this Subsection, *displaced student* means:

- a. a student who on August 26, 2005:
 - i. was enrolled in one of the following institutions:
 - (a). Delgado Community College;
 - (b). Dillard University;
 - (c). Louisiana State University Health Sciences Center at New Orleans;
 - (e). Louisiana Technical College: Jefferson, Sidney N. Collier, Slidell, Sullivan, and West Jefferson campuses;
 - (f). Loyola University;
 - (g). New Orleans Baptist Theological Seminary;
 - (h). Nunez Community College;
 - (i). Our Lady of Holy Cross College;
 - (j). St. Joseph Seminary College;
 - (k). Southern University at New Orleans;
 - (l). Tulane University;
 - (m). University of New Orleans;
 - (n). Xavier University; or
 - ii. had a home of record in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish; or
 - (a). a student who on September 20, 2005:
 - i. was enrolled in one of the following institutions:
 - (a). McNeese State University;
 - (b). Sowela Technical Community College; or
 - ii. had a home of record in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish.

3. For the purposes of this Subsection, *home of record* for a dependent student shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996, 2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.10 ...

B. Natural Disaster Initial Eligibility Requirements

1. To establish eligibility for a TOPS Tech Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2005-2006 academic year (high school) must meet all of the requirements of §803.A above, except as follows.

a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2005-2006 school year from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided such student has a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale.

b. The requirement that a student who graduates from an eligible Louisiana high school during the 2005-2006 school year must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 11th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §803.B.2.a below for at least the 12 months prior to August 26, 2005, or in a parish listed in §803.B.2.b below for at least the 12 months prior to September 20, 2005.

d. A dependent student who graduated from an eligible out-of-state high school shall be deemed to meet the Louisiana residency requirement if his parent or court-ordered custodian was displaced as a resident from a parish listed:

i. in §803.B.2.a below due to Hurricane Katrina and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to August 26, 2005; or

ii. in §803.B.2.b below due to Hurricane Rita and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to September 20, 2005.

e. A displaced student who during the 2005-2006 academic year (high school) successfully completes at the 12th grade level a home study program approved by the State Board of Elementary and Secondary Education shall not be required to have also completed the 11th grade level of an approved home study course.

2. For the purposes of this Subsection, *displaced student* means:

a. a student who on August 26, 2005, was actually residing in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by the State Board of Elementary and Secondary Education; or

b. A student who on September 20, 2005, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by the State Board of Elementary and Secondary Education.

3. To establish eligibility for a TOPS Tech Award, a displaced student graduating from an eligible Louisiana high school or completing a BESE approved home study program at the 12th grade level during the 2006-2007 academic year (high school) must meet all of the requirements of §803.A above, except as follows:

a. The requirement that a student who graduates from an eligible Louisiana high school during the 2006-2007 school year must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

b. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 10th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §803.B.2.a above for at least the 12 months prior to August 26, 2005, or in a parish listed in §803.B.2.b above for at least the 12 months prior to September 20, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65, 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:

§805. Maintaining Eligibility

A. - C. ...

D. Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Tech Award, a displaced student must meet all of the criteria in §805.A-C above, except as follows.

a. The TOPS Tech Award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full time student in an eligible out-of-state institution during the 2005-2006 program year (non-academic program) shall not be cancelled due to such out-of-state enrollment.

b. The TOPS Tech Award of a displaced student who has been enrolled in a Louisiana eligible college or

university and who subsequently enrolls as a full time student in an eligible out-of-state institution during the 2005-2006 program year (non-academic program) shall not be reduced for those semesters or terms such displaced student was enrolled in an eligible out-of-state institution during the 2005-2006 program year (non-academic program).

c. The period of suspension of a TOPS Tech Award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or other term in which the student does not enroll on a full-time basis in an eligible college or university during the 2005-2006 program year (non-academic program).

d. A TOPS Tech Award may be used by a displaced student during the 2005-2006 academic year (college) to enroll on a full-time basis in an academic program at a Louisiana eligible college or university to take courses that contribute to the pursuit of a skill or occupation. In such case, the award amount shall be at the same as the opportunity award for that institution.

2. For the purposes of this Subsection, *displaced student* means:

a. a student who on August 26, 2005:

i. was enrolled in one of the following institutions:

- (a). Delgado Community College;
- (b). Dillard University;
- (c). Louisiana State University Health Sciences Center at New Orleans;
- (e). Louisiana Technical College: Jefferson, Sidney N. Collier, Slidell, Sullivan, and West Jefferson campuses;
- (f). Loyola University;
- (g). New Orleans Baptist Theological Seminary;
- (h). Nunez Community College;
- (i). Our Lady of Holy Cross College;
- (j). St. Joseph Seminary College;
- (k). Southern University at New Orleans;
- (l). Tulane University;
- (m). University of New Orleans;
- (n). Xavier University; or

ii. had a home of record in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish; or

b. a student who on September 20, 2005:

i. was enrolled in one of the following institutions:

- (a). McNeese State University;
- (b). Sowela Technical Community College; or

ii. had a home of record in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish.

3. For the purposes of this Subsection, *home of record* for a dependent student shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance,

LR 24:1905 (October 1998), amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., January 10, 2007, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant
Programs—Natural Disaster**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There should be no significant cost increase due to the proposed changes. This rulemaking will make permanent the emergency rules adopted in 2005 to provide relief to students displaced by Hurricanes Katrina and Rita. It will also provide relief to certain displaced students who will graduate from Louisiana high schools in 2007 pursuant to authority granted by Act 65 of the First Extraordinary Session of 2005. The agency did not experience a significant increase in TOPS expenditures for the 2005-2006 fiscal year due to implementation of the emergency rules in calendar year 2005. It is anticipated that the proposed exceptions for the 2006-2007 academic year Louisiana high school graduates will not result in a significant increase since the majority of the affected students would have qualified for the TOPS had their academics not been impacted by the hurricanes. Any increase should fall within the TOPS funding estimate.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governments will not be affected by the proposed changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Displaced students who graduate from Louisiana high schools in 2007 will be directly and positively affected by the proposed rule. The proposed rule will ensure students are not made ineligible for a TOPS award due solely to the consequences of Hurricanes Katrina or both. There are no estimated effects on economic benefits to non-governmental groups resulting from these measures.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0612#010

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs—TOPS
(LAC 28:IV.101, 301, 503, 1301, 2103, 2105, 2109, 2303)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant Rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (SG0779NI)

**Title 28
EDUCATION**

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

Chapter 1. Scope

§101. Introduction

A. ...

B. Agency's Mission Statement. The mission of LOSFA is to administer the federal and state student aid programs that are assigned to the Louisiana Student Financial Assistance Commission.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1897 (October 1998), LR 27:1841 (November 2001), LR 33:

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Eligible Noncitizen—an individual who can provide documentation from the U. S. Citizenship and Immigration Services (USCIS) or its successor that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the United States must provide documentation from the USCIS to verify permanent residency. For 1997, 1998 and 1999 high school graduates, an eligible noncitizen shall be treated as meeting the citizenship requirements for an award under this Part.

Qualified Summer Session—those summer sessions (includes terms and semesters conducted during the summer) for which the student's institution certifies that:

a. the summer session is required in the student's degree program for graduation and the student enrolled for at least the minimum number of hours required for the degree program for the session; or

b. the student can complete his program's graduation requirements in the summer session; or

c. the course(s) taken during the summer session is required for graduation in the program in which the student is enrolled and is only offered during the summer session; or

d. the course(s) taken during the summer session is in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; or

e. for the summer of 2006 only, the student is a displaced student as identified in §2103.G.1 of these rules, whose TOPS award was not paid for one or more semesters during the 2005-2006 academic year.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), repromulgated LR 27:1842 (November 2001), amended LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:

Chapter 5. Applications, Federal Grant Aid and ACT Test

§503. Application Deadlines for High School Graduates of 2003 and Earlier

A. - B.2. ...

3. Returning Students

a. Notwithstanding the deadline established by §503.B.1 above, returning students, who graduated from high school during the 2001-2002 academic year (high school) and who enroll in an eligible college or university in the spring semester of 2003, must submit the FAFSA to be received by the federal processor no later than July 1, 2004.

b. Notwithstanding the deadline established by §503.B.1 above, returning students, who enroll in an eligible college or university in the fall semester of 2003 or later, must submit the FAFSA to be received by the federal processor no later than July 1 following the first semester of enrollment.

c. Examples:

i. A student who seeks to enroll in an eligible college or university for the spring semester of 2004 must submit his FAFSA to be received by the federal processor no later than July 1, 2004.

ii. A student who seeks to enroll in an eligible college or university for the fall semester of 2004 must submit his FAFSA to be received by the federal processor no later than July 1, 2005.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), LR 24:1900 (October 1998), amended LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 26:1994 (September 2000), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 28:1760 (August 2002), LR 29:554 (April 2003), LR 30:1471 (July 2004), LR 30:2016 (September 2004), LR 33:

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. - D. ...

E.1. Allocation of Funds. Annually, funds are allocated to post-secondary institutions based on school type, the school's prior year first-time, full-time enrollment and the amount of the prior year's allocation that was expended. Initial funds, for first-time recipients, are computed as a percentage of all participating institutions first-time, full-time enrollment as of October 10 of the prior fiscal year. A student's enrollment in an undergraduate degree granting school which is a component of a state supported medical center, shall be a first-time, full-time freshman for the purpose of this program. Continuation funds for students who had previously received LEAP are computed as a percentage of the allocated funds used during the previous year. The continuation formula applies 60 percent for four-year schools and 40 percent for two-year schools.

2. For the 2006-2007 academic year (college), the allocations described in E.1 above shall be made to postsecondary institutions based on 2004-2005 academic year (college) formula data.

F. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:1860 (November 2001), amended LR 28:2332 (November 2002).

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - D.3. ...

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS, TOPS-Tech, TOPS Teacher, the Rockefeller State Wildlife Scholarship or the Louisiana GO Youth Challenge Program because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions.

1. Parental Leave

E.1.a. - F. ...

G. Natural Disaster Exceptions

1. For the purposes of this Subsection, *displaced students* are TOPS recipients and students eligible for TOPS and:

a. on August 26, 2005:

i were enrolled at one of the following eligible college or university campuses:

- (a). University of New Orleans;
- (b). Dillard University;
- (c). Delgado Community College;
- (d). Nunez Community College;
- (e). Louisiana State University Health Sciences Center at New Orleans;
- (f). Southern University at New Orleans;
- (g). Loyola University;
- (h). New Orleans Baptist Theological Seminary;
- (i). Our Lady of Holy Cross College;
- (j). Tulane University;
- (j). Xavier University;
- (k). St. Josephs Seminary College; or Louisiana Technical College:
 - (i). Jefferson Campus;
 - (ii). Sidney N. Collier Campus;
 - (iii). Slidell Campus;
 - (iv). Sullivan Campus;
 - (v). West Jefferson Campus; or

ii. whose home of record was one of the following Louisiana parishes:

- (a). Jefferson;
- (b). Lafourche;
- (c). Orleans;
- (d). Plaquemine;
- (e). St. Bernard;
- (f). St. Tammany;
- (g). Tangipahoa; or
- (h). Washington; or

b. on September 23, 2005:

i. were enrolled at one of the following eligible college or university campuses:

- (a). SOWELA Technical Community College;
- (b). Louisiana Technical College:
 - (i). Gulf Area Campus;
 - (ii). Morgan Smith Campus;
 - (iii). Lamar Salter Campus;
 - (iv). Oakdale Campus; or
 - (v). Sabine Valley Campus; or

ii. whose home of record was one of the following Louisiana parishes:

- (a). Acadia;
- (b). Allen;
- (c). Beauregard;
- (d). Calcasieu;
- (e). Cameron;
- (f). Iberia;
- (g). Jefferson Davis;
- (h). Lafayette;
- (i). St. Mary;
- (j). Terrebonne; or
- (k). Vermilion.

2. For the purposes of this Subsection, *home of record* is:

- a. the domiciliary address of a dependent student's parent or court ordered custodian; or
- b. the domiciliary address of an independent student.

3. For the purposes of this subsection, natural disaster is limited to Hurricane Katrina and/or Hurricane Rita.

4.a. For the 2005-2006 academic year (college), displaced students are not required to enroll as full time students, to maintain continuous enrollment or to earn at least 24 hours during the 2005-2006 academic year (college).

b. Displaced students may enroll on a part-time basis in an eligible college or university without losing TOPS eligibility. Upon request by the student, the eligible college or university may bill for these part-time students.

c. The terms of eligibility for a displaced student whose part-time enrollment is paid by TOPS will be reduced by one full semester (term) for each semester (term) (part or full-time) paid.

d. Institutions must document the displaced student's request for part-time payment of the award.

e. If a displaced student enrolls in an eligible college or university during the 2005-2006 academic year (college) and receives grades, those grades will be included in calculating the student's cumulative grade point average.

5.a. For the 2005-2006 academic year (college), students who are not displaced students, but due to the effects of a natural disaster were unable to enroll for the first time as full time students by the deadline or to enroll as full time students or to maintain continuous enrollment or to earn at least 24 hours during the academic year (college), may submit a request for an exception in accordance with §2103.D, based on one of the circumstances listed in §2103.E, or in accordance with the following procedures for the circumstances described in this Subsection.

i. The student should file the application for exception as soon as it is known that the student will not meet one or more of the continuing eligibility requirements to ensure the earliest reinstatement of the award. The student must submit the application for exception no later than six months after the date of the notice of cancellation. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a dependent student, a parent or court ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

ii. If determined eligible for an exception, the recipient will be reinstated if he or she enrolls in the first fall, winter or spring semester or term immediately following the exception ending date.

b. Natural Disaster Exception (for other than displaced students)

i. Definition. The effects of a natural disaster prevented the student/recipient from enrolling as a full time student or continuing enrollment or earning 24 hours during the 2005-2006 academic year (college).

ii. Certification Requirements. The student/recipient must submit:

- (a). a completed exception request form; and
- (b). a written statement detailing the natural disaster's impact on the student and/or the student's immediate family (mother, father, custodian, siblings and/or spouse and children), which prevented the student from meeting the continuation requirements, including the length of the impact; and

(c). documentation corroborating the student's statement (examples: photographs of damage; insurance, FEMA, fire and/or police reports; statements from public

officials; statements from family members or other persons with actual knowledge; receipts and invoices for work done and materials purchased).

iii. Maximum Length of Exception. Up to two consecutive semesters (three consecutive quarters).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:

§2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. - B.8.b. ...

9. Natural Disaster Deferments

a. For the purposes of this Subsection, *displaced students* are recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status and:

i. on August 26, 2005, whose home of record was one of the following Louisiana parishes:

- (a). Jefferson;
- (b). Lafourche;
- (c). Orleans;
- (d). Plaquemine;
- (e). St. Bernard;
- (f). St. Tammany;
- (g). Tangipahoa; or
- (h). Washington; or

ii. on September 23, 2005, whose home of record was one of the following Louisiana parishes:

- (a). Acadia;
- (b). Allen;
- (c). Beauregard;
- (d). Calcasieu;
- (e). Cameron;
- (f). Iberia;
- (g). Jefferson Davis;
- (h). Lafayette;
- (i). St. Mary;
- (j). Terrebonne; or
- (k). Vermilion.

b. For the purposes of this Subsection, *home of record* is:

i. the domiciliary address of a dependent student's parent or court ordered custodian; or

ii. the domiciliary address of an independent student.

c. For the purposes of this Subsection, natural disaster is limited to Hurricane Katrina and/or Hurricane Rita.

d. The loan payments for displaced students are deferred and accrual of interest is suspended from August 26, 2005 through August 31, 2006.

e. For the period of August 26, 2005 through August 31, 2006, recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status and who are not displaced students, but who are unable to repay their loan during the academic year (college) due to the effects of a natural disaster, may submit a request for deferment of payments and suspension of accrual of interest in accordance with §2105.D, based on one of the circumstances listed in §2103.B.1 through 8 or the following circumstance:

i. The effects of a natural disaster prevented the student/recipient from making payments during the period of August 26, 2005, through August 31, 2006.

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form; and

(b). a written statement detailing the natural disaster's impact on the student and/or the student's immediate family (mother, father, custodian, siblings and/or spouse and children), which prevented the student from meeting the repayment requirements, including the length of the impact; and

(c). documentation corroborating the student's statement (examples: photographs of damage; insurance, FEMA, fire and/or police reports; statements from public officials; statements from family members or other persons with actual knowledge; receipts and invoices for work done and materials purchased).

iii. Maximum Length of Exception. Through August 31, 2006.

C. - H.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:781 (April 2004), LR 30:1167, 1168 (June 2004), LR 33:

§2109. Agency Decisions Subject to Appeal

A. - C.3. ...

4. The petition of appeal must be addressed to the Louisiana Student Financial Assistance Commission, in care of the Executive Director, Office of Student Financial Assistance and sent to Box 91202, Baton Rouge, LA 70821-9202, or hand delivered to 1885 Wooddale Boulevard, Wooddale Tower, Room 602, Baton Rouge, LA.

C.5. - D.1. ...

2. If LOSFA's decision remains adverse, LOSFA will prepare and forward the appellate's file (including the petition of appeal, the original request for reinstatement, LOSFA records relating to the appeal, and a written statement of LOSFA's position regarding the appeal) to the rules committee of the commission.

3. If the petition of appeal contains the appellant's request to make an oral presentation or argument, LOSFA shall notify the appellant in sufficient time to permit the appellant to be present when the appeal is scheduled to be heard by the rules committee and the commission.

4. Pending a final decision by the commission, no further action will be taken in the matter by LOSFA.

5. The rules committee will review the appellate file and make one of the following recommendations to the commission:

- a. recommend that LOSFA's decision be upheld; or
 - b. recommend that LOSFA's decision be reversed;
- or
- c. remand the appellate file to LOSFA for further specified action(s); or
 - d. remand the appellate file to the commission without recommendation.

6. The rules committee will forward the appellate file and its recommendation to the commission. The commission will review the recommendations of the committee and the appellate file.

7. - 9. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:650 (April 1998), amended LR 24:1920 (October 1998), LR 26:1261 (June 2000), repromulgated LR 27:1870 (November 2001), amended LR 28:2333 (November 2002).

Chapter 23. Tuition Payment Program for Medical School Students

§2303. Establishing Eligibility

A. - A.5. ...

6. complete and submit such other documentary evidence as may be required by LASFAC within the deadline specified; and

7. not have a criminal conviction, except for misdemeanor traffic violations; and

8. agree that the award will be used exclusively for educational expenses.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) amended LR 25:2177 (November 1999), LR 26:2754 (December 2000), LR 27:1220 (August 2001), repromulgated LR 27:1872 (November 2001), amended LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 31:40 (January 2005), LR 33:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., January 10, 2007, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scholarship/Grant Programs—TOPS

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed changes are either technical in nature and do not have an impact on costs or they implement in the final rules natural disaster policies that were already in effect as emergency rules. The natural disaster changes have had a minimal impact on costs since they primarily deal with students that would have maintained their eligibility for TOPS had their academics not been impacted by the hurricanes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0612#011

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

START Savings Program
(LAC 28:VI.107, 301, 309 and 311)

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings Program (R.S. 17:3091 et seq.) Rules.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (ST0778NI)

Title 28

EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

Chapter 1. General Provisions

Subchapter A. Tuition Trust Authority

§107. Applicable Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 33:

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. - E.2. ...

F. Citizenship Requirements. Both an account owner who is not a legal entity and the beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or
2. be a permanent resident of the United States as defined by the U.S. Citizenship and Immigration Services

(USCIS) or its successor and provide copies of USCIS documentation with the submission of the owner's agreement.

G. - G.2. ...

H. Providing Personal Information

1. The account owner is required to disclose personal information in the owner's agreement, including:

- a. his Social Security Number;
- b. the designated beneficiary's Social Security Number;
- c. the beneficiary's date of birth;
- d. the familial relationship between the account owner and the designated beneficiary, if any;
- e. the account owner's prior year's federal adjusted gross income as reported to the Internal Revenue Service; and
- f. in the case of an account owner classified under §303.A.5:
 - i. the Social Security Number of the beneficiary's family and authorization from that person for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purpose of verifying federal adjusted gross income; and
 - ii. if applicable, proof that the beneficiary is a ward of the court; or
 - iii. if applicable, proof the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.).

2. ...

3. By signing the owner's agreement:

- a. the account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, certifies that:
 - i. both account owner and beneficiary are United States citizens or permanent residents of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor and, if permanent residents have provided copies of USCIS documentation with the submission of the application and owner's agreement; and
 - ii. the information provided in the application is true and correct;

H.3.b. - J. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004), LR 33:

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

A. - D.3. ...

E. Receipt of Scholarships

1. If the designated beneficiary of an education savings account is the recipient of a scholarship, waiver of tuition, or similar subvention which cannot be converted into money by the beneficiary, the account owner or beneficiary may request a refund from the education savings account in the amount equal to the value of the scholarship, waiver or

similar subvention up to the balance of principal and interest in the account.

E.2. - G. ...

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 24:2238 (December 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:789 (April 2004), LR 30:1169 (June 2004), LR 32:1433 (August 2006), LR 33:

§311. Termination and Refund of an Education Savings Account

A. - G. ...

H. Refund Payments. Payment of refunds for voluntary termination under §311.F or partial refunds of accounts pursuant to §311.F.3 shall be made within 30 days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year. Interest earned in excess of \$3 during the calendar year of termination will be refunded within 45 days of the date the state treasurer has announced the interest rate for the preceding year. Interest earned of \$3 or less during the calendar year of termination will be forfeited to the Louisiana Education and Tuition Savings Fund.

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 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 33:

Interested persons may submit written comments on the proposed changes (ST0778NI) until 4:30 p.m., January 10, 2007, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: START Savings Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governmental units due to the proposed changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0612#013

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Bylaws—Committee Membership
(LAC 28:VII.101, 103 and 113)

The Louisiana Tuition Trust Authority announces its intention to amend its Bylaws (R.S. 17:3091 et seq.).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972 (ST0781NI).

**Title 28
EDUCATION**

Part VII. Tuition Trust Authority

Chapter 1. Bylaws

§101. Definitions and Authority

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1653 (December 1997), amended LR 26:2269 (October 2000), LR 33:

§103. Meetings

A. - A.2 ...

3. Proxy voting shall be allowed at all meetings for the chairman of the State Board of Elementary and Secondary Education; Board of Supervisors, Louisiana State University; Board of Supervisors, Southern University; Board of Regents; Board of Supervisors, University of Louisiana System and Louisiana Association of Independent Colleges and Universities, or each of their designees; however, any proxy holder must also be a member of that respective board.

A.4. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1653 (December 1997), amended LR 26:2269 (October 2000), LR 33:

§113. Rights, Duties and Responsibilities of Executive Staff of the Authority

A. - B.6. ...

C. Delegation of Authority

1. In the absence of the executive director, the assistant executive director, as delegated by the executive director during his/her absences, will assume the duties of the executive director.

2. In the event both the executive director and the assistant executive director are absent, the executive director

will appoint the most senior division director to assume the duties of the executive director.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1656 (December 1997), amended LR 25:1092 (June 1999), LR 33:

Interested persons may submit written comments on the proposed changes (ST0781NI) until 4:30 p.m., January 10, 2007, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bylaws↓Committee Membership

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governmental units due to the proposed changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0612#014

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

BFI Colonial Landfill Delisting Petition
(LAC 33:V.4999)(HW091P)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.4999.Appendix E (Log #HW091P).

BFI Waste Systems of Louisiana LLC, Colonial Landfill, petitions to exclude from the hazardous waste regulations (delist) leachate at the facility derived from the historical management of K169 - K172 wastes. BFI is a solid waste nonhazardous landfill. The wastes were accepted as nonhazardous solid waste prior to August 6, 1998, when

EPA listed the four wastes as hazardous waste generated from petroleum refining operations. The delisting program is regulated by LAC 33:V.105. Applicants who wish to remove a waste from the list of hazardous wastes must submit a petition and satisfy all requirements of LAC 33:V.105. The exclusion, if granted, is for the specific waste at the specific facility. The department reviewed the BFI petition and found it satisfies the delisting requirements. The department used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment. The delisting analytical data collected in accordance with the Delisting Sampling and Analysis Plan and the Quality Assurance Project Plan confirmed that Colonial Landfill leachate contains no hazardous characteristics of LAC 33:V.4903, nor any LAC 33:V.3105. Table 1 constituents at a concentration capable of posing a threat to human health or the environment. Based on the information in the petition and extensive testing, the department has determined that the petitioned waste can be delisted, as long as the operating conditions and results of future testing continue to support this determination. The basis and rationale for this rule are to grant the petition based on an evaluation of waste-specific information submitted by BFI Colonial Landfill.

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, and E

Appendix E. Wastes Excluded under LAC 33:V.105.M

A. - B.3.b. ...

Table 1 - Wastes Excluded

[See Prior Text in DuPont Dow Elastomers LLC, LaPlace, LA - Motiva Enterprises LLC, Norco, LA, (4)(B)]

Table 1 - Wastes Excluded

BFI Waste Systems of Louisiana LLC, Colonial Landfill, Sorrento, LA

The BFI Colonial Landfill is a nonhazardous solid waste landfill permitted to receive residential, commercial, and industrial nonhazardous solid waste. Landfill leachate, at a maximum annual generation rate of 36,000 cubic yards per year (approximately 7.2 million gallons per year), is generated as liquid leachate from the landfill. Effective August 6, 1998, the United States Environmental Protection Agency (USEPA) listed four waste streams as hazardous waste. The EPA Hazardous Waste Numbers of these wastes are: K169, K170, K171, and K172. BFI Colonial received these wastes as nonhazardous solid waste prior to August 6, 1998. For the purpose of this exclusion, landfill leachate resulting from petroleum refining operations includes EPA Hazardous Waste Numbers K169, K170, K171, and K172. The constituents of concern for these wastes are listed as arsenic; benzene; benzo(a)pyrene; dibenz(a,h)anthracene; benz(a)anthracene; benzo(b)fluoranthene; benzo(k)fluoranthene; 3-methylcholanthrene; and 7,12-dimethylbenz(a)anthracene (see LAC 33:V.4901). BFI Colonial must implement a testing and management program that meets the following conditions for the exclusion to be valid.

Table 1 - Wastes Excluded

BFI Waste Systems of Louisiana LLC, Colonial Landfill, Sorrento, LA

(1). Testing
Sample collection and analyses, including quality control (QC) procedures, must be performed according to methods described in *Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods, EPA Publication Number SW-846*, as incorporated by reference in LAC 33:V.110.

(1)(A). Inorganic Testing
During the first 12 consecutive months of this exclusion, BFI Colonial must collect and analyze a monthly composite sample of the leachate. Composite samples must be composed of one grab sample from each of three different days during a representative week of operation. The monthly samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the leachate. BFI Colonial must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for antimony, arsenic, barium, cadmium, chromium, cobalt, copper, lead, nickel, silver, thallium, tin, vanadium, and zinc, including quality control information. If the department and BFI Colonial concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), then BFI Colonial may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.

(1)(B). Subsequent Inorganic Testing
Following concurrence by the department, BFI Colonial may substitute the following testing conditions for those in condition (1)(A). BFI Colonial must continue to monitor operating conditions and analyze quarterly composite samples representative of normal operations. BFI Colonial must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for antimony, arsenic, barium, cadmium, chromium, cobalt, copper, lead, nickel, silver, thallium, tin, vanadium, and zinc, including quality control information. The samples must be composed of one grab sample from each of three different days during a representative week of operation, during the first month of each quarterly period. These quarterly representative composite samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the leachate. If delisting levels for any inorganic constituents listed in condition (3)(A) are exceeded in any quarterly sample, BFI Colonial must re-institute testing as required in condition (1)(A). BFI Colonial may, at its discretion, analyze composite samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.

(1)(C). Organic Testing
During the first 12 consecutive months of this exclusion, BFI Colonial must collect and analyze monthly one grab sample of the leachate. These monthly representative grab samples must be analyzed for the constituents listed in condition (3)(B) prior to disposal of the leachate. BFI Colonial must report to the department the landfill operating conditions and analytical data (reported in milligrams per liter) for acenaphthene; anthracene; benzene; bis (2-ethylhexyl) phthalate; 2-butanone; m, p-cresol; o-cresol; diethyl phthalate; ethylbenzene; 2-hexanone; methyl isobutyl ketone; 2-methylnaphthalene; naphthalene; phenanthrene; phenol; toluene; and total xylenes; including quality control information. If the department and BFI Colonial concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(B), then BFI Colonial may replace the organic testing required in condition (1)(C) with the organic testing required in condition (1)(D). Condition (1)(C) shall remain effective until this concurrence is reached.

(1)(D). Subsequent Organic Testing
Following concurrence by the department, BFI Colonial may substitute the following testing conditions for those in condition (1)(C). BFI Colonial must continue to monitor operating conditions and analyze one quarterly grab sample representative of normal operations. BFI Colonial must report to the department the landfill operating conditions and analytical data (reported in milligrams per liter) for acenaphthene; anthracene; benzene; bis (2-ethylhexyl) phthalate; 2-butanone; m, p-cresol; o-cresol; diethyl phthalate; ethylbenzene; 2-hexanone; methyl isobutyl ketone; 2-methylnaphthalene; naphthalene; phenanthrene; phenol; toluene; and total xylenes; including quality control information. This quarterly representative grab sample must be collected during the first month of each quarterly period and analyzed for the constituents listed in condition (3)(B) prior to disposal of the leachate. If delisting levels for any organic constituents listed in condition (3)(B) are exceeded in the quarterly sample, BFI Colonial must re-institute testing as required in condition (1)(C). BFI Colonial may, at its discretion, analyze grab samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.

Table 1 - Wastes Excluded

BFI Waste Systems of Louisiana LLC, Colonial Landfill, Sorrento, LA
(2). Waste Holding and Handling BFI Colonial must treat the leachate as hazardous waste until the verification testing is completed, as specified in conditions (1)(A)-(1)(D), and the leachate has satisfied the delisting criteria, as specified in condition (3). If the levels of constituents in the samples of leachate are below all of the applicable levels set forth in condition (3), then the leachate thereby becomes nonhazardous solid waste and may be managed and disposed of in accordance with all applicable solid waste regulations. If hazardous constituent levels in any monthly composite or other representative sample equal or exceed any of the delisting levels set in condition (3), the leachate must be managed and disposed of in accordance with Subtitle C of RCRA until the leachate meets the delisting levels. BFI Colonial must repeat the analyses for the constituents listed in conditions (3)(A) and (3)(B) prior to disposal.
(3). Delisting Levels Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V.4903.E. All leachable concentrations in the extract must be less than the following levels (all units are milligrams per liter).
(3)(A). Inorganic Constituents (all units are milligrams per liter) Antimony—0.082; Arsenic—0.38; Barium—22.2; Cadmium—0.06; Chromium—0.50; Cobalt—27; Copper—0.50; Lead—0.50; Nickel—5.0; Silver—0.50; Thallium—0.34; Tin—225; Vanadium—8.38; Zinc—50.0.
(3)(B). Organic Constituents (all units are milligrams per liter) Acenaphthene—3.0; Anthracene—0.20; Benzene—0.018; Bis (2-ethylhexyl) phthalate—6.74; 2-Butanone—5.0; m, p-Cresol—7.88; o-Cresol—7.88; Diethyl phthalate—18.6; Ethylbenzene—8.4; 2-Hexanone—6.3; Methyl isobutyl ketone—5.0; 2-Methylnaphthalene—5.0; Naphthalene—0.96; Phenanthrene—1.0; Phenol—50.; Toluene—1.0; Xylenes (total)—1.0.
(4). Changes in Operating Conditions If BFI Colonial significantly changes the operating conditions specified in the petition, BFI Colonial must notify the department in writing. Following receipt of written approval by the department, BFI Colonial must re-institute the testing required in conditions (1)(A) and (1)(C) for a minimum of four consecutive months. BFI Colonial must report unit operating conditions and test data required by conditions (1)(A) and (1)(C), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by the department, BFI Colonial may replace testing conditions (1)(A) and (1)(C) with (1)(B) and (1)(D). BFI Colonial must fulfill all other requirements in condition (1).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on January 24, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW091P. Such comments must be received no later than January 31, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW091P. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: BFI Colonial Landfill Delisting Petition**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no cost or saving to state or local governmental units by implementation of this rule. Approving or disapproving this delisting will not have any financial impacts.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be minimal effect on state revenue. BFI now pays \$66 generation fees to DEQ which will no longer be required. St James the Baptist Parish will also lose revenue of approximately \$71,000 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

BFI will have an average savings of approximately \$324,000 per year for costs related to disposal based on the reported maximum generation by BFI and the cost per gallon reported by A3M Vacuum Services. \$253,000 will be lost by A3M Vacuum Services (\$324,000-\$71,000 disposal fees to St. John the Baptist Parish).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This delisting will help competitive pricing and, thereby, continued employment associated with operations at this facility.

Herman Robinson, CPM
Executive Counsel
0612#071

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Comprehensive Toxic Air Pollutant
Emission Control Program
(LAC 33:III.221, 223, 551, 5101, 5103,
5105, 5107, 5109, 5111, and 5112)(AQ256)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.221, 223, 551, 5101, 5103, 5105, 5107, 5109, 5111, and 5112 (Log #AQ256).

The air toxics rule has been in effect for 15 years. It currently contains dated language that needs to be removed or modified. Updating the rule also addresses requests from industry to streamline the rule. This rule revises the air toxics rule in the following ways: eliminates obsolete rule language and most rule language concerning compliance plans and certifications of compliance; removes obsolete department requirements; clarifies area (minor) and major source requirements; utilizes applicable federal Maximum Achievable Control Technology (MACT) rules (40 CFR Part 63) for state MACT; eliminates the exemption for electric steam generating units; exempts virgin fossil fuels gas streams not containing TAPS at chemical plants; moves discharge reporting requirements to LAC 33:I.Chapter 39; advances the submittal of the Toxic Emissions Data Inventory (TEDI) reports to not later than March 31 of each year; exempts area (minor) sources from submitting TEDI reports; and revises public notice requirements. The basis and rationale for this Rule are to update the Louisiana Ambient Air Quality Standards to ensure continued protection of human health and the environment.

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

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 2. Rules and Regulations for the Fee System
of the Air Quality Control Programs**

§211. Methodology

A. Formula to Apportion Fees

Air Toxics Permits Application Fee for major sources of toxic pollutants (based on type of facility and on rated production capacity/throughput)	Surcharge of 10% of the permit application fee to be charged when there is an increase in toxic air pollutant emissions above the Minimum Emission Rates (MER) listed in LAC 33:III.5112, Table 51.1
Air Toxics Annual Emissions Fee for major sources of toxic air pollutants (based on air toxic pollutants emitted) ¹	Variable

Annual Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Variable
New Application Fee (based on type of facility and on rated production capacity/throughput)	Variable
Major and Minor Modification Modified Permit Fee (based on type of facility and on rated production capacity/throughput)	Variable
PSD Application Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 50% of the application fee when a PSD permit application is being processed
"NESHAP" Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 25% of the Annual Maintenance Fee for that particular process/plant to be added to the Annual Maintenance Fee
"NSPS" Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 25% of the permit application fee to be charged for any permit application that includes the addition of new equipment subject to NSPS regulation

¹ Fees shall be assessed on major sources as defined in LAC 33:III.5103. Sources that have reduced emissions below major source thresholds are not required to submit annual emissions reports in accordance with LAC 33:III.5107.

B. - B.13.e. ...

14. Air Toxics Annual Emissions Fees based on actual annual emissions that occurred during the previous calendar year shall be assessed on major sources as defined in LAC 33:III.5103.

15. - 15.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:2444 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:

§223. Fee Schedule Listing

Table 1. - Table 2, Note 12. ...

Note 13. Fees will be determined by aggregating and rounding (e.g., parts of a ton less than 0.50 are reported as zero and parts of a ton equal to or greater than 0.50 are reported as one ton) actual annual emissions of each class of toxic air pollutants (as delineated in the tables in LAC 33:III.5112) for a facility and applying the appropriate fee schedule for that class. If a facility emits more than 4000 tons per year of any single toxic air pollutant, fees shall be assessed on only the first 4000 tons. In no case shall the fee for this category be less than \$132.

Note 14. - Note 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341, and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality

Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 5. Permit Procedures

§551. Hazardous Air Pollutant (HAP) Control Technology Requirements for New Sources

A. - B. *Similar Source*. ...

C. Exemptions and Prohibitions. The requirements of this Section do not apply to:

1. stationary sources that are within a source category that has been deleted from the source category list in accordance with Section 112(c)(9) of the Clean Air Act; and

2. *research and development activities*, as defined in Subsection B of this Section.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:913 (May 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

§5101. Applicability

A. The provisions of this Subchapter and LAC 33:III.905 apply to the owner or operator of any *major source*, as defined in LAC 33:III.5103, unless exempted under LAC 33:III.5105.B.

B. The provisions of LAC 33:III.905, 5105.A.1, 3, and 4, and 5113 apply to the owner or operator of any stationary source that was a major source upon promulgation of this Subchapter (as of December 20, 1991), but that has achieved minor source status through reduction of emissions and reduction of potential to emit.

C. The provisions of this Subchapter do not apply to the consumer use, in a duration and frequency intended by the manufacturer, of products obtained through retail commerce, or to activities conducted on residential property. The provisions of this Subchapter do not apply to the distribution or application of pesticides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:56 (January 1997), LR 24:1276 (July 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§5103. Definitions, Units, and Abbreviations

A. The terms in this Subchapter are used as defined in LAC 33:III.111 except for those terms defined herein as follows.

Source Category—a classification of sources identified by EPA pursuant to Section 112(c) of the Federal Clean Air Act.

B. - B.4, std. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:57 (January 1997), LR 24:1276 (July 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§5105. Prohibited Activities and Special Provisions

A. - A.1. ...

2. After December 20, 1991, no owner or operator of any major source shall cause a violation of any ambient air standard listed in LAC 33:III.5112, Table 51.2, unless operating in accordance with LAC 33:III.5109.B.

A.3. - B.1.

2. Each of the following emissions are exempt from the requirements of this Subchapter:

a. emissions from the combustion of Group 1 virgin fossil fuels;

b. emissions from the combustion of Group 2 virgin fossil fuels vented from a stack that has downwash minimization stack height or a height approved by the department; and

c. emissions from the combustion of gas streams not containing toxic air pollutants listed in LAC 33:III.5112, Table 51.1 or 51.3, that are generated alone or blended with other sources of virgin fossil fuels, and used as fuel.

3. Any source, as defined in accordance with rules promulgated by the United States Environmental Protection Agency under provisions in Section 112(i)(5) of the federal Clean Air Act, that is in compliance with an enforceable commitment approved by the administrative authority* to achieve early reductions of 90 percent or more (95 percent for particulates), or that has demonstrated early reductions of 90 percent or more (95 percent for particulates), in accordance with such rules, shall be exempt from MACT requirements under LAC 33:III.5109.A. The term of exemption shall extend until such time as the compliance extension granted by the administrative authority or the U.S. Environmental Protection Agency has expired, or until nine years from the anticipated date of promulgation of applicable federal MACT standards according to the schedule published by the U.S. Environmental Protection Agency in accordance with Section 112(e)(3) of the federal Clean Air Act, whichever date is earlier. Under no circumstances shall this provision be used to grant an exemption to a source under conditions that do not result in a net air quality benefit for the state of Louisiana, as determined by the administrative authority. Under no circumstances shall the granting of such an exemption to a source relieve any source of other obligations under state or federal law.

4. In accordance with R.S. 30:2060, except under circumstances that may reasonably be expected to pose a threat to human health, whether or not such units are in a contiguous area or under common control, in determining the applicability of emission standards or technical control standards the administrative authority shall not aggregate:

- a. emissions from any oil or gas exploration or production well and its associated equipment;
- b. emissions from any pipeline compressor or pump station; or
- c. emissions from other similar units.

5. The emissions from the remediation of a RCRA, CERCLA, or any nonregulated inactive or abandoned waste site cleanup shall be exempt from the ambient air standards of LAC 33:III.5112, Table 51.2, upon approval of the cleanup plan by the administrative authority.

6. Emissions from the combustion of wood residue fuel from pulp and paper mills are exempt from the provisions of LAC 33:III.5109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:2104 (December 1991), amended LR 18:1362 (December 1992), LR 21:370 (April 1995), LR 23:58 (January 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§5107. Reporting Requirements, Availability of Information, and Public Notice Provisions

A. Annual Emissions Reporting. The owner or operator of any major source that meets the applicability requirements in LAC 33:III.5101.B and emits any toxic air pollutant listed in LAC 33:III.5112, Table 51.1 or 51.3, shall submit a completed annual emissions report to the Office of Environmental Assessment, Air Quality Assessment Division, in a format specified by the department. The owner or operator shall identify on the emissions report the quantity of emissions in the previous calendar year for any such toxic air pollutant emitted.

1. Beginning with the report due in 2008, the annual emissions report shall meet the following requirements.

a. The owner or operator of any major source subject to the requirements in this Subsection shall submit a completed annual emissions report to the Office of Environmental Assessment, Air Quality Assessment Division, on or before March 31 of each year, that shall identify the quantity of emissions of all toxic air pollutants listed in LAC 33:III.5112, Table 51.1 or 51.3, for the previous calendar year.

b. All discharges to the atmosphere of a toxic air pollutant from a safety relief device, a line or vessel rupture, a sudden equipment failure, or a bypass of an emission control device, regardless of quantity, must be reported to the department in the annual emissions report. The report shall include the following information:

- i. the identity of the source;
- ii. the date and time of the discharge; and
- iii. the approximate total loss during the discharge.

c. Annual emissions reports and revisions to any emissions report shall include a certification statement to attest that the information contained in the emissions report is true, accurate, and complete, and that is signed by a *responsible official*, as defined in LAC 33:III.502. The

certification statement shall include the full name of the responsible official, his or her title and signature, the date of the signature, and the phone number of the responsible official. The certification statement shall read:

"I certify, under penalty of perjury, that the emissions data provided is accurate to the best of my knowledge, information, and belief, and I understand that submitting false or misleading information will expose me to prosecution under state regulations."

2. Any facility required to submit a report pursuant to this Subsection shall also report in accordance with LAC 33:III.919.

B. Discharge Reporting Requirements

1. Facilities with toxic air pollutant discharges shall report in accordance with LAC 33:I.Chapter 39.

2. For any unauthorized discharge of a toxic air pollutant into the atmosphere that does not cause an emergency condition, the rate or quantity of which is in excess of that allowed by permit, compliance schedule, or variance, or for upset events that exceed the reportable quantity in LAC 33:I.3931, the owner or operator of the source shall immediately, but in no case later than 24 hours, provide prompt notification to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, in the manner provided in LAC 33:I.3923.

C. ...

D. Public Notice Provisions. The administrative authority shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing before granting approval for construction or issuing any permit that would:

1. allow a permitted increase in any Class 1 or Class 2 Louisiana toxic air pollutant by an amount greater than the minimum emission rate; or

2. allow the addition of any new point source or emission unit that would emit a Class 1 or Class 2 Louisiana toxic air pollutant by an amount greater than the minimum emission rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and 2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:890 (July 1993), amended by the Office of the Secretary, LR 19:1022 (August 1993), repromulgated LR 19:1142 (September 1993), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:58 (January 1997), LR 24:1276 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2004 (September 2000), LR 26:2460 (November 2000), LR 29:2778 (December 2003), LR 30:1673 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2447 (October 2005), LR 33:

§5109. Emission Control and Reduction Requirements and Standards

A. Maximum Achievable Control Technology (MACT) Requirements

1. The owner or operator of any major source that emits or is permitted to emit a Class I or Class II toxic air pollutant at a rate equal to or greater than the minimum emission rate listed for that pollutant in LAC 33:III.5112, Table 51.1, shall control emissions of that toxic air pollutant to a degree that constitutes Maximum Achievable Control

Technology (MACT) as approved by the administrative authority.

2. Compliance with an applicable federal standard promulgated by the US EPA in 40 CFR Part 63 shall constitute compliance with this Subsection for emissions of toxic air pollutants.

3. MACT determination for sources not regulated by a federal MACT standard shall be determined by the administrative authority through the permitting process using the existing state MACT determination method or protocol.

B. Ambient Air Standard Requirements. The owner or operator of any major source that emits, or is permitted to emit, any toxic air pollutant at a rate equal to or greater than the minimum emission rate listed for that toxic air pollutant shall determine the status of compliance, beyond the source's property line, with applicable ambient air standards listed in LAC 33:III.5112, Table 51.2.

1. New major sources shall demonstrate compliance with an ambient air standard in an application for a permit in accordance with LAC 33:III.5111.

2. The owner or operator shall achieve compliance with the ambient air standard unless the owner or operator demonstrates to the satisfaction of the administrative authority:

a. that compliance with an ambient air standard would be economically infeasible;

b. that the source's emissions could not reasonably be expected to pose a threat to public health or the environment; and

c. that the source's emissions would be controlled to a level that is Maximum Achievable Control Technology.

3. The administrative authority shall publish a public notice of and hold a public hearing on any preliminary determination to allow a source to exceed the ambient air standard for any toxic air pollutant listed in LAC 33:III.5112, Table 51.2. Within 90 days after the close of the public hearing on the preliminary determination, the administrative authority shall make a final determination, which is subject to review on a five-year basis or at any other time deemed appropriate by the administrative authority.

4. The administrative authority shall periodically, at least every 36 months, review and update the ambient air standards listed for each toxic air pollutant in LAC 33:III.5112, Table 51.2.

C. Standard Operating Procedure Requirements

1. The requirements of this Subsection do not apply to emissions of any of those pollutants listed in LAC 33:III.5112, Table 51.3, or to sources complying with applicable federal standards in 40 CFR Part 63.

2. The owner or operator of any new or existing source required to report emissions in accordance with LAC 33:III.5107.A shall develop a standard operating procedure (SOP) within 120 days after achieving or demonstrating compliance with the standards specified in this Chapter. The SOP shall detail all operating procedures or parameters established by the owner or operator to ensure that compliance with the applicable standards is maintained, and shall address, but not be limited to, operating procedures for any monitoring system in place, specifying procedures to ensure compliance with LAC 33:III.5113.C.5. A written

copy of the SOP must be available on site or at an alternate approved location for inspection by the administrative authority. A copy of the SOP must be provided within 30 days upon request by the department.

D. Compliance Timing

1. The department may take appropriate enforcement action to address the failure by an existing major source to submit a Compliance Plan or Certification of Compliance, which submittal was required by Paragraph A.1 or 2, and Paragraph B.1 or 2, of this Section as promulgated in the *Louisiana Register* on December 20, 1991, at LR 17:1204, until <Insert Date of Promulgation of this Rule>.

2. A new source shall be in compliance with the MACT regulations upon initial start-up of the source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:891 (July 1993), LR 23:59 (January 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§5111. Permit Requirements, Application, and Review

A. Major Source Permit Requirements. Before commencement of the construction of any new source or any modification that will result in an increase in emissions of any toxic air pollutant or will create a new point source that emits a toxic air pollutant, the owner or operator of such source shall obtain a Louisiana air permit in accordance with LAC 33:III.501 and Subsection B of this Section and in accordance with LAC 33:I.1701.

B. Contents of Application for a Louisiana Air Permit

1. - 2.b....

c. technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including a description of intended controls and monitoring procedures. Such technical information shall include estimation of emissions prior to and after installation of emission control equipment or adoption of control measures, calculations of emission estimates in sufficient detail to allow assessment of the validity of the calculations, and documentation of methods or sources of information used in these determinations. Emissions of toxic air pollutants shall be speciated to identify each toxic air pollutant emitted from each emission point at the source and to identify fugitive emissions of toxic air pollutants.

3. Each application for a permit to modify an existing major source facility shall include, in addition to the information required in Paragraph B.2 of this Section, the following information:

a. - b. ...

c. calculations of estimates of emissions before and after the changes are completed, in sufficient detail to allow assessment of the validity of the calculations;

d. for sources that have been operating in Louisiana for a period of at least five years, a listing of all violations of Louisiana air quality laws or regulations for which the owner or operator is responsible, including all violations for which a compliance schedule has been established and which have been cited in administrative enforcement actions by the department, and for which all rights of review and appeal have been exhausted. Applicants under a compliance

schedule shall also demonstrate that they have made satisfactory progress in meeting the conditions of the compliance schedule. Applicants shall also provide a listing of all administrative or judicial actions taken against the owner or operator within the last five years under Louisiana environmental laws or regulations, including emergency cease and desist orders, notices of violation, compliance orders, penalty notices, or other administrative orders and any administrative or judicial proceedings that could result in such actions, and any other compliance history information requested by the administrative authority;

e. for sources that have not been operating in Louisiana for at least five years, a listing of all enforcement actions taken against the owner or operator for violations of United States federal or state environmental laws or regulations, and any other compliance history information requested by the administrative authority.

4. Any application corresponding to a major source that emits or is permitted to emit any Class I or Class II toxic air pollutant shall include a description of all federal standards (i.e., any standards promulgated by the US EPA in

40 CFR Part 63) and compliance methods applicable to units being permitted.

5. The department may request a dispersion modeling report developed by the owner or operator in accordance with the department's air toxics modeling procedures.

6. The owner or operator shall provide such other pertinent information as may be necessary for a complete understanding of the application that is being reviewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:891 (July 1993), repromulgated LR 19:1314 (October 1993), amended LR 23:59 (January 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2447 (October 2005), LR 33:

§5112. Tables—51.1, 51.2, 51.3

Table 51.1, Class I. – Class II. ...

Table 51.1 Minimum Emission Rates Toxic Air Pollutants Class III. Acute and Chronic (Non-Carcinogenic) Toxins			
Compound	CAS Number	Synonyms	Minimum Emission Rate (Pounds/year)
* * *			
[See Prior Text in Acrylic acid - Hydrochloric acid]			
Hydrofluoric acid	7664-39-3	Hydrogen fluoride	63.0
Hydrogen cyanide	74-90-8	Cyclon	800.0
Hydrogen sulfide	7783-06-4		1,000.0
* * *			
[See Prior Text in Maleic anhydride - Zinc (and compounds) [1][12]]			

Explanatory Notes:
[1]. – [12]. ...

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards				
Compound	CAS Number	Class	Ambient Air Standard	
			(µg/m ³ *) (8 Hour Avg.)	(µg/m ³ **) (Annual Avg.)
Acetaldehyde	75-07-0	II		45.50
Acetonitrile	75-05-8	II	810.00	
Acrolein	107-02-8	II	5.40	
* * *				
[See Prior Text in Acrylamide - Antimony (and compounds) [1]]				
Arsenic (and compounds) [1] [13]	7440-38-2	I		0.02
Asbestos (friable)	1332-21-4	I		†
Barium (and compounds) [1]	7440-39-3	II	11.90	
Benzene	71-43-2	I		12.00
Beryllium (and compounds)[1]	7440-41-7	I		0.04
Biphenyl	92-52-4	II	23.80	
Bis (2-chloroethyl) ether	111-44-4	I		0.30
1,3-Butadiene	106-99-0	II		0.92
n-Butyl alcohol	71-36-3	III	3,620.00	
Cadmium (and compounds) [1]	7440-43-9	I		0.06
Carbon disulfide	75-15-0	II	71.40	
Carbon tetrachloride	56-23-5	II		6.67
Carbonyl sulfide	463-58-1	III	582.00	
Chlorinated dibenzo-p-dioxins [2]	3268-87-9	II		.003
Chlorinated dibenzo furans [3]	51207-31-9	II		.003
Chlorine	7782-50-5	III	35.7	
Chlorine dioxide	10049-04-4	II	6.67	
Chlorobenzene	108-90-7	II	1,100.00	
Chloroethane	75-00-3	II	6,290.00	
Chloroform	67-66-3	II		4.30

**Table 51.2
Louisiana Toxic Air Pollutant Ambient Air Standards**

Compound	CAS Number	Class	Ambient Air Standard	
			($\mu\text{g}/\text{m}^3$ *) (8 Hour Avg.)	($\mu\text{g}/\text{m}^3$ **) (Annual Avg.)
Chloromethane	74-87-3	II		55.56
Chloroprene	126-99-8	II	857.00	
Chromium VI (and compounds) [1][13]	7440-47-3	I		0.01
Copper (and compounds) [1]	7440-50-8	II	23.80	
Cresol [4]	1319-77-3	III	238.00	
Cumene	98-82-8	III	5,860.00	
Diaminotoluene	25376-45-8	II	181.00	
1,2-Dibromoethane	106-93-4	I		0.45
Dibutyl phthalate	84-74-2	II	119.00	
1,4-Dichlorobenzene	106-46-7	II	1,430.00	
1,2-Dichloroethane	107-06-2	II		3.85
Dichloromethane	75-09-2	II		212.77
1,2-Dichloropropane	78-87-5	II	8,260.00	
1,3-Dichloropropylene	542-75-6	II	107.00	
2,4-Dinitrotoluene [5]	121-14-2	II	4.76	
2,6-Dinitrotoluene [5]	606-20-2	II	4.76	
1,4-Dioxane	123-91-1	II	2,140.00	
Epichlorohydrin	106-89-8	I		83.00
Ethyl acrylate	140-88-5	II	476.00	
Ethyl benzene	100-41-4	II	10,300.00	
Ethylene glycol	107-21-1	III	2,380.00	
Ethylene oxide	75-21-8	I		1.00

[See Prior Text in Formaldehyde - Hydrochloric acid]				
Hydrofluoric acid	7664-39-3	III	61.90	
Hydrogen cyanide	74-90-8	III	260.00	
Hydrogen sulfide	7783-06-4	III	330.00	
Maleic anhydride	108-31-6	III	23.80	
Manganese (and compounds) [1]	7439-96-5	II	4.76	
Mercury (and compounds) [1]	7439-97-6	II	1.19	

[See Prior Text in Methanol - Xylene (mixed isomers) [9]]				
Zinc (and compounds) [1][10][13]	7440-66-6	III	119.00	

Explanatory Notes:

* - [11]. ...

[12] Includes the following compounds: Naphthalene (CAS Number 91-20-3), Methyl-naphthalene (CAS Number 1321-94-4), 1-Methyl-naphthalene (CAS Number 90-12-0), 2-Methyl-naphthalene (CAS Number 91-57-6).

[13] Zinc chromates and zinc arsenates are Class I TAPs regulated as carcinogens under Chromium VI (and compounds) and arsenic (and compounds) TAP categories.

Table 51.3 - Explanatory Note [4]. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1331 (December 1995), amended LR 22:278 (April 1996), LR 24:1277 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1237 (July 1999), LR 26:2004 (September 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on January 24, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ256. Such comments must be received no later than January 31, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ256. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT

RULE TITLE: **Comprehensive Toxic Air Pollutant Emission Control Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units resulting from the promulgation of this rule. Reporting requirements for some regulated industrial sources will be relaxed, resulting in a small reduction in workload.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Approximately 60 percent of facilities will no longer report to the Toxic Emissions Data Inventory (TEDI), resulting in a loss of fees to DEQ estimated to be from \$24,000 to \$45,000 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Approximately 180 facilities will no longer report to TEDI, resulting in some reduction in reporting costs and the associated fees. Each of the facilities released from reporting can expect to save at least \$132 per year. Approximately 120 facilities face an increase in costs due to a possible increase in reporting frequency of unauthorized releases. DEQ cannot anticipate the frequency of unauthorized releases, but believes reporting costs would be small.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is estimated to have no effect on competition or employment.

Herman Robinson, CPM
Executive Counsel
0612#075

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Control of Emissions of Sulfur Dioxide
(LAC 33:III.1502, 1503, 1507, 1511, and 1513)(AQ271)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.1502, 1503, 1507, 1511, and 1513 (Log #AQ271).

Several sources to which these regulations apply have expressed confusion regarding compliance with the emission limitations, monitoring, recordkeeping, and reporting requirements. This rule clarifies the emission limitations with which an emissions unit must comply, as well as the test methods that an emissions unit must use to verify compliance with the limitations. For sulfur dioxide, Test Method 6 is replaced with Test Method 6C. For oxides of nitrogen, Test Method 7 is replaced with Test Method 7E. These changes are made to more accurately reflect the proper test methods for these pollutants. This rule defines the monitoring, recordkeeping, and reporting requirements applicable to sources subject to any provision of LAC 33:III.1511. Emphasis is placed on the method of compliance for those sources that choose to comply with LAC 33:III.1511.C, which provides for an alternative method of compliance. New criteria are established by which an emissions unit may be determined to be exempt from the provisions of LAC 33:III.Chapter 15 and by which this Chapter may be determined to not apply to an emissions unit. This Chapter no longer applies to sources that emit less than five tons per year of sulfur dioxide. Sources that comply with 40 CFR 75 are exempt from the recordkeeping requirements of this Chapter. This rule changes the method by which an emissions unit may seek a four-hour exemption under LAC 33:III.1507. Rather than wait for approval from the department, the source may instead submit a report after the fact that documents the activity to be exempted. The basis and rationale for this rule are to clarify the regulations

and establish proper terms and conditions to facilitate compliance with the regulations.

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 15. Emission Standards for Sulfur Dioxide

§1502. Applicability

A. The provisions of this Chapter are applicable to the following sources:

1. new or existing sulfuric acid production units;
2. new or existing sulfur recovery plants; and
3. all other single point sources that emit or have the potential to emit 5 tons per year or more of sulfur dioxide into the atmosphere.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1503. Emission Limitations and Compliance

A. Sulfuric Acid Plants—New and Existing. The emissions of sulfur dioxide and acid mist from new sulfuric acid production units that commence construction or modification after August 17, 1971, shall be limited to that specified in 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, i.e., 4.0 pounds of SO₂/ton of 100 percent H₂SO₄ (2 kilograms/metric ton) and 0.15 pounds of sulfuric acid mist/ton of 100 percent H₂SO₄ (.075 kilograms/metric ton), respectively (three-hour averages). Emissions from existing units shall be limited as follows:

1. SO₂—not more than 2000 ppm by volume (three-hour average);
2. sulfuric acid mist—not more than 0.5 pounds/ton of 100 percent H₂SO₄ (0.25 kilograms/metric ton) (three-hour average).

B. ...

C. All Other Sources—New and Existing. No person shall discharge gases from the subject sources that contain concentrations of SO₂ in excess of 2,000 parts per million (ppm) by volume at standard conditions (three-hour average), or any applicable Federal NSPS or NESHAP emission limitation, whichever is more stringent. Single point sources that emit or have the potential to emit less than 250 tons per year of sulfur compounds measured as sulfur dioxide may be exempted from the 2,000 ppm(v) limitation by the administrative authority.

D. Compliance

1. The methods listed in Table 4 or any such equivalent method as may be approved by the administrative authority* shall be used to determine compliance with the appropriate emission limitations set forth in Subsections A-C of this Section. These methods shall be used for the following:

- a. initial compliance determinations; and

b. any additional compliance determinations as requested by the administrative authority.

2. Measurement equipment shall be periodically calibrated to comply with minimal American Bureau of Standards criteria.

3. The data collected from a sulfur dioxide continuous emission monitoring system (CEMS) may be used to determine initial compliance with the sulfur dioxide emission limitations of this Section.

4. As used in this Section a *three-hour average* means the average emissions for any three consecutive one-hour periods (each commencing on the hour), provided that the number of three-hour periods during which the SO₂ limitation is exceeded is not greater than the number of one-hour periods during which the SO₂ limitation is exceeded.

Table 4 Emissions—Methods of Contaminant Measurement	
Emission	Analytical Method
Particulate	1. Methods 1, 2, 3, 4, 5 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003.
Sulfur Oxides	1. Seidman, Analytical Chemistry Volume 30, page 1680 (1958), "Determination of Sulfur Oxides in Stack Gases." 2. Shell Development Company method for the Determination of Sulfur Dioxide and Sulfur Trioxide PHS 999 AP-13 Appendix B, pages 85-87, "Atmospheric Emissions Sulfuric Acid Manufacturing Processes." 3. Reich Test for Sulfur Dioxide, "Atmospheric Emissions from Sulfuric Acid Manufacturing Process" PHS 999 AP-13 Appendix B, pages 76-80. 4. The Modified Monsanto Company Method, "Atmospheric Emissions from Sulfuric Acid Manufacturing Process" PHS 999 AP-13, Appendix B, pages 61-67. 5. Test Methods 1, 2, 3, 4, 6C, and 8 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003), or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003.
Oxides of Nitrogen	1. Test Methods 1, 2, 3, 4, and 7E (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003), or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003.
Visible Emissions	1. Method 9 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003). 2. Method 22 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003).
Total Fluoride	1. Methods 1, 2, 3, 13A and 13B (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003).
Total Reduced Sulfur (TRS)	1. Method 16 (40 CFR Part 60, Appendix A or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003). 2. Coulometric titration by method specified in NCASI Atmospheric Quality Improvement Technical Bulletin Number 91 (January 1978).
Sulfuric Acid Mist	1. Test methods 1, 2, 3, 4, 6, and 8 (40 CFR Part 60, Appendix A or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:374 (April 1992), LR 22:1212 (December 1996), LR 23:1677 (December 1997), LR 24:1284 (July 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1507. Exceptions

A. Start-Up Provisions

1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A will be authorized by the administrative authority for facilities not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, that have been shut down.

a. A written report explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), within seven calendar days of the occurrence.

b. The report shall be signed by a responsible official, who shall certify:

i. that the excess emissions were not the result of failure to operate, maintain, or repair equipment in a manner consistent with good engineering practice;

ii. that the excess emissions were not due to error resulting from careless operations;

iii. that the excess emissions were not the result of failure to follow written procedures;

iv. that actions were taken to minimize the duration and magnitude of the excess emissions; and

v. that no ambient air quality standard was jeopardized.

c. All necessary data required to support the certifying statements shall be recorded and retained on-site and made available to department personnel upon request.

2. ...

B. On-Line Operating Adjustments

1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A will be extended by the administrative authority to facilities not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition.

a. A written report explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, within seven calendar days of the occurrence.

b. The report shall be signed by a responsible official, who shall certify:

i. that the excess emissions were not the result of failure to operate, maintain, or repair equipment in a manner consistent with good engineering practice;

ii. that the excess emissions were not due to error resulting from careless operations;

iii. that the excess emissions were not the result of failure to follow written procedures;

iv. that actions were taken to minimize the duration and magnitude of the excess emissions; and

v. that no ambient air quality standard was jeopardized.

c. All necessary data required to support the certifying statements shall be recorded and retained on-site and made available to department personnel upon request.

2. ...

C. Bubble Concept. The administrative authority* may exempt a source from the emission limitations of LAC 33:III.1503 if the owner or operator demonstrates that a *bubble concept* will be applied as defined in LAC 33:III.111.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:1284 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1511. Continuous Emissions Monitoring

A. Except as provided in Subsections C and D of this Section, the owner or operator of any facility subject to the sulfur dioxide emission limitations of this Chapter shall install, calibrate, maintain, and operate a measurement system or systems, installed in accordance with the manufacturers instructions, for continuously monitoring sulfur dioxide concentrations in the effluent of each process subject to this Chapter. *Continuous monitoring* is defined as sampling and recording of at least one measurement in each 15-minute period from the effluent of each affected process or the emission control system serving each affected process.

B. ...

C. As an alternative to continuous monitoring of sulfur dioxide emissions the administrative authority* may approve demonstration of compliance as follows:

1. for combustion units that burn fuel gas or refinery gas, calculate sulfur dioxide emissions by continuously monitoring the fuel hydrogen sulfide content and fuel consumption rate; or

2. for any single point source that burns or decomposes sulfur-containing fuel and/or feedstock, calculate sulfur dioxide emissions by monitoring the fuel and/or feedstock consumption rate and determining input sulfur as follows:

a. for fuel supplied from a bulk storage tank, values for input sulfur shall be determined on each occasion that the fuel is transferred to the storage tank from any other source. Fuel consumption rates shall be monitored continuously;

b. for feedstock or any other method of supplying fuel, values for input sulfur shall be determined daily. Fuel consumption rates shall be monitored continuously. The owner or operator may develop custom schedules for determination of these parameters based on the design and operation of the source and characteristics of the feedstock or fuel supply. These custom schedules shall be substantiated by data and must be approved by the administrative authority.

D. The administrative authority shall not require continuous monitoring for:

1. flares;

2. emissions units that have the potential to emit less than 100 tpy of sulfur dioxide;

3. emissions units identified in 40 CFR Part 51, Appendix P; and

4. emissions units subject to the provisions of 40 CFR Part 75—Continuous Emission Monitoring.

E. For sulfuric acid plants, the production rate of H₂SO₄ shall be monitored daily.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), amended LR 22:1212 (December 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1513. Recordkeeping and Reporting

A. Except as provided in Subsections B-D of this Section, the owner or operator of any facility subject to the provisions of this Chapter shall record and retain at the site for at least two years the data required to demonstrate compliance with this Chapter. All emissions data shall be recorded in the units of the applicable standard using the averaging time of the applicable standard, as follows.

1. CEMS data shall be recorded continuously.

2. Initial and additional compliance determination data shall be recorded upon each occurrence. A report showing the results of any such test shall be submitted no later than 90 days after the completion of the test.

3. For sulfuric acid plants, the production rate of H₂SO₄ shall be recorded daily.

B. The owner or operator of any single point source approved for alternative emissions monitoring in accordance with LAC 33:III.1511.C shall record the appropriate data required to demonstrate compliance as follows.

1. Fuel H₂S content shall be recorded continuously.

2. Input sulfur shall be recorded upon each determination.

3. Fuel and/or feedstock consumption rate shall be recorded continuously or as approved by the administrative authority in accordance with LAC 33:III.1511.C.2.b.

4. SO₂ emissions shall be calculated and recorded continuously in the units of the applicable standard using the averaging time of the applicable standard.

C. The owner or operator of any emissions unit that is not subject to the emissions limitations of this Chapter shall record and retain at the site sufficient data to show annual potential sulfur dioxide emissions from the emissions unit.

D. Compliance with the recordkeeping requirements of 40 CFR Part 75—Continuous Emission Monitoring shall satisfy the recordkeeping provisions of this Section.

E. All compliance data shall be made available to a representative of the department or the U.S. EPA on request. When applicable, compliance data shall be reported to the department annually in accordance with LAC 33:III.918. In addition, quarterly reports of three-hour excess emissions and reports of emergency conditions in accordance with LAC 33:I.Chapter 39 shall be made.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:376 (April 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on January 24, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ271. Such comments must be received no later than January 31, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ271. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Control of Emissions of Sulfur Dioxide

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups. This revision to the rule simply clarifies the quantification methods by which the permittee must demonstrate compliance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition. No effect on employment in the public or private sector will be realized.

Herman Robinson, CPM
Executive Counsel
0612#074

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Exemption for Drums Storing Pyrophoric Catalyst (LAC 33:III.2103)(AQ272)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2103 (Log #AQ272).

This Rule exempts drums storing pyrophoric catalyst at the Vistalon Production Facility of ExxonMobil Chemical Company Baton Rouge Chemical Plant from the submerged fill pipe provisions of LAC 33:III.2103.A. Existing drums are currently operating under Permit No. 2376-VO, issued April 4, 2006, and are identified as follows: EQT583, T-3304A - Catalyst Drum (VCD-107A), 9400 gallons; EQT584, T-3304B - Catalyst Drum (VCD-107B), 9400 gallons; EQT585, T-3304C - Catalyst Drum (VCD-107C), 4700 gallons; EQT586, T-3304D - Catalyst Drum (VCD-107D), 4700 gallons. The drums in question are used to store an alkyl catalyst that is very pyrophoric in nature; the material can spontaneously ignite if exposed to even trace levels of oxygen and moisture. It has been decided that these tanks do not qualify as pressure vessels because of the frequency at which they vent to the atmosphere (every 1 to 1.5 days). As such, they would normally be subject to the submerged fill pipe provisions of LAC 33:III.2103.A, which seeks to prevent vapor or gas loss to the atmosphere during filling operations. Any overpressure in a closed storage system fed through a submerged fill pipe could lead to materials backing up into and possibly overflowing delivery equipment or other upstream facilities, causing a dangerous condition in the case of this kind of catalyst. Therefore, the manufacturer of the catalyst has recommended that the material be transferred using a free-fall method. No increase in actual emissions above current levels will be authorized by this Rule. The basis and rationale for this Rule are to provide drums storing pyrophoric catalyst with an exemption from regulations with which strict conformity would create an unreasonable risk to public health, welfare, and safety.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

A. - G.3. ...

4. JP-4 fuels stored in horizontal underground tanks;
5. with regard to the requirements of Paragraph C.1 of this Section, any storage tank that is used for less than two weeks in the calendar year, provided that the tank is empty and liquid-free when not in use; and
6. with regard to the submerged fill pipe provisions of Subsection A of this Section, tanks, drums, or other containers storing pyrophoric catalyst at the Vistalon

Production Facility of ExxonMobil Chemical Company's Baton Rouge Chemical Plant.

H. - J. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), repromulgated LR 16:27 (January 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 28:1763 (August 2002), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:

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

A public hearing will be held on January 24, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ272. Such comments must be received no later than January 31, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ272. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Exemption for Drums Storing
Pyrophoric Catalyst**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs or savings to state or local governmental units as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This rule is limited in scope, affecting only drums storing pyrophoric catalyst at the Vistalon Production Facility of ExxonMobil Chemical Company's Baton Rouge Chemical Plant. No effect on costs, including workload adjustments or additional paperwork, is expected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition; no effect on employment in the public or private sector will be realized.

Herman Robinson, CPM
Executive Counsel
0612#073

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Immovable Property Environmental Reviews/No Further
Action (LAC 33:I.Chapter 12)(OS072)

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 adopt the Office of the Secretary regulations, LAC 33:I.Chapter 12 (Log #OS072).

This rule was authorized by Act 778 of the 2006 Regular Session of the Louisiana Legislature. The Rule provides a procedure for and establishes a fee for reviews by the department of reports of environmental conditions at specified tracts of immovable property when such reports from site investigations are not required or requested by the department. Implementation of the fee will allow the department to recover costs of staff time and administrative processing of these requests. The basis and rationale for this Rule are to implement the provisions of Act 778 of the 2006 Regular Session of the Louisiana Legislature.

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

**Title 33
ENVIRONMENTAL QUALITY**

Part I. Office of the Secretary

**Subpart 1. Departmental Administrative Procedures
Chapter 12. Requests for Review of Environmental
Conditions**

§1201. Applicability and Scope

A. This Chapter applies to reviews by the department of reports of environmental conditions at specified tracts of immovable property when such reports from site investigations are not required or requested by the administrative authority.

B. Nothing herein shall be construed to diminish the responsibility of any person (e.g., owner, operator, employee, agent, contractor, or assign) having knowledge of the presence at any site of any hazardous substance, hazardous waste, hazardous waste constituent, or other pollutant or contaminant, to notify the department pursuant to LAC 33:I.Chapter 39. If additional information becomes available to indicate that the source of the release is a current discharge or a discharge that should have been reported, enforcement action may be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 20:2001, et seq., and specifically 2011(D)(25).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1203. Procedure for Submittal of Request

A. All requests for reviews by the department of reports of environmental conditions shall be accompanied by an initial \$1500 minimum fee. All payments shall be made by check, draft, or money order payable to the Department of Environmental Quality.

B. Contents of Request. An applicant requesting a review of environmental conditions for specific immovable property shall furnish the following information:

1. the agency interest number or a completed agency interest form from the department identifying the facility/agency interest;
2. the area of investigation, if different from the facility/agency interest location;
3. the basis for the request;
4. the purpose of the use of the property and the date-range of the use;
5. a brief description of activities that occurred on the property;
6. the future intended use of the property;
7. the types and results of investigations that have occurred, including the following information:
 - a. report dates;
 - b. the media investigated;
 - c. the constituents of concern (COC);
 - d. the maximum remaining concentration of the COC; and
 - e. the limiting RECAP standards for the COC;
8. any remedial standards previously developed for the property;
9. any remedial actions taken for the property; and
10. any other information requested by the administrative authority.

C. An applicant shall submit the request for review, in accordance with the requirements of Subsection B of this Section, in triplicate, with the initial minimum fee in Subsection A of this Section, to the administrator of the Office of Environmental Assessment, Remediation Services Division.

D. The administrative authority will issue the result of the review to the owner/operator of the facility and to the person requesting the review.

E. The administrative authority shall keep an accounting of time spent by the department civil service employee processing the review request. Every hour or portion thereof that the department civil service employee works processing the request shall be multiplied by the maximum per-hour overtime salary, including associated related benefits, of the department civil service employee who performed the work. If this amount exceeds the initial minimum fee charged pursuant to R.S. 30:2011(D)(25) and Subsection A of this Section, an additional fee shall be charged for the amount exceeding the initial minimum fee.

1. An invoice for the additional fee shall be transmitted to the person requesting the review after the review is complete.

2. Failure to pay the additional fee by the due date specified on the invoice will constitute a violation of these regulations and shall subject the person requesting the review to relevant enforcement action under the Louisiana Environmental Quality Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 20:2001, et seq., and specifically 2011(D)(25).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on January 24, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS072. Such comments must be received no later than January 31, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS072. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive,

Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Immovable Property Environmental Reviews/No Further Action**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to the department as a result of this proposed rule. The department will now be recovering expenses incurred as a result of these requests by the process established by the proposed rule. Any costs incurred by local governments will be on a strictly voluntary basis.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

DEQ estimates that the maximum amount of annual state revenue to be generated by these reviews is \$275,685.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These reviews are voluntarily requested; therefore their impact is largely under the control of the person who requests the review. There will be a minimum fee of \$1500 per request for reviews of environmental conditions of immovable property. A small percentage of the reviews will require overtime work by department staff resulting in additional fee amounts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment as a result of this proposed rule. These reviews are voluntarily requested and not required by the department.

Herman Robinson, CPM
Executive Counsel
0612#069

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Remediation of Sites with Contaminated Media
(LAC 33:V.105, 106, 199, and 5147)(HW092)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.105, 106, 199, and 5147 (Log #HW092).

This rule implements Act 778 of the 2006 Regular Session of the Louisiana Legislature and the provisions of Emergency Rule HW084E10, which was published in the *Louisiana Register* on November 20, 2006. The Rule provides an evaluation process to manage listed hazardous waste based on risk for sites that are contaminated and require remediation. Act 778 authorizes a new fee for this

evaluation. One of the most significant impediments to progress in the RCRA corrective action program has been the high cost of remediation waste management. Consequently, EPA has devoted much attention to management of remediation wastes and instituted a number of changes to the corrective action program that are designed to tailor management requirements to the risks posed by the wastes. Current regulation causes contaminated environmental media to retain the description of having RCRA-listed waste "contained-in," therefore complicating and impeding the remediation of the site or possibly halting it completely due to administration and disposal issues. This Rule will remove a regulatory hurdle that deters site remediation by promulgating the guidance the Environmental Protection Agency (EPA) has recommended. The Rule will also result in simplification of the waste handling process by reducing administrative requirements and providing greater consistency with non-RCRA waste handling requirements and practices. This will provide strong motivation to initiate and accelerate voluntary remediation of contaminated sites without increasing risks to human health or the environment. The basis and rationale for this rule are to initiate and promote voluntary remediation of contaminated sites without increasing risks to human health or the environment.

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

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

A. - O.2.c.vi. ...

P. Criteria for Hazardous Waste Being Managed Within an Area of Contamination. An area of contamination (AOC) is a discrete area of generally dispersed contamination, the designation of which has been approved by the administrative authority. Under certain conditions, environmental media impacted with hazardous waste may be moved within an AOC without triggering land disposal restrictions or minimum technology requirements. This approach encourages and expedites remedial actions where hazardous waste releases have occurred.

1. Any person who proposes to manage contaminated media within an AOC must submit the definition of the project's AOC to the Office of Environmental Assessment.

Approval from the administrative authority concerning the extent of the AOC must occur prior to movement of contaminated media. In general the AOC should be consistent with the area impacted by the release

2. Use of an AOC to manage hazardous waste may be appropriate where the additional flexibility of a corrective action management unit pursuant to LAC 33:V.Chapter 26 is not needed. Movement and consolidation of contaminated media, treating contaminated media *in situ*, or leaving contaminated media in place in a single area or engineered unit within an AOC will not trigger the hazardous waste land disposal restrictions or minimum technology requirements of LAC 33:V.Subpart 1.

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

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

§106. Hazardous Waste Determination for Contaminated Media

A. Except as otherwise provided in this Section, environmental media that contain hazardous waste subject to regulation under LAC 33:V.4901 or LAC 33:V.4903, shall be managed as hazardous waste. An environmental medium (soil/sediment, surface water, or groundwater) no longer contains a hazardous waste when:

1. the concentration of the hazardous constituent that serves as the basis for the waste being listed as hazardous (as defined in LAC 33:V.109 or as determined by the department on a case-by-case basis, e.g., creosote) remaining in the medium meets the appropriate standards described in this Section; and

2. the medium no longer exhibits any of the characteristics of hazardous waste identified in LAC 33:V.4903. Land disposal treatment standards (LAC 33:V.2299) shall continue to apply to contaminated environmental media that are treated and then determined to

no longer contain hazardous waste. Contaminated environmental media determined not to contain any hazardous waste prior to treatment are not subject to any RCRA Subtitle C requirement, including the standards in LAC 33:V.2299.

B. Nonhazardous Environmental Medium (NHEM) Determination

1. Upon written request, the department may make a site-specific determination that an environmental medium contaminated with a listed hazardous waste at a concentration of the hazardous constituent at or below the level described in this Section no longer contains hazardous waste. Such a determination shall be known as a NHEM determination. A site-specific NHEM determination may be granted by the department contingent upon management of the environmental medium in accordance with any institutional control or other requirement described in the letter granting the request.

2. When a NHEM determination would be useful to expedite site remediation, a written request and payment of the fee in accordance with LAC 33:V.5147 may be submitted to the Office of Environmental Assessment. The request must demonstrate application of the process described in Paragraphs B.3-4 of this Section and that land disposal treatment standards are met when applicable.

3. A NHEM determination does not authorize the placement of contaminated media in, or establish remedial standards for, a particular area. Approval for placement of the contaminated medium in a specific area must be obtained from the Office of Environmental Assessment, unless it is otherwise allowed by regulation. Remedial standards for areas of contamination shall be established in accordance with the Risk Evaluation/Corrective Action Program (RECAP) as incorporated by reference in LAC 33:I.1307.

4. The identification, development, and application of the standards for media to be determined to no longer contain hazardous waste shall comply with the following process.

a. Determine the area of investigation (AOI). The AOI is a zone contiguous to and including impacted media, defined vertically and horizontally by the presence of one or more constituents in concentrations exceeding a limiting standard.

b. Identify the area of investigation concentration (AOIC). The AOIC is to be identified by the maximum detected concentration of the constituent of concern (COC) in the AOI or the upper bound estimate (e.g. upper confidence limit) of the arithmetic mean concentration of the COC.

Note: The department recommends that the upper bound estimate of the arithmetic mean concentration be identified as the concentration recommended by the *ProUCL* program, a software program available from EPA's Technical Support Center for Monitoring and Site Characterization (www.epa.gov/nerlesd1/tsc/form.htm).

c. Determine the soil standard (Soil_{NHEM}). The soil standards are presented in Table 1 of this Section. For a constituent not included in Table 1, the applicant shall calculate a value using the appropriate equation and input values from LAC 33:V.199.Appendix A. Compare the soil standard to the AOIC. If the AOIC detected for a COC does not exceed the soil standard, then a NHEM determination may be made.

d. Identify the groundwater exposure concentration (EC). The EC shall be identified as the maximum concentration of COC detected in the groundwater AOI.

e. Determine the groundwater standard (GW_{NHEM}). The groundwater standards are presented in Table 1 of this Section. If a detected groundwater constituent cannot be found in Table 1, then the maximum contaminant level (MCL), contained in the National Primary Drinking Water regulations (40 CFR Part 141), multiplied by 100 is to be used as the groundwater standard. If an MCL is not available then a groundwater standard is to be calculated in accordance with appropriate equations and input values from LAC 33:V.199.Appendix A. Compare the groundwater EC to the groundwater standard. If quantitative values for constituents are less than the limiting standards, the groundwater may qualify for a NHEM determination.

Table 1			
Soil and Groundwater Standards			
Compound	CAS #	Soil _{NHEM} (mg/kg)	GW _{NHEM} (mg/l)
Acenaphthene	83-32-9	6.1E+05	3.7E+02
Acenaphthylene	208-96-8	5.1E+05	3.7E+02
Acetone	67-64-1	1.4E+05	6.1E+02
Aldrin	309-00-2	1.3E+00	3.9E-03
Aniline	62-53-3	1.7E+03	1.2E+01
Anthracene	120-12-7	1.0E+06	1.8E+03
Antimony	7440-36-0	8.2E+03	6.0E-01
Arsenic	7440-38-2	2.7E+01	1.0E+00
Barium	7440-39-3	1.0E+06	2.0E+02
Benzene	71-43-2	3.1E+01	5.0E-01
Benz(a)anthracene	56-55-3	2.9E+01	9.1E-02
Benzo(a)pyrene	50-32-8	2.9E+00	2.0E-02
Benzo(b)fluoranthene	205-99-2	2.9E+01	9.1E-02
Benzo(k)fluoranthene	207-08-9	2.9E+02	9.1E-01
Beryllium	7440-41-7	4.1E+04	4.0E-01
Biphenyl,1,1-	92-52-4	4.4E+05	3.0E+02
Bis(2-chloroethyl)ether	111-44-4	1.1E+01	9.6E-03
Bis(2-chloroisopropyl)ether	108-60-1	1.7E+02	2.7E-01
Bis(2-ethyl-hexyl)phthalate	117-81-7	1.7E+03	6.0E-01
Bromodichloromethane	75-27-4	4.2E+01	1.0E+01
Bromoform	75-25-2	1.8E+03	1.0E+01
Bromomethane	74-83-9	3.0E+02	8.7E+00
Butyl benzyl phthalate	85-68-7	1.0E+06	7.3E+03
Cadmium	7440-43-9	1.0E+04	5.0E-01
Carbon Disulfide	75-15-0	2.5E+04	1.0E+03
Carbon Tetrachloride	56-23-5	1.1E+01	5.0E-01
Chlordane	57-74-9	1.0E+02	2.0E-01
Chloroaniline,p-	106-47-8	1.7E+04	1.5E+02
Chlorobenzene	108-90-7	1.2E+04	1.0E+01
Chlorodibromomethane	124-48-1	5.4E+01	1.0E+01
Chloroethane (Ethylchloride)	75-00-3	8.2E+01	3.8E+00
Chloroform	67-66-3	1.2E+01	1.0E+01
Chloromethane	74-87-3	7.3E+01	1.5E+00
Chloronaphthalene,2-	91-58-7	8.3E+05	4.9E+02
Chlorophenol,2-	95-57-8	1.4E+04	3.0E+01
Chromium(III)	16065-83-1	1.0E+06	1.0E+01
Chromium(VI)	18540-29-97	6.1E+04	1.0E+01
Chrysene	218-01-9	2.9E+03	9.1E+00
Cobalt	7440-48-4	1.0E+06	2.2E+03
Copper	7440-50-8	8.2E+05	1.3E+02
Cyanide (free)	57-12-5	3.6E+05	2.0E+01
DDD	72-54-8	1.6E+02	2.8E-01
DDE	72-55-9	1.1E+02	2.0E-01
DDT	50-29-3	1.2E+02	2.0E-01
Dibenz(a,h)anthracene	53-70-3	2.9E+00	9.1E-03
Dibenzofuran	132-64-9	6.5E+04	2.4E+01
Dibromo-3-chloropropane,1,2-	96-12-8	1.8E+01	2.0E-02
Dichlorobenzene,1,2-	95-50-1	7.4E+04	6.0E+01

Table 1 Soil and Groundwater Standards			
Compound	CAS #	Soil _{NHEM} (mg/kg)	GW _{NHEM} (mg/l)
Dichlorobenzene,1,3-	541-73-1	1.8E+03	5.5E+00
Dichlorobenzene,1,4-	106-46-7	1.6E+02	7.5E+00
Dichlorobenzidine,3,3'-	91-94-1	4.2E+01	1.5E-01
Dichloroethane,1,1-	75-34-3	4.7E+04	8.1E+02
Dichloroethane,1,2-	107-06-2	1.8E+01	5.0E-01
Dichloroethene,1,1-	75-35-4	9.1E+03	7.0E-01
Dichloroethene,cis,1,2-	156-59-2	3.4E+03	7.0E+00
Dichloroethene,trans,1,2-	156-60-5	4.8E+03	1.0E+01
Dichlorophenol,2,4-	120-83-2	2.0E+04	1.1E+02
Dichloropropane,1,2-	78-87-5	1.8E+01	5.0E-01
Dichloropropene,1,3-	542-75-6	1.0E+02	3.9E-01
Dieldrin	60-57-1	1.5E+00	4.1E-03
Diethylphthalate	84-66-2	1.0E+06	2.9E+04
Dimethylphenol,2,4-	105-67-9	1.1E+05	7.3E+02
Dimethylphthalate	131-11-3	1.0E+06	3.7E+05
Di-n-octylphthalate	117-84-0	3.5E+05	1.5E+03
Dinitrobenzene,1,3-	99-65-0	5.0E+02	3.7E+00
Dinitrophenol,2,4-	51-28-5	6.9E+03	7.3E+01
Dinitrotoluene,2,6-	606-20-2	4.6E+03	3.7E+01
Dinitrotoluene,2,4-	121-14-2	9.8E+03	7.3E+01
Dinoseb	88-85-7	5.4E+03	7.0E-01
Endosulfan	115-29-7	4.5E+04	2.2E+02
Endrin	72-20-8	2.5E+03	2.0E-01
Ethyl benzene	100-41-4	1.3E+05	7.0E+01
Fluoranthene	206-44-0	2.9E+05	1.5E+03
Fluorene	86-73-7	5.4E+05	2.4E+02
Heptachlor	76-44-8	3.5E-01	4.0E-02
Heptachlor epoxide	1024-57-3	2.6E+00	2.0E-02
Hexachlorobenzene	118-74-1	2.0E+01	1.0E-01
Hexachlorobutadiene	87-68-3	1.6E+02	8.5E-01
Hexachlorocyclohexane,alpha	319-84-6	4.4E+00	1.1E-02
Hexachlorocyclohexane,beta	319-85-7	1.6E+01	3.7E-02
Hexachlorocyclohexane,gamma	58-89-9	2.0E+01	2.0E-02
Hexachlorocyclopentadiene	77-47-4	9.4E+02	5.0E+00
Hexachloroethane	67-72-1	1.4E+03	7.9E-01
Indeno(1,2,3-cd)pyrene	193-39-5	2.9E+01	9.1E-02
Isobutyl alcohol	78-83-1	6.2E+05	1.1E+04
Isophorone	78-59-1	1.1E+04	7.0E+01
Lead (inorganic)	7439-92-1	3.4E+04	1.5E+00
Mercury (inorganic)	7487-94-7	6.1E+03	2.0E-01
Methoxychlor	72-43-5	4.3E+04	4.0E+00
Methylene chloride	75-09-2	4.4E+02	5.0E-01
Methyl ethyl ketone	78-93-3	4.4E+05	1.9E+03
Methyl isobutyl ketone	108-10-1	6.3E+05	2.0E+03
Methylnaphthalene,2-	91-57-6	1.7E+04	6.2E+00
MTBE (methyl tert-butyl ether)	1634-04-4	4.7E+05	2.0E+00
Naphthalene	91-20-3	4.3E+03	6.2E+00
Nickel	7440-02-0	4.1E+05	7.3E+02
Nitrate	14797-55-8	1.0E+06	1.0E+03
Nitrite	14797-65-0	1.0E+06	1.0E+02
Nitroaniline,2-	88-74-4	5.2E+01	2.1E-01
Nitroaniline,3-	99-09-2	1.4E+04	1.8E+01
Nitroaniline,4-	100-01-6	1.0E+04	1.1E+02
Nitrobenzene	98-95-3	2.5E+03	3.4E+00
Nitrophenol,4-	100-02-7	3.3E+04	2.9E+02
Nitrosodi-n-propylamine,n-	621-64-7	1.4E+00	9.5E-03
N-nitrosodiphenylamine	86-30-6	4.0E+03	1.4E+01
Pentachlorophenol	87-86-5	9.7E+01	1.0E-01
Phenanthrene	85-01-8	1.0E+06	1.8E+03
Phenol	108-95-2	1.0E+06	1.8E+03
Polychlorinated biphenyls	1336-36-3	9.0E+00	5.0E-02
Pyrene	129-00-0	5.6E+05	1.8E+02
Selenium	7782-49-2	1.0E+05	5.0E+00
Silver	7440-22-4	1.0E+05	1.8E+02
Styrene	100-42-5	4.3E+05	1.0E+01
Tetrachlorobenzene,1,2,4,5-	95-94-3	1.2E+03	1.1E+01
Tetrachloroethane,1,1,1,2-	630-20-6	5.9E+01	4.3E-01
Tetrachloroethane,1,1,2,2-	79-34-5	2.0E+01	5.5E-02

Table 1 Soil and Groundwater Standards			
Compound	CAS #	Soil _{NHEM} (mg/kg)	GW _{NHEM} (mg/l)
Tetrachloroethylene	127-18-4	3.5E+02	5.0E-01
Tetrachlorophenol,2,3,4,6-	58-90-2	1.7E+05	1.1E+03
Thallium	7440-28-0	1.4E+03	2.0E-01
Toluene	108-88-3	4.7E+04	1.0E+02
Toxaphene	8001-35-2	2.2E+01	3.0E-01
Trichlorobenzene,1,2,4-	120-82-1	1.2E+05	7.0E+00
Trichloroethane,1,1,1-	71-55-6	7.0E+04	2.0E+01
Trichloroethane,1,1,2-	79-00-5	4.3E+01	5.0E-01
Trichloroethene	79-01-6	2.1E+00	5.0E-01
Trichlorofluoromethane	75-69-4	2.6E+04	1.3E+03
Trichlorophenol,2,4,5-	95-95-4	6.6E+05	3.7E+03
Trichlorophenol,2,4,6-	88-06-2	1.7E+03	6.0E+00
Vanadium	7440-62-2	1.4E+05	2.6E+02
Vinyl chloride	75-01-4	7.9E+00	2.0E-01
Xylene(mixed)	1330-20-7	1.2E+04	1.0E+03
Zinc	7440-66-6	1.0E+06	1.1E+04
Aliphatics C6-C8	NA	1.0E+04	3.2E+04
Aliphatics >C8-C10	NA	1.0E+04	1.3E+03
Aliphatics >C10-C12	NA	1.0E+04	1.4E+03
Aliphatics >C12-C16	NA	1.0E+04	1.4E+03
Aliphatics >C16-C35	NA	1.0E+04	7.3E+04
Aromatics >C8-C10	NA	1.0E+04	3.4E+02
Aromatics >C10-C12	NA	1.0E+04	3.4E+02
Aromatics >C12-C16	NA	1.0E+04	3.4E+02
Aromatics >C16-C21	NA	1.0E+04	1.1E+03
Aromatics >C21-C35	NA	1.0E+04	1.1E+03
TPH-GRO (C6-C10)	NA	1.0E+04	3.4E+02
TPH-DRO (C10-C28)	NA	1.0E+04	3.4E+02
TPH-ORO (>C28)	NA	1.0E+04	1.1E+03

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

HISTORICAL NOTE: Promulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

§199. Appendix A—Equations for the Development of Soil and Groundwater Standards

Soil_{NHEM}—Carcinogenic Effects—Organic Constituents (mg/kg):

(EQ1)

$$EF_i \times ED_i \times \left[\left(SF_o \times 10^{-6} \frac{kg}{mg} \times IRS_i \right) + \left(SF_i \times IRA_a \times \left(\frac{1}{VF_i} \right) \right) + \left(SF_o \times xSA_i \times xAF_i \times ABS \times 10^{-6} \frac{kg}{mg} \right) \right]$$

$TR \times BW_a \times AT_c \times 365 \text{ days / yr}$

Parameter	Definition (units)	Input Value
Soil _{NHEM}	NHEM industrial risk-based chemical concentration in soil/ sediment (mg/kg)	--
TR	Target excess individual lifetime cancer risk (unitless)	10 ⁻⁵
SF _o	Oral cancer slope factor ((mg/kg-day) ⁻¹)	CS ^a
SF _i	Inhalation cancer slope factor ((mg/kg-day) ⁻¹)	CS ^a
BW _a	Average adult body weight (kg)	70 ^b
AT _c	Averaging time - carcinogens (yr)	70 ^b
EF _i	Industrial exposure frequency (days/yr)	250 ^b
ED _i	Industrial exposure duration (yr)	25 ^b
IRS _i	Industrial soil ingestion rate (mg/day)	50 ^b
IRA _a	Adult inhalation rate (m ³ /day)	20 ^c
VF _i	Industrial soil-to-air volatilization factor (m ³ /kg)	CS ^d
SA _i	Skin surface area for an industrial worker (cm ² /day)	3,300 ^c

Parameter	Definition (units)	Input Value
AF _i	Soil-to-skin adherence factor for an industrial worker (mg/cm ²)	0.2 ^c
ABS	Dermal absorption factor (unitless)	CS ^c

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b Soil Screening Guidance: User's Guide, EPA 1996.

^c Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment), EPA/540/R-99/005.

^d Chemical-specific; refer to EQ5.

^e Chemical-specific; refer to Table A-1.

Soil_{NHEM}—Carcinogenic Effects—Inorganic Constituents (mg/kg):

(EQ2)

$$TR \times BW_a \times AT_c \times 365 \text{ days / yr}$$

$$EF_i \times ED_i \times \left[\left(SF_o \times 10^{-6} \frac{\text{kg}}{\text{mg}} \times IRS_i \right) + \left(SF_o \times SA_i \times AF_i \times ABS \times 10^{-6} \frac{\text{kg}}{\text{mg}} \right) \right]$$

Parameter	Definition (units)	Input Value
Soil _{NHEM}	NHEM industrial risk-based chemical concentration in soil/ sediment (mg/kg)	--
TR	Target excess individual lifetime cancer risk (unitless)	10 ⁻⁵
SF _o	Oral cancer slope factor ((mg/kg-day) ⁻¹)	CS ^b
BW _a	Average adult body weight (kg)	70 ^b
AT _c	Averaging time - carcinogens (yr)	70 ^b
EF _i	Industrial exposure frequency (days/yr)	250 ^b
ED _i	Industrial exposure duration (yr)	25 ^b
IRS _i	Industrial soil ingestion rate (mg/day)	50 ^b
SA _i	Skin surface area for an industrial worker (cm ² /day)	3,300 ^c
AF _i	Soil-to-skin adherence factor for an industrial worker (mg/cm ²)	0.2 ^c
ABS	Dermal absorption factor (unitless)	CS ^d

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b Soil Screening Guidance: User's Guide, EPA 1996.

^c Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment), EPA/540/R-99/005.

^d Chemical-specific; refer to EQ5.

^e Chemical-specific; refer to Table A-1.

Soil_{NHEM}—Noncarcinogenic Effects—Organic Constituents (mg/kg):

(EQ3)

$$THQ \times BW_a \times AT_{mi} \times 365 \text{ days / yr}$$

$$ED_i \times EF_i \times \left[\left(\left(\frac{1}{RfD_o} \right) \times 10^{-6} \frac{\text{kg}}{\text{mg}} \times IRS_i \right) + \left(\left(\frac{1}{RfD_i} \right) \times IRA_a \times \left(\frac{1}{VF_i} \right) \right) + \left(\left(\frac{1}{RfD_o} \right) \times 10^{-6} \frac{\text{kg}}{\text{mg}} \times SA_i \times AF_i \times ABS \right) \right]$$

Parameter	Definition (units)	Input Value
Soil _{NHEM}	NHEM industrial risk-based chemical concentration in soil/ sediment (mg/kg)	--
THQ	Target hazard quotient (unitless)	10
RfD _o	Oral reference dose (mg/kg-day)	CS ^a
RfD _i	Inhalation reference dose (mg/kg-day)	CS ^a
BW _a	Average adult body weight (kg)	70 ^b
AT _{mi}	Averaging time - noncarcinogens, industrial (yr)	25 ^b
EF _i	Industrial exposure frequency (days/yr)	250 ^b
ED _i	Industrial exposure duration (yr)	25 ^b
IRS _i	Industrial soil ingestion rate (mg/day)	50 ^b
IRA _a	Adult inhalation rate (m ³ /day)	20 ^c
VF _i	Industrial soil-to-air volatilization factor (m ³ /kg)	CS ^d
SA _i	Skin surface area for an industrial worker (cm ² /day)	3,300 ^c
AF _i	Soil-to-skin adherence factor for an industrial worker (mg/cm ²)	0.2 ^c
ABS	Dermal absorption factor (unitless)	CS ^c

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b Soil Screening Guidance: User's Guide, EPA 1996.

^c Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment), EPA/540/R-99/005.

^d Chemical-specific; refer to EQ5.

^e Chemical-specific; refer to Table A-1.

Soil_{NHEM}—Noncarcinogenic Effects—Inorganic Constituents (mg/kg):

(EQ4)

$$THQ \times BW_a \times AT_{mi} \times 365 \text{ days / yr}$$

$$ED_i \times EF_i \times \left[\left(\left(\frac{1}{RfD_o} \right) \times 10^{-6} \frac{\text{kg}}{\text{mg}} \times IRS_i \right) + \left(\left(\frac{1}{RfD_o} \right) \times 10^{-6} \frac{\text{kg}}{\text{mg}} \times SA_i \times AF_i \times ABS \right) \right]$$

Parameter	Definition (units)	Input Value
Soil _{NHEM}	NHEM industrial risk-based chemical concentration in soil/ sediment (mg/kg)	--
THQ	Target hazard quotient (unitless)	10
RfD _o	Oral reference dose (mg/kg-day)	CS ^a
BW _a	Average adult body weight (kg)	70 ^b
AT _{mi}	Averaging time - noncarcinogens, industrial (yr)	70 ^b
EF _i	Industrial exposure frequency (days/yr)	250 ^b
ED _i	Industrial exposure duration (yr)	25 ^b
IRS _i	Industrial soil ingestion rate (mg/day)	50 ^b
SA _i	Skin surface area for an industrial worker (cm ² /day)	3,300 ^c
AF _i	Soil-to-skin adherence factor for an industrial worker (mg/cm ²)	0.2 ^c
ABS	Dermal absorption factor (unitless)	CS ^d

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b Soil Screening Guidance: User's Guide, EPA 1996.

^c Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment), EPA/540/R-99/005.

^d Chemical-specific; refer to EQ5.

^c Chemical-specific; refer to Table A-1.

VF_i—Volatilization Factor—Organic Constituents(m³/kg):

(EQ5)

$$\frac{(Q/C)x(3.14xD_AxT)^{1/2}x10^{-4}(m^2/cm^2)}{(2x\rho_bxD_A)}$$

where:

(EQ6)

$$D_A(cm^2/s) = \frac{[(\theta_a^{10/3}xD_i xH'+\theta_w^{10/3}xD_w)/n^2]}{\rho_b xK_d + \theta_w + \theta_a xH'}$$

Parameter	Definition (units)	Input Value
VF _i	Industrial soil-to-air volatilization factor (m ³ /kg)	--
D _A	Apparent diffusivity (cm ² /s)	--
Q/C	Inverse of the mean concentration at the center of source (g/m ² -s per kg/m ³)	79.25
T	Exposure interval – industrial (s)	7.9E+08 ^a
ρ _b	Dry soil bulk density (g/cm ³)	1.7 ^b
θ _a	Air-filled soil porosity (L _{air} /L _{soil})	n-θ _w
n	Total soil porosity (L _{pore} /L _{soil})	1 - (ρ _b /ρ _s) ^b
θ _w	Water-filled soil porosity (L _{water} /L _{soil})	0.21 ^b
ρ _s	Soil particle density (g/cm ³)	2.65 ^b
D _i	Diffusivity in air (cm ² /s)	CS ^c
H'	Henry's Law Constant (dimensionless)	CS ^{c,d}
D _w	Diffusivity in water (cm ² /s)	CS ^c
K _d	Soil-water partition coefficient (cm ³ /g) = K _{oc} x f _{oc}	CS ^c
K _{oc}	Soil organic carbon partition coefficient (cm ³ /g)	CS ^c
f _{oc}	Fractional organic carbon in soil (g/g) = percent organic matter/174 (ASTM 2974)	0.006 ^b

^a Soil Screening Guidance, User's Guide, EPA 1996.

^b LDEQ default value.

^c Chemical-specific.

^d H' = H x 41 where: H = Henry's Law Constant (atm-m³/mol); R = Universal Law Constant (0.0000821 atm-m³/mole-K); and T = Absolute temperature of soil (K) [273 + C (25 C)].

Constituent	ABS (unitless)
Arsenic	0.03
Cadmium	0.001
Chlordane	0.04
2,4-D	0.05
DDT	0.03
Gamma-hexachlorocyclohexane	0.04
TCDD	0.03
Pentachlorophenol	0.25
Polychlorinated biphenyls	0.14
Polycyclic aromatic hydrocarbons	0.13
Other semivolatile organic constituents	0.10
Other inorganic constituents (metals)	0
Volatile constituents	0

¹ Risk Assessment Guidance for Superfund Volume I: Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment), Interim Guidance. EPA 2004. EPA/540/R-99/005.

GW_{NHEM}—Carcinogenic Effects—Volatile Constituents (mg/l):

(EQ7)

$$\frac{TRxAT_c x365days/yr}{EF_{ni} x[(SF_i xK_w xIRA_{adj})+(SF_o xIRW_{adj})]} xDF$$

Parameter	Definition (units)	Input Value
GW _{NHEM}	NHEM chemical concentration in groundwater (mg/l)	--
TR	Target excess individual lifetime cancer risk (unitless)	10 ⁻⁵
SF _o	Oral cancer slope factor ((mg/kg-day) ⁻¹)	CS ^a
SF _i	Inhalation cancer slope factor ((mg/kg-day) ⁻¹)	CS ^a
AT _c	Averaging time - carcinogens (yr)	70 ^b
EF _{ni}	Industrial exposure frequency (days/yr)	350 ^b
IRW _{adj}	Age-adjusted water ingestion rate (L-yr/kg-day)	1.1 ^b
IRA _{adj}	Age-adjusted inhalation rate (m ³ -yr/kg-day)	11 ^b
K _w	Water-to-indoor air volatilization factor (L/m ³)	0.5 ^{c,d}
DF	Dilution and Attenuation Factor (unitless)	100 ^c

^a Chemical-specific: refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b Human Health Medium-Specific Screening Levels, EPA Region VI, 2003.

^c Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part B, Development of Risk-Based Preliminary Remedial Goals), EPA 1991.

The water-air concentration relationship represented by the volatilization factor (K_w) is applicable only to chemicals with a Henry's Law Constant of greater than 1E-05 atm-m³/mole and a molecular weight of less than 200 g/mole.

GW_{NHEM}—Noncarcinogenic Effects—Volatile Constituents (mg/l):

(EQ8)

$$\frac{THQxBW_a xAT_{nni} x365days/yr}{EF_{ni} xED_{ni} x\left[\left(\frac{1}{RfD_i} xK_w xIRA_a\right) + \left(\frac{1}{RfD_o} xIRW_a\right)\right]} xDF$$

Parameter	Definition (units)	Input Value
GW _{NHEM}	NHEM chemical concentration in groundwater (mg/l)	--
THQ	Target hazard quotient (unitless)	10
RfD _i	Inhalation reference dose (mg/kg-day)	CS ^a
RfD _o	Oral reference dose (mg/kg-day)	CS ^a
BW _a	Average adult body weight (kg)	70 ^b
AT _{nni}	Averaging time - noncarcinogens, non-industrial (yr)	30 ^b
EF _{ni}	Non-industrial exposure frequency (days/yr)	350 ^b
ED _{ni}	Industrial exposure duration (yr)	30 ^b
IRW _a	Adult water ingestion rate (L/day)	20 ^b

Parameter	Definition (units)	Input Value
IRA _a	Adult inhalation rate (m ³ /day)	20 ^b
K _w	Water-to-indoor air volatilization factor (L/m ³)	0.5 ^{c,d}
DF	Dilution Factor (unitless)	100

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b Human Health Medium-Specific Screening Levels, EPA Region VI, 2003.

^c Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part B, Development of Risk-Based Preliminary Remedial Goals), EPA 1991.

^d The water-air concentration relationship represented by the volatilization factor (K_w) is applicable only to chemicals with a Henry's Law Constant of greater than 1E-05 atm-m³/mole and a molecular weight of less than 200 g/mole.

GW_{NHEM}—Carcinogenic Effects—Non-Volatile Constituents (mg/l):

(EQ9)

$$\frac{TR \times AT_c \times 365 \text{ days / yr}}{EF_{ni} \times (SF_o \times IRW_{adj})} \times DF$$

Parameter	Definition (units)	Input Value
GW _{NHEM}	NHEM chemical concentration in groundwater (mg/l)	--
TR	Target excess individual lifetime cancer risk (unitless)	10 ^{-5 a}
SF _o	Oral cancer slope factor ((mg/kg-day) ⁻¹)	CS ^b
AT _c	Averaging time - carcinogens (yr)	70 ^a
EF _{ni}	Non-industrial exposure frequency (days/yr)	350 ^a
IRW _{adj}	Age-adjusted water ingestion rate (L-yr/kg-day)	1.1 ^a
DF	Dilution Factor (unitless)	100

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b Human Health Medium-Specific Screening Levels, EPA Region VI, 2003.

GW_{NHEM}—Noncarcinogenic Effects—Non-Volatile Constituents (mg/l):

(EQ10)

$$\frac{THQ \times BW_a \times AT_{nni} \times 365 \text{ days / yr}}{EF_{ni} \times ED_{ni} \times (1 / RfD_o \times IRW_a)} \times DF$$

Parameter	Definition (units)	Input Value
GW _{NHEM}	NHEM chemical concentration in groundwater (mg/l)	--
THQ	Target hazard quotient (unitless)	10
RfD _o	Oral reference dose (mg/kg-day)	CS ^a
BW _a	Average adult body weight (kg)	70 ^b
AT _{nni}	Averaging time - noncarcinogens, non-industrial (yr)	30 ^b
EF _{ni}	Non-industrial exposure frequency (days/yr)	350 ^b
ED _{ni}	Non-industrial exposure duration (yr)	30 ^b
IRW _a	Adult water ingestion rate (L/day)	2 ^b
DF	Dilution Factor (unitless)	100

^a Chemical-specific; refer to EPA's Integrated Risk Information System (<http://www.epa.gov/iris/subst/index.html>) or other appropriate EPA reference.

^b Human Health Medium-Specific Screening Levels, EPA Region VI, 2003.

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

HISTORICAL NOTE: Promulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 51. Fee Schedules

§5147. Fee for NHEM Determination for Contaminated Environmental Media

A. A fee of \$3,000 shall be submitted at the time a request for a review of contaminated environmental media for a NHEM determination is made in accordance with LAC 33:V.106.

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

HISTORICAL NOTE: Promulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on January 24, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW091P. Such comments must be received no later than January 31, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW091P. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: BFI Colonial Landfill Delisting Petition

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to the state to implement this proposed rule. There may be some savings to the local governments in remediation costs of contaminated sites.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

An increase in revenues will occur as a result of the new fee implemented with the proposed rule, as well as an increase in solid waste tonnage fees collected by the department. Although the revenue increase cannot be estimated with certainty, the department estimates the receipt of as many as 150 new applications annually. DEQ is authorized to collect a fee not to exceed \$3,000 for each new review and determination. Ultimately, the amount of fee revenue collected from these determinations and any additional solid waste fees collected will depend upon business decisions which are voluntarily made within the regulated community.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Commercial businesses, industries, local governments and individual property owners could see savings in remediation costs of contaminated sites due to a reduction in disposal and transportation costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule could stimulate the environmental cleanup consulting business and that of construction companies performing the cleanup procedures due to the accelerated activity of owners/operators performing voluntary and necessary remediation of contaminated sites, as well as the solid waste landfills which will receive the generated waste.

Herman Robinson, CPM
Executive Counsel
0612#070

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

**Solid Waste Regulations Reorganization
(LAC 33:VII.Chapters 1-30)(SW037)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.Subpart 1 (Log #SW037).

This proposed Rule amends and completely replaces the Solid Waste regulations in LAC 33:VII.Subpart 1. This action is being taken to: reorganize the regulations in a more user-friendly manner; correct errors in text; clarify technical requirements for all solid waste facilities; establish a new category for non-processing transfer stations; incorporate geology and groundwater standards currently required by the department; establish emergency response requirements for Type II and Type III facilities; provide more flexibility regarding characterization of subsurface geology; repeal the beneficial use regulations in Chapter 11, and replace with new language that will not require permitting; and update financial assurance mechanisms for operation, closure, and post-closure care of solid waste management facilities. These amendments are being done in response to complaints from the regulated community and will attempt to make the regulations more user-friendly.

These regulations will be effective for all new submittals, including, but not limited to, new permit applications, permit modifications, and permit renewals, except that the numbering system of individual sections of permit modifications, permit renewals, and permit applications submitted prior to the effective date of these regulations shall not be affected. Unless otherwise directed in writing by the department, applicants that have submitted complete applications or requests for permits, modifications, or renewals prior to the effective date of these regulations will not be required to revise their previously submitted applications or requests to address these regulations. The basis and rationale for this Rule are to be responsive to the regulated community, to bring technical standards up-to-date, and to ensure the protection of human health and the environment.

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

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§101. Scope and Purpose

A. The Louisiana Legislature recognizes that the safety and welfare of citizens "require efficient and reasonable regulation of solid waste disposal practices as well as a coordinated, statewide resource recovery and management program" (R.S. 30:2152). Therefore, the Department of Environmental Quality has formulated these rules and regulations to:

1. establish standards governing the storage, collection, processing, recovery and reuse, and disposal of solid waste;
2. implement a management program that will protect the air, groundwater, and surface water, and the environment from pollution from solid wastes and thus eliminate the potential threat to human health from such pollution;
3. encourage both citizens and industry to reduce the amount of waste developed and generated in the state; and
4. promote the utilization of solid waste for useful purposes whenever practicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§103. Authority

A. The Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) established the enforcement authority and procedures for carrying out the purposes of the act. These rules and regulations were developed under the authority of the secretary of the Department of Environmental Quality, as mandated by the Louisiana Solid Waste Management and Resource Recovery Law (R.S. 30:2151 et seq.). The Louisiana Solid Waste Operator Certification and Training

Program statutes (R.S. 37:3151 et seq.) created the Louisiana Solid Waste Operator Certification and Training Program. The principal domicile of the board shall be that of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§105. Repeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:

§107. Effective Date

A. These rules and regulations shall be effective on [date to be inserted]. Unless otherwise directed in writing by the department, applicants that have submitted permit applications or requests for modifications or renewals prior to the effective date of these rules and regulations shall not be required to revise their previously submitted applications or requests to address these rules and regulations. The administrative authority reserves the right to require revisions to previously submitted permit applications, modification requests, or renewals that have not received final approval by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§109. Severability

A. If any provision of these rules and regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act and these regulations that can be given effect without the invalid provision or application, and to this end provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

§110. Confidentiality

[Formerly §309]

A. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§111. Review of the Rules and Regulations

A. The department shall review these rules and regulations periodically for their effectiveness in meeting the purposes set forth in LAC 33:VII.101.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§112. Division of Responsibility

[Formerly §317]

A. The administrative authority is responsible for the following:

1. identifying solid waste processing and disposal facilities;
2. classifying such facilities for closure or upgrade;
3. performing all necessary regulatory operations, including:
 - a. operating the permit system;
 - b. surveillance and monitoring to determine facility compliance; and
 - c. initiating and processing enforcement actions when necessary to meet the purposes of these regulations;
4. soliciting, administering, and distributing federal, state, and other funds; and
5. entering into contracts as necessary to carry out the mandates of the Act.

B. Municipalities, parishes, and regional commissions are responsible for the following:

1. planning, siting, and operating necessary collection facilities and collection systems, including recycling programs, and delivering solid waste to permitted processing or disposal facilities;
2. planning and operating permitted processing and/or disposal facilities while cooperating with the department, or other entities, to implement regional management systems;
3. providing necessary financial support for the regional management systems through fees or other means;
4. administering supplementary funds received from federal or state sources through the administrative authority; and
5. entering into contracts when necessary to provide for maximum efficiency of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§113. Public Information Service

A. Responses to Suggestions and Complaints. The department shall respond to complaints and suggestions and disseminate all pertinent information concerning solid waste. Information shall be disseminated by letter, electronic, or telephone communication in response to direct inquiries and through a departmental bulletin issued periodically that will include lists of permits, enforcement actions, and similar information of general interest, if such a bulletin is available.

B. Public Hearings. A transcript of all discussions, presentations, and comments submitted shall be prepared after each hearing and made available to all who request it, in accordance with R.S. 44:1, et seq.

C. Mailing List. The department shall maintain a mailing list of groups or individuals interested in public hearings and

other such activities of the Office of Environmental Services, Waste Permits Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:

§114. Assignment and Reassignment of Responsibilities [Formerly §319]

A. Assignment of New Responsibilities. The administrative authority may assign to local authorities new responsibilities required to implement elements of the program not assigned in LAC 33:VII.112.B.

B. Reassignment of Responsibilities. The administrative authority may reassign responsibilities within the department or to local authorities in LAC 33:VII.112.B as may be deemed necessary to operate the program more effectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000), repromulgated by Office of the Secretary, Legal Affairs Division, LR 33:

§115. Definitions

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

100-Year Flood—a flood that has a one percent or greater chance of occurring in any year, or a flood of a magnitude equaled or exceeded once in 100 years on average over a significantly long period.

Abandonment—to leave behind or desert solid waste at a location without adhering to the proper disposal or processing standards required by these regulations. Storage of solid waste in accordance with the storage standards provided by these regulations does not constitute abandonment.

Access Road—a passageway for vehicles leading from the entrance of a facility to each unit of the facility.

Act—the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.).

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

Agricultural Waste—nonhazardous waste resulting from the production and processing of agricultural products, including manures, prunings, and crop residues. Some examples of *agricultural wastes* are included in LAC 33:VII.3015. Appendix H. This term does not include solid wastes defined as industrial solid waste in this Section.

Air Curtain Destructor—a device that forcefully projects a curtain of air across an open chamber or open pit in which combustion occurs. Destructors of that type can be constructed above or below ground and with or without refractory walls or floor. *Air curtain destructors* are also

referred to as bit burners, trench burners, and air curtain incinerators.

Animal Feed—any crop, such as pasture crops, forage, and grain, grown for consumption by animals.

Applicant—any person who intends to be a standard permit-holder for a solid waste processing and/or disposal facility and who has submitted a permit application to the Department of Environmental Quality.

Aquifer—a continuous geologic formation, group of formations, or part of a formation that contains enough saturated permeable materials to yield significant quantities of water to wells or springs. For the purposes of these regulations, a *significant quantity of water* is enough water to yield a groundwater sample within 24 hours after purging a monitoring well.

Areas Susceptible to Mass Movement—those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the facility, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock fall.

Assessment Well—see Monitoring Well.

Assets—all existing and all probable future economic benefits obtained or controlled by a particular entity.

Authority—repealed.

Autoclave—steam sterilization at a temperature of at least 250°F and a pressure of at least 15 pounds per square inch for at least 30 minutes. Longer times are required depending on the amount of waste, the presence of water, and the type of container used. Alternate patterns of temperature, pressure, and time may be used if compatible with the sterilization equipment being used and demonstrably sufficient to kill disease-causing microorganisms.

Background Soil pH—the pH of unimpacted soil in the vicinity of the solid waste facility before the addition of substances that alter the hydrogen-ion concentration (see *Soil pH*).

Bailing—a method of obtaining samples of water from a groundwater monitoring well by lowering and raising a weighted bottle, capped length of pipe, or similar device.

Baler—a facility that mechanically compacts and binds, or wraps, a solid waste into bundles, called bales, for convenient handling, storage, and shipping.

Beneficial Use—the use of waste material for some profitable purpose (e.g., incorporating sludge into soil to amend the soil). Avoidance of processing or disposal cost alone does not constitute beneficial use.

Board of Certification and Training—a board for the certification and training of operators of systems or facilities for the disposal of commercial and residential solid waste (established by R.S. 37:3151 et seq.).

Cation-Exchange Capacity—repealed.

Clean Closure—the act of closing a facility whereby all solid waste is removed, including contamination that results from solid waste placement.

Closure—the act of securing a facility that has been used to process, store, or dispose of solid waste in a manner that minimizes harm to the public and the environment.

Closure Plan—a plan for closure and/or post-closure of a facility prepared in accordance with the requirements of LAC 33:VII.Subpart 1.

Coastal Zone—the coastal waters and adjacent shorelands within the boundaries of the *coastal zone* established by the State and Local Coastal Resources Management Act of 1978 (R.S. 49:213.1-213.12).

Collect—to accumulate industrial solid waste or solid waste generated by more than one household or commercial establishment, or by a storage or processing facility.

Collection Facility—a facility, at which one or more containers are located, that is used to accumulate solid waste generated by and delivered by more than one household or commercial establishment for pickup by a transporter, including, but not limited to, facilities typically located in rural areas where garbage collection does not occur. This definition does not include containers that receive only solid waste generated on property that is contiguous with the property on which the container is located (e.g., containers located at and receiving solid waste only from a multiunit dwelling or a commercial establishment or an industrial establishment).

Commercial Establishment—a business, including its structures and property, that is involved in the exchange or distribution of goods or commodities, or that rents, leases, or sells space for such activities.

Commercial Solid Waste—all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial solid wastes.

Compactor—a solid waste facility, other than collection and transportation vehicles, that reduces a solid waste volume by mechanical compaction to achieve a higher density.

Compost—a solid waste that has undergone biological decomposition of organic matter and has been stabilized using composting or similar technologies, to a degree that is beneficial to plant growth, and that is used, or sold for use, as a soil amendment, artificial topsoil, growing-medium amendment, or other similar uses.

Composting—a controlled process of degrading organic matter with microorganisms.

Composting Facility—a facility where organic matter is processed by natural or mechanical means to aid the microbial decomposition of the organic matter.

Construct—to build, erect, excavate, or form any portion of a solid waste facility.

Construction/Demolition (C&D) Debris—nonhazardous waste generally considered not water-soluble that is produced in the process of construction, remodeling, repair, renovation, or demolition of structures, including buildings of all types (both residential and nonresidential). Solid waste that is not *C&D debris* (even if resulting from the construction, remodeling, repair, renovation, or demolition of structures) includes, but is not limited to, *regulated asbestos-containing material (RACM)* as defined in LAC 33:III.5151.B, white goods, and any other item not an integral part of the structure.

Contamination (Environmental)—the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

Contamination (Solid Waste)—the admixture of any solid waste with any amount of hazardous waste, or any other type of waste not meeting the definition of solid waste.

Contingency Plan—an organized, planned, coordinated course of action to be followed in the event of a fire, explosion, natural disaster, or discharge or release of waste into the environment that could endanger human health or the environment.

Contour Lines—lines connecting points of equal elevation used on topographic or other maps.

Cover Material—soil, or other suitable material approved by the administrative authority, applied on the top and side slopes of disposed solid waste to control vectors, gases, erosion, fires, and infiltration of precipitation; to support vegetation; to provide trafficability; or to ensure an aesthetic appearance.

Crops for Human Consumption—crops grown for human consumption that are not processed to minimize pathogens before they are distributed to consumers.

Curing Area—an area where organic material that has undergone the rapid initial stage of composting is further stabilized into a humus-like material.

Current Assets—cash, other assets, or resources commonly identified as those which are reasonably expected to be realized in cash, sold, or consumed during the normal operating cycle of the business.

Current Liabilities—obligations whose liquidation is reasonably expected to require the use of existing resources, properly classifiable as current assets, or the creation of other current liabilities.

Daily Cover—cover material applied at the end of the operating day to a unit, the working face of a unit, or a facility.

Department—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

Disease Vector—animals such as rodents, and fleas, flies, mosquitoes, and other arthropods, that are capable of transmitting diseases to humans.

Displacement—the relative movement of any two sides of a fault measured in any direction.

Disposal—the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste on or into any land or water so that such solid waste, or any constituent thereof, may have the potential for entering the environment or being emitted into the air or discharged into any waters of Louisiana. Abandonment of solid waste, whether or not it comes into contact with land or water, is also considered *disposal*.

Ditch—an earthen trench or excavation principally used to convey wastewaters without regard to whether solids settling or treatment of wastewater occurs therein.

Emergency Exemption—a special authorization issued to a person by the administrative authority that allows freedom from obligation to these regulations or any portion thereof for a specified period of time, owing to emergencies such as strikes or acts of God.

EPA—the U.S. Environmental Protection Agency.

Estimated Life of Facility—the length of time a solid waste facility is projected to be capable of accepting wastes, based on its current permit or permit application.

Exemption—a special authorization issued to a person by the administrative authority that allows freedom from obligation to these regulations or a portion thereof.

Existing Facility—any facility, as defined in this Subsection, that receives solid waste or that exists or is being constructed on February 20, 1993 that does or will store, process, or dispose of solid wastes. (Facilities closed prior to January 20, 1981, or facilities that have completed the closure/post-closure requirements prior to February 20, 1993, are not considered *existing facilities*.)

Existing Operation—any solid waste operation that manages, collects, stores, processes, or receives solid waste that exists or that is being constructed on February 20, 1993. (Operations closed prior to January 20, 1981, or operations that have completed the closure and/or post-closure requirements prior to February 20, 1993, are not considered existing operations.)

Exploration and Production Waste (E&P Waste)—drilling wastes, salt water, and other wastes that are associated with the exploration, development, or production of crude oil or natural gas wells and that are not regulated by the provisions of, and are therefore excluded from, the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act Subtitle C, as amended.

Facility—actual land and associated appurtenances used for storage, processing, and/or disposal of solid wastes, but possibly consisting of one or more units. (Any earthen ditches leading to or from a unit of a facility and that receive solid waste are considered part of the facility to which they connect, except for ditches lined with materials capable of preventing groundwater contamination. The term *facility* does not necessarily mean an entire industrial manufacturing plant.)

Fault—a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to those on the other side.

Final Cover—cover material that is applied to minimize the infiltration of precipitation in a facility and revegetated to control erosion.

Final Grade—the maximum elevation allowed by the permit at any given time.

Flood Plain—the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, that are inundated by the 100-year flood.

Food-Chain Crops—crops grown for human consumption; tobacco; and crops grown to feed animals that are consumed by humans.

Freeboard—the vertical distance between the lowest point of the top of a facility levee and the surface of the liquid waste contained therein.

Freshwater Aquifer—an aquifer containing water with quantities of total dissolved solids of less than 10,000 mg/L that is capable of yielding usable quantities of groundwater to drinking-water wells, industrial pumps, springs, or streams.

Friable Asbestos Waste—see Regulated Asbestos-Containing Material in LAC 33:III.5151.B.

Garbage—solid waste that includes animal and vegetable matter from the handling, preparation, cooking,

and serving of foods (including grease trap waste), but that does not include industrial solid waste.

Generator—any person whose act or process produces solid waste as defined in these regulations.

Geotechnical Borehole—an exploratory borehole drilled, augered, bored, or cored to obtain soil samples to be analyzed for chemical and/or physical properties.

Groundwater—any water beneath the land surface.

Hazardous Waste—waste identified as hazardous in the current Louisiana Hazardous Waste Regulations (LAC 33:V.Subpart 1) and/or by the federal government under the Resource Conservation and Recovery Act and subsequent amendments.

Hazardous Waste Determination—the process performed in accordance with LAC 33:V.1103.

Holocene—the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch, i.e., 10,000 years ago, to the present.

Implement—to carry out, accomplish, and ensure actual fulfillment by specific means or by providing instruments or means of accomplishment.

Implementation Schedule—a timetable for completing a predetermined implementation plan.

Impoundment—see Surface Impoundment.

Inactive (or Abandoned) Facility—a solid waste storage, processing, or disposal facility that no longer receives solid waste and has not been closed in accordance with Louisiana Solid Waste Regulations.

Incinerator—any enclosed device using controlled-flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace, and is not a boiler or an industrial furnace as defined in LAC 33:V.109.

Incinerator Ash—residual solid waste that has been received, thermally oxidized, and/or decomposed by an incinerator.

Incinerator Waste-Handling Facility—a facility that processes solid waste which has been received, thermally oxidized, and/or decomposed by an incinerator.

Incorporation into Soil—the injection of solid waste beneath the surface of soil, or the mixing of solid waste with the surface soil.

Industrial Establishment—a business, including its structures and property, that is involved in the production or manufacture of goods or commodities.

Industrial Solid Waste—solid waste generated by a manufacturing, industrial, or mining process, or that is contaminated by solid waste generated by such a process. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products; by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; and transportation equipment. This term does not include hazardous waste regulated under the Louisiana hazardous waste regulations or under federal law, or waste that is subject to regulation under the Office of Conservation's Statewide Order No. 29-B or by other agencies.

Industrial Solid Waste Facility—a facility for the processing, storage, and/or disposal of industrial solid waste.

Infectious Waste—waste that contains pathogens of sufficient virulence and quantity that exposure to it could result in an infectious disease in a susceptible host.

Initial Promulgation—the date on which the Louisiana Solid Waste Management Program first became effective, January 20, 1981.

Interim Compacted Cover—a minimum of 2 feet of compacted silty or sandy clay.

Interim Cover—a minimum of 1 foot of soil that is applied to a portion of a unit or a facility.

Isopach—a line drawn on a map through points of equal true thickness of a designated stratigraphic unit or group of stratigraphic units.

Isopach Map—a map that shows the thickness of a bed, formation, sill, or other tabular body throughout a geographic area by means of isopachs at regular intervals.

Karst Terrains—areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in *karst terrains* include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

Landfarm—a facility for the disposal of solid wastes in which wastes are applied to the land and/or incorporated into the soil for biological reduction and soil attenuation.

Landfill—a facility for the disposal of solid waste, other than landfarm(s) or surface impoundment(s), that disposes of solid waste by placing it on or into the land surface and usually also compacting and covering with suitable cover material to a depth and at a frequency sufficient to control disease vectors and odors and in a manner that protects human health and the environment.

Leachate—a liquid that has passed through or emerged from solid waste and may contain soluble, suspended, or miscible materials removed from such wastes.

Leak-Detection Well—a well used to determine the escape of liquids from a permitted solid waste facility.

Liabilities—probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

Liner—layer or layers of material(s) beneath and on the sides of a solid waste disposal facility that are designed to restrict the escape of wastes or their constituents from the facility.

Liquid Waste—any waste material that is determined to contain free liquids as defined by Method 9095B (Paint Filter Liquids Test), as described in *Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods* (EPA Pub. SW-846).

Lithified Earth Material—all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth's surface.

Litter—exposed solid waste outside the active portion of a unit of a facility.

Lower-Explosive Limit—the lowest percent by volume of a mixture of explosive gases in the air that will propagate a flame at 25 degrees Centigrade and at atmospheric pressure.

Major Modification—any change in a site, facility, process or disposal method, or operation that substantially deviates from the permit or tends to substantially increase the impact of the site, facility, process or disposal method, or operation on the environment.

Mandatory Modification—any change in a site, facility, unit, process or disposal method, or operation that is required as a result of the solid waste regulations as promulgated on February 20, 1993.

Mandatory Modification Document—a document submitted by existing facilities in conformance with LAC 33:VII.513.A-L (formerly LAC 33:VII.315.G) as promulgated on February 20, 1993, that applies for a mandatory modification and which amends or adds to each portion of the permit at issue so that the permit meets the requirements of the solid waste regulations as promulgated on February 20, 1993, including LAC 33:VII.513.M and N (formerly LAC 33:VII.315.H and I).

Manure—a solid waste composed of excreta of animals and any residual materials that have been used for bedding, sanitary, or feeding purposes for such animals.

Maximum Horizontal Acceleration in Lithified Earth Material—the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

Mesophilic Stage—a biological stage in the composting process characterized by active bacteria which favor a moderate temperature range of 20 to 45 degrees Centigrade. It occurs later in the composting process than the thermophilic stage and is associated with a moderate rate of decomposition.

Minor Modification—any modification that does not meet the criteria for a major modification.

Modification—any change in a site, facility, unit, process or disposal method, or operation that deviates from the specifications in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specifications of the permit is not considered a *modification*. A change in the name of the facility does not constitute a *modification*.

Monitoring Well—any permanent cased hole that is drilled, augered, bored, cored, driven, washed, dug, jetted, or otherwise constructed to obtain hydrologic and water quality data, which is usually installed at or near a known or potential source of groundwater contamination to satisfy regulatory requirements for groundwater monitoring at regulated units.

Municipal Solid Waste Landfill or MSW Landfill—an entire disposal facility in a contiguous geographical space where residential solid waste and/or commercial solid waste is placed in or on land.

Net Worth—total assets minus total liabilities and equivalent to the person's equity.

NGVD—National Geodetic Vertical Datum.

Non-Processing Transfer Station—a solid waste facility where solid waste is transferred from collection vehicles to other vehicles for transportation without processing.

Observation Well—repealed.

Off-Site Location—land, and appurtenances thereon, used for processing and/or disposal of solid waste and not located on, or contiguous to, the property where the waste is generated. Two or more pieces of property that are geographically contiguous but divided by public or private rights of way are considered a single site.

Off-Site Processing/Disposal Area—a location for the processing and/or disposal of solid waste that is not on the generator's site.

On-Site Processing/Disposal Area—the land area and appurtenances thereon used for processing and/or disposal of solid waste on the same property or on geographically contiguous property, where waste is generated. Two or more pieces of property that are geographically contiguous but divided by public or private right(s)-of-way are considered a single site.

Open Burning—the combustion of solid waste without control of combustion air to maintain adequate temperature for efficient combustion, containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and control of the emission of the combustion products.

Open Dump—a solid waste processing or disposal facility that has been issued a temporary permit and may not comply with the standards set by these regulations.

Operating Area—the portion of a facility that is actively involved in the storage, processing, or disposal of solid waste.

Operator—a person who is responsible for the overall operation of a facility or part of a facility.

Order Authorizing Commencement of Operations—a written authorization issued by the administrative authority after a permit-holder has completed all upgrading measures or completed construction measures, provided the required certification and a successful initial start-up inspection has been conducted by a representative of the department.

Owner—a person who owns a facility or part of a facility.

Parent Corporation—a corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility permit holder; the latter corporation is deemed a "subsidiary" of the *parent corporation*.

Permit—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure, or post-closure of a certain facility used or intended to be used to process or dispose of solid waste in accordance with the act, these regulations, and specified terms and conditions.

Permittee/Permit Holder—a person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

Person—an individual, trust, firm, joint-stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of the state, interstate body, or the federal government or any agency of the federal government.

pH—the logarithm of the reciprocal of hydrogen-ion concentration.

Pickup Station—repealed.

Piezometer—a small-diameter, nonpumping well used to measure the elevation of the water table or potentiometric surface.

Pilot Hole—a hole drilled with the intent to install casing and to produce water. It is usually of a smaller diameter than the proposed well and has to be reamed to a larger diameter for the installation of a casing and screen.

Poor Foundation Conditions—those areas where features exist that indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a facility.

Potable Water—water with bacteriological, physical, and chemical properties that make it suitable for human consumption.

Potentiometric Map—a map displaying contour lines of the potentiometric surface of a particular aquifer that may be used to determine groundwater gradient or direction of flow.

Potentiometric Surface—a surface that represents the level to which groundwater in a particular aquifer or permeable zone will rise in tightly cased wells, expressed with reference to a specified datum, such as the National Geodetic Vertical Datum (NGVD) (see also *Water Table*).

Practices—acts of storing, processing, collecting, transporting, or disposing of solid wastes.

Process—a method or technique, including recycling, recovering, compacting (but not including compacting that occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique that is designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport, reduced in volume, or amenable for recovery, storage, reshipment, or resale. The definition of *process* does not include treatment of wastewaters to meet state or federal wastewater discharge permit limits. Neither does the definition include activities of an industrial generator to simply separate wastes from the manufacturing process.

Promiscuous Dump—a solid waste disposal facility that has resulted from disposal activities of persons other than the landowner and whose operation is not permitted by the administrative authority.

Putrescible—susceptible to rapid decomposition by bacteria, fungi, or oxidation, creating noxious odors.

Reclassified Waste—a particular solid waste that the administrative authority has determined is no longer classified as a hazardous waste subject to regulation under the Louisiana hazardous waste regulations. Such wastes are "reclassified" as solid waste and are subject to regulation under these regulations.

Recovery Well—a well used to remove groundwater that has been determined to be contaminated.

Refuse-Derived Fuel—fuel processed from combustible solid waste.

Refuse-Derived Fuel Facility—a solid waste facility where fuel is processed from combustible solid waste.

Regulated Asbestos-Containing Material (RACM)—see definition in LAC 33:III.5151.B.

Residence—a single or multiunit dwelling, whether owned, leased, or rented by its occupant(s).

Residential Solid Waste—any solid waste (including garbage, trash, yard trash, and sludges from residential septic tanks and wastewater treatment facilities) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

Resource Recovery—the process by which solid waste that retains useful physical or chemical properties is reused or recycled for the same or other purposes, including uses as energy sources.

Runoff—any rainwater, leachate, or other liquid that drains from any part of a facility.

Run-On—any rainwater or other liquid that drains onto any part of a facility.

Salvaging—the controlled removal of waste materials for later use.

Sanitary Landfill—repealed.

Saturated Permeable Zone—the subsurface zone in which all interconnected openings are full of liquid.

Scavenging—unauthorized removal of solid waste materials from a disposal or processing facility.

Seismic-Impact Zone—an area with a 10 percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10 g in 250 years.

Separation Facility—a Type III solid waste processing facility at which recyclables are separated from a nonputrescible solid waste stream for future use. The nonputrescible waste stream received by the separation facility shall not contain more than a de minimis amount of putrescible waste.

Septage—the contents of a septic tank, cesspool, or other individual sewage-treatment facility that receives domestic-sewage wastes.

Service Area—the geographic area serviced by a solid waste facility in which solid waste is generated, collected, and transported for delivery to that solid waste facility.

Sewage Sludge—sludge resulting from treatment of wastewater from publicly or privately owned or operated sewage-treatment plants.

Shredder—a solid waste facility that reduces the particle size of solid waste by grinding, milling, shredding, or rasping.

Site—the physical location, including land area and appurtenances, of an existing or proposed storage, processing, or disposal facility. A *site* may consist of a number of facilities, each subject to a permit to process or dispose of solid waste.

Sludge—residue produced by or precipitated from a treatment process.

Soil pH—a pH value obtained by sampling the soil to the depth of cultivation or solid waste placement. Test methodologies shall be in accordance with *Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods* (EPA Pub. SW-846).

Solid Waste—any garbage, refuse, or sludge from a waste treatment plant, water-supply treatment plant, or air pollution-control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and

agricultural operations, and from community activities. *Solid waste* does not include solid or dissolved material in domestic sewage; solid or dissolved materials in irrigation-return flows or industrial discharges that are point sources subject to permits under R.S. 30:2074; source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (68 Stat. 923 et seq.), as amended (42 U.S.C. Section 2011 et seq.); or hazardous waste subject to permits under R.S. 30:2171 et seq.

Solid Waste Management System—the entire process of collection, transportation, storage, processing, and disposal of solid waste by any person engaged in such process as a business or by any municipality, authority, trust, parish, or any combination thereof.

Spill—any unauthorized discharge or release of solid waste into or onto the land, air, or water.

Stabilized (Compost)—compost that has at least passed through the thermophilic stage and in which biological decomposition of the solid waste has occurred to a sufficient degree to allow beneficial use.

Standard Permit—written authorization issued by the administrative authority to an applicant who has successfully completed the permit application process for a processing or disposal facility.

Storage—the containment of solid waste on surfaces capable of preventing groundwater contamination in a means not constituting processing or disposal.

Structure Contour Map—a map displaying contour lines on a structural surface such as a stratum, formation boundary, or fault, in order to depict the subsurface configuration.

Surface Application—placement of solid waste onto a landfarm without incorporating it into the soil.

Surface Impoundment—a facility consisting of a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), designed to hold an accumulation of liquid waste and/or sludge, that is not an injection well, landfarm, landfill, or tank. Runoff and containment areas (ROCA) of landfarms are considered to be *surface impoundments*.

Surface-Recharge Zone—an area where a formation or formations that compose an aquifer intersect the land surface and receive water from percolation, precipitation, or surface-water bodies.

Tangible Net Worth—the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents and royalties.

Tank—a stationary device designed to contain an accumulation of solid waste and constructed of nonearthen materials that provide structural support. The term *tank* does not include underground storage tanks as defined by the Underground Storage Tank Rules and Regulations (LAC 33:Part XI).

Temporary Permit—a written authorization issued by the administrative authority for a specific amount of time to a person for the construction, installation, operation, closure, or post-closure of a particular facility, or operation of an existing facility, used or intended to be used for processing or disposing of solid waste in accordance with the act, these regulations, and specified terms and conditions.

Test Hole—an exploratory borehole drilled to obtain geologic, hydrologic, or water-quality data.

Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods (SW-846)—EPA's official compendium of analytical and sampling methods that has been evaluated and approved for use in complying with these regulations. EPA Publication SW-846 [Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), and IIIA (April 1998)]. 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. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 1200 Pennsylvania Ave, NW, Washington, DC, 20460. 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, 1200 Pennsylvania Ave, NW, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

Thermophilic Stage—a biological stage in the composting process characterized by active bacteria that favor a high temperature range of 45°C to 75°C. It occurs early in the composting process, before the mesophilic stage, and is associated with a high rate of decomposition.

Topographic Map—a map showing the elevation and relief of the land surface using contour lines or spot elevations.

Topsoil—the surface layer of soil, capable of promoting growth of vegetation.

Toxicity Characteristic Leaching Procedure (TCLP)—a method to determine if a waste exhibits hazardous characteristics, conducted in accordance with LAC 33:Part V.

Transfer Station—repealed.

Transfer Station (Non-Processing)—see *Non-Processing Transfer Station*.

Transfer Station (Processing)—a Type I-A or II-A solid waste processing facility where solid waste is transferred from collection vehicles, processed, and placed in other vehicles for transportation (e.g., a facility that separates recyclables from industrial or putrescible waste streams).

Transport—to move industrial solid waste off-site and/or to move solid waste of a commercial establishment or more than one household to a transfer station, processing, or disposal facility.

Transporter—any person who moves industrial solid waste off-site and/or who moves solid waste of a commercial establishment or more than one household to a transfer station or processing or disposal facility.

Trash—nonputrescible refuse including, but not limited to, white goods, furniture, and wood and metal goods.

Treatment Zone—the depth in the soil of a landfarm into which solid waste has been incorporated and additional

depths to which decomposition is occurring based on site-specific conditions.

TSCA—the Toxic Substances Control Act (15 U.S.C. §2601 et seq. (1976), a federal act that supplements other federal statutes including the Clean Air Act.

Type (of Waste)—a category of waste in a general classification defined for solid waste management purposes (e.g., commercial, industrial, residential).

Type I Facility—a facility used for disposing of industrial solid wastes (e.g., a landfill, surface impoundment, or landfarm). (If the facility is used for disposing of residential or commercial solid waste, it is also a Type II facility.)

Type I-A Facility—a facility used for processing industrial solid waste (e.g., a transfer station (processing), shredder, baler, etc.). (If the facility is used for processing residential or commercial solid waste, it is also a Type II-A facility.)

Type II Facility—a facility used for disposing of residential and/or commercial solid waste (e.g., a landfill, surface impoundment, or landfarm). (If the facility is used for disposing of industrial solid waste, it is also a Type I facility.)

Type II-A Facility—a facility used for processing residential, infectious, or commercial solid waste (e.g., a transfer station (processing), composting municipal solid waste facility, refuse-derived fuel facility, shredder, baler, autoclave, etc.). (If the facility is used for processing industrial solid waste, it is also a Type I-A facility.)

Type III Facility—a facility used for disposing or processing of construction/demolition debris or woodwaste, composting organic waste to produce a usable material, or separating recyclable wastes (e.g., a construction/demolition-debris or woodwaste landfill, separation facility, or composting facility).

Unauthorized Discharge—a continuous, intermittent, or one-time discharge, whether intentional, anticipated, or unanticipated, from any source, permitted or unpermitted, that is in contravention of any provision of the act or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exemption of the administrative authority.

Unauthorized Dump—a solid waste disposal facility whose operation is not authorized by the administrative authority.

Unit of a Facility—designated area of a facility wherein solid waste is, has been, or will be processed, stored, or disposed of.

Unstable Area—a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. *Unstable areas* can include poor foundation conditions, areas susceptible to mass movement, and Karst terrains.

Upgrade—to bring an existing facility into compliance with applicable regulations.

Uppermost Aquifer—the aquifer nearest the natural ground surface, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary. The uppermost aquifer may or may not be the uppermost water-bearing permeable zone.

Uppermost Water-Bearing Permeable Zone—the permeable zone that occurs nearest the natural ground surface. This zone may or may not be the uppermost aquifer and may act as a potential contaminant pathway.

Vector—see *Disease Vector*.

Water Table—the potentiometric surface of the saturated zone in an unconfined aquifer or confining bed at which the pore pressure is equal to the atmospheric pressure.

Wetlands—those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. *Wetlands* generally include swamps, marshes, bogs, and similar areas.

White Goods—discarded domestic and commercial appliances, such as refrigerators, ranges, washers, and water heaters.

Woodwaste—yard trash and types of waste generated by land and right-of-way clearing operations, sawmills, plywood mills, and woodyards associated with the lumber and paper industry, such as wood residue, cutoffs, wood chips, sawdust, wood shavings, bark, wood refuse, wood-fired boiler ash, wood ash, and plywood or other bonded materials that contain only polyurethane, phenolic-based glues, or other glues that are approved specifically by the administrative authority. Uncontaminated, un-treated or unpainted lumber or wooden pallets are considered woodwaste under this definition.

Working Face—that portion of a landfill where waste is currently being added during the operating day.

Yard Trash—vegetative matter resulting from landscaping, maintenance, or land-clearing operations, including trees and shrubbery, leaves and limbs, stumps, grass clippings, and flowers.

Zone of Incorporation—the depth to which solid waste has been incorporated into the soil of a landfarm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§117. Experimental Operations for New Technologies

A. This Section allows applicants to submit requests allowing for experimental operations for new technology prior to requesting a permit modification (e.g., use of alternate daily cover).

B. Permission may be granted to facilitate experimental operations intended to develop new methods or technology providing strict conformity with these regulations is demonstrated in the request.

C. Experimental operations shall be considered only where significant health, safety, environmental hazards, or nuisances will not be created, and when a detailed proposal is submitted and accepted that sets forth the objectives, procedures, controls, monitoring, reporting, time frame, and other data regarding the experimental operations.

D. Restrictions. Initial experimental operations shall be limited to a maximum of two years. However, the department may renew the request for additional time periods upon a showing by the person that the need for a continuance is valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 3. Scope and Mandatory Provisions of the Program

§301. Exempted Waste

A. All *solid wastes* as defined by the act and these regulations are subject to the provisions of these regulations, except as follows:

1. wastes regulated under other authority and not processed or disposed of in solid waste facilities permitted under these regulations, including but not limited to, the following wastes:

a. agricultural-crop residues, aquacultural residues, silvicultural residues, and other agricultural wastes stored, processed, or disposed of on the site where the crops are grown or that are stored, processed, or disposed in accordance with a best management practice plan that has been provided to the Office of Environmental Services, Waste Permits Division, and approved in writing by the Department of Agriculture, and within the jurisdiction of the Department of Agriculture;

b. mining overburden, spoils, tailings, and related solid wastes within the jurisdiction of the Department of Natural Resources, Office of Conservation;

c. produced-waste fluids and muds resulting from the exploration for or production of petroleum and geothermal energy, and all surface and storage waste facilities incidental to oil and gas exploration and production, within the jurisdiction of the Department of Natural Resources, Office of Conservation;

d. uncontaminated dredge or earthen excavation spoil;

e. solid wastes while they are stored at residences or commercial establishments and regulated by local ordinance, or within the jurisdiction of the Department of Health and Hospitals;

f. uncontaminated residues from beneficiation of earthen material;

g. uncontaminated storm water and uncontaminated noncontact cooling water;

h. infectious waste or other hospital or clinic wastes that are not processed or disposed of in solid waste processing or disposal facilities permitted under these regulations; and

i. sewage sludge (including domestic septage) that is generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed of in accordance with LAC 33:IX.Chapter 69. Sewage sludge and domestic septage not managed in accordance with LAC 33:IX.Chapter 69 shall be managed in accordance with these regulations.

2. wastes excluded by the definition of *solid waste* in the Act and/or as otherwise specified in the Act, including:

a. hazardous wastes subject to regulation under R.S. 30:2171 et seq.;

b. solid or dissolved material in domestic sewage (such as domestic-oxidation ponds), except separated sludges;

c. solid or dissolved materials in irrigation-return flow;

d. discharges that are downstream from point sources subject to permit under R.S. 30:2074, except waste contained in solid waste facilities prior to the final discharge point, provided, however, that:

i. wastewaters in existing ditches that are downstream of a designated internal state or federal wastewater discharge point are exempt from the definition of *solid waste* if they require no further treatment to meet final state or federal wastewater discharge point permit limits or if they require only pH adjustment to meet final pH permit limits, or suspended solids settling specifically to meet final total suspended solids permit limits;

ii. wastewaters in existing ditches upstream of a designated final state or federal wastewater discharge point that require no further treatment to meet final state or federal permit limits or that only require pH adjustment to meet final pH permit limits, or solids settling specifically to meet total suspended solids permit limits, are exempt from the definition of *solid waste*;

iii. solids or sludges in ditches are exempt from the definition of *solid waste* until such time as such solids or sludges are removed from the ditches for disposal, provided however, that this exclusion from the definition of solid waste only applies to solids and sludges derived from wastewaters described in Subparagraphs B.4.a and b of this Section;

iv. the administrative authority reserves the right to withdraw the exemption for wastewaters in Subparagraphs B.4.a and b if the wastewaters contribute to groundwater contamination;

e. source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); and

f. compost produced by an individual for his own beneficial use, as provided in R.S. 30:2416.G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), LR 28:780 (April 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:

§303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

A. The following solid wastes, when processed or disposed of in an environmentally sound manner, are not subject to the permitting requirements or processing or disposal standards of these regulations:

1. wastes resulting from land and right-of-way clearing (trees, stumps) and disposed of on the site where generated;

2. solid wastes in facilities that have been closed in a manner acceptable to the administrative authority prior to January 20, 1981 (This Paragraph is not intended to require permitting of any facilities that have been closed in a manner acceptable to the administrative authority and which remain closed.);

3. materials such as waste papers, plastics, metals, and glass that are presorted to be recycled or reused and not destined for disposal;

4. uncontaminated earthen materials such as limestone, clays, sands, clamshells, river silt, and uncontaminated residues from beneficiation of earthen materials;

5. brick, stone, reinforced and unreinforced concrete, and asphaltic roadbeds;

6. sludges resulting from the treatment of water at public or privately owned water-supply treatment plants;

7. petroleum-refining catalysts and other materials utilized as feedstocks that are managed at a facility in order to recover these wastes for further use;

8. agricultural wastes, including manures, that are removed from the site of generation by an individual for his own personal beneficial use on land owned or controlled by the individual. The amount of wastes covered by this exemption shall not exceed 10 tons per year (wet-weight) per individual per use location;

9. solid wastes that are treated or disposed of in a hazardous waste treatment or disposal facility that is regulated under LAC 33:Part V;

10. woodwastes that are beneficially-used in accordance with a Best Management Practice Plan approved in writing by the Department of Agriculture and submitted to the Office of Environmental Services, Waste Permits Division, provided that the following requirements are met:

a. the generator shall notify the Office of Environmental Services, Waste Permits Division, of such activity at each site in accordance with LAC 33:VII.401.A;

b. the generator shall submit to the Office of Management and Finance, Financial Services Division, a disposer annual report that reports amounts of woodwastes beneficially-used at each site;

11. solid wastes re-used in a manner protective of human health and the environment, as demonstrated by a soil re-use plan or beneficial use plan prepared in accordance with LAC 33:VII.Chapter 11 and approved by the administrative authority;

12. other wastes deemed acceptable by the administrative authority based on possible environmental impact; and

13. spent blasting sand generated from the preparation of unpainted surfaces.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:

§305. Facilities Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

A. The following facilities that are operated in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

1. incinerators that receive only on-site-generated commercial solid waste and that have a design rate of no more than 250 pounds per hour;

2. shredders, autoclaves, balers, and compactors that receive no waste volume from off-site sources;

3. facilities that process on-site-generated, nonhazardous, petroleum-contaminated media and debris from underground storage tank corrective action or other remedial activities, including, but not limited to, remedial action resulting from an order issued by the administrative authority in accordance with R.S. 30:2275(E) that involves the processing of solid waste by the facility, provided such processing is completed in less than 12 months and is in accordance with a corrective action plan authorized by the administrative authority.

4. construction/demolition-debris disposal facilities that receive only on-site-generated construction/demolition-debris, provided that the following requirements are met:

a. the facility shall notify the Office of Environmental Services, Waste Permits Division, of such activity in accordance with LAC 33:VII.401.A; and

b. the facility shall submit to the Office of Management and Finance, Financial Services Division, a disposer annual report in accordance with the standards for construction/demolition-debris disposal facilities found in LAC 33:VII.721.B.1;

c. the facility owner shall update the parish mortgage and conveyance records by entering the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with the knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services, Waste Permits Division, with a true copy of the document filed and certified by the parish clerk of court;

5. solid waste injection wells that are under the jurisdiction of the Department of Natural Resources, provided, however, that any storage, processing, or disposal (not including injection) incidental to such injection wells is subject to these regulations;

6. industrial facilities that process solid waste by non-destructive and non-thermal means on the site where the waste is generated (i.e., none of the waste is from off-site sources);

7. secondary containment systems (e.g., sumps or dikes) that are designed and operated to contain non-routine spill events (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include secondary containment systems for solid waste disposal units;

8. woodwaste facilities at which only woodwaste is disposed of on property owned by the generator of the

woodwaste, provided that the following requirements are met:

a. the facility shall notify the Office of Environmental Services, Waste Permits Division, of such activity in accordance with LAC 33:VII.401.A;

b. the facility shall submit to the Office of Management and Finance, Financial Services Division, a disposer annual report in accordance with the standards for woodwaste disposal facilities in LAC 33:VII.721.B.1;

c. the facility shall comply with applicable Louisiana Water Pollution Control Regulations;

d. the facility shall comply with the perimeter barrier, security, and buffer zone requirements in LAC 33:VII.719.B.1;

9. facilities at which only woodwastes resulting from utility right-of-way clearing are received, provided the following conditions are met:

a. the facility property shall be controlled by the utility company that generates the woodwaste;

b. the facility shall comply with the natural or manmade perimeter barrier and security requirements in LAC 33:VII.719.B.1.a, b and c;

c. the facility shall not receive solid waste from any source other than the utility company (or its authorized contractors) which generates the waste;

d. the facility shall notify the Office of Environmental Services, Waste Permits Division, of its activities in accordance with LAC 33:VII.401.A;

e. the facility shall submit to the Office of Management and Finance, Financial Services Division, a disposer annual report that accurately estimates volumes of waste disposed in accordance with the standards for woodwaste disposal facilities found in LAC 33:VII.721.B.1; and

f. the facility shall comply with applicable Louisiana Water Quality regulations (LAC 33:Part IX);

10. ditches that receive nonroutine spillage (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include ditches for solid waste disposal units such as landfills, landfarms, or surface impoundments;

11. recycling facilities, as described in LAC 33:VII.303.A.3, that receive only source-separated recyclables; and

12. hospitals and other health care facilities that store or treat regulated infectious waste generated on-site or that accept waste from off-site wholly- or partly-owned subsidiaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2515, 2609 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:

§307. Exemptions

A. Any person subject to these regulations who generates, collects, stores, transports, processes, or disposes

of solid waste may petition the administrative authority for exemption from these regulations or any portion thereof.

1. The administrative authority may provide exemptions from these regulations or any portion thereof when petitions for such are deemed appropriate after consideration of the factors enumerated in Subparagraphs B.2.a and b of this Section as well as any other pertinent factors.

2. The administrative authority shall make a decision whether or not to grant the exemption requested within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority. In no case shall the time period be greater than one year.

B. Each request for an exemption shall:

1. identify the specific provisions of these regulations from which a specific exemption is sought;

2. provide sufficient justification for the type of exemption sought, that includes, but may not be limited to, the following demonstrations:

a. that compliance with the identified provisions would tend to impose an unreasonable economic, technologic, safety, or other burden on the person or the public as determined by the department; and

b. that the proposed activity will have no significant adverse impact on the public health, safety, welfare, and the environment, and that it will be consistent with the provisions of the Act;

3. include proof of publication of the notice as required in Paragraph C.1 of this Section, except for emergency exemptions.

C. Public Notification of Exemption Requests

1. Persons requesting an exemption shall publish a notice of intent to submit a request for an exemption, except as provided in Paragraph C.2 of this Section. This notice shall be published one time as a single classified advertisement in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement in the legal-notices section of the official journal of the state shall be the only public notice required.

2. Persons granted emergency exemptions by the administrative authority shall publish a notice to that effect in the legal-notices section of a newspaper of general circulation in the area and parish where the facility requesting the exemption is located. The notice shall be published one time as a single classified advertisement in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. The notice shall describe the nature of the emergency exemption and the period of time for which the exemption was granted. Proof of publication of the notice shall be forwarded to the Office of Environmental Services, Waste Permits Division, within 60 days after the granting of an emergency exemption.

D. Innovative or Alternate Technology Exemption. Persons requesting an exemption based on innovative or alternate technology shall follow the procedure specified in

Subsections A, B, and C, except for Subparagraph B.2.a, of this Section. Requests for exemptions based on innovative technology may be granted by the administrative authority based on the ability of the applicant to make the following demonstrations:

1. the request is based on innovative or alternative technology;

2. the innovative or alternative technology will satisfy all of the applicable standards in LAC 33:Part VII other than those for which the exemption is sought; and

3. the innovative or alternative technology will produce performance or will provide protection that is equivalent or superior to that required by all the standards for which the exemption is sought.

E. No exemptions may be granted for Type II landfills that would allow noncompliance with federal regulations, specifically 40 CFR 257 and 258, as amended on October 9, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:

NOTE: §309 has moved to §110.

§311. Submittal of Information by Persons Other than Permit Holder or Applicant

A. Documentation must be provided to the Office of Environmental Services, Waste Permits Division, by the permit holder or applicant authorizing other persons to submit information on their behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:

§313. Classification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:

§315. Mandatory Provisions

A. Generating, Collecting, Transporting, Storing, Processing, and Disposing of Solid Waste. Solid waste shall be generated, collected, transported, stored, processed, and disposed of only in accordance with these regulations.

B. Storage of Wastes. No solid waste shall be stored or allowed to be stored in a manner that may cause a nuisance or health hazard or detriment to the environment as determined by the administrative authority. No solid waste shall be stored or allowed to be stored at an off-site location unless authorized or approved by the administrative authority.

C. Disposal of Solid Waste. Except as otherwise provided in these regulations, all solid waste shall be processed or disposed of at a permitted solid waste facility.

D. Abandonment of Solid Waste. Abandonment of solid waste shall be considered an act of disposal.

E. Access to Facilities. The administrative authority or his representative shall have access to the premises of all facilities used for the management of solid waste for all purposes authorized under R.S. 30:2001 et seq., particularly R.S. 30:2012. These inspections may be conducted during normal operating hours; however, the department reserves the right to conduct inspections before and after operating hours. Upon request of the operator or permit holder, the administrative authority or his representative shall discuss the preliminary findings of any such investigation before leaving the premises.

F. Reporting of Unauthorized Discharge. Any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land of the state in contravention of the act, these regulations, or the terms and conditions of a permit issued thereunder, or any accident, fire, explosion, or other emergency that results in such unauthorized solid waste discharge, shall be reported by any person causing, allowing, or suffering said discharge or by any person with knowledge of the discharge to the Office of Environmental Compliance in accordance with LAC 33:I.Chapter 39.

G. Cleanup of Unauthorized Discharge. The cleanup, isolation, removal, or otherwise rendering safe of solid waste processed or disposed of in a manner not authorized by these regulations, or at a facility not permitted to receive such wastes, shall be conducted in accordance with LAC 33:I.Chapter 13 (RECAP), these regulations, or the terms and conditions of any order issued by the administrative authority. Such orders shall not preclude other enforcement action under R.S. 30:2025.

H. Notice of Fire or Damage to Structures in a Solid Waste Facility. The Office of Environmental Compliance shall be notified within the time frame and in the manner provided in LAC 33:I.3923, when damage to or degradation of any structure of a solid waste facility occurs that would impair the ability of the facility to meet the conditions of its permit, or when any fire occurs at a solid waste facility.

I. Construction with Intent to Operate a Facility. The owner/operator shall provide advance written notice, at least 30 days prior to construction, to the parish governing authority whose jurisdiction may be affected, of the intent to operate a transfer station (processing or non-processing) or other type of facility for the offloading and/or transloading of processed solid waste and sewage sludge destined for disposal.

J. Hazardous or Nuclear Wastes in Solid Waste Facilities. No hazardous waste or nuclear material regulated under the Louisiana hazardous waste rules and regulations or Louisiana radiation regulations shall be processed or disposed of at a solid waste facility except in conformance with those regulations. Collectors, transporters, processors, and disposers of solid waste shall determine, according to approved methods, that the waste is not hazardous before collecting, transporting, processing, or disposing of it.

K. Compliance with Other Regulations. All facilities may be subject to applicable federal and state laws and

regulations including, but not limited to, Section 402 (NPDES) and Section 404 (Dredge and Fill) of the Clean Water Act; the Coastal Zone Management Act and Federal Aviation Administration regulations; the National Historic Preservation Act of 1966, as amended; the Endangered Species Act; the Wild and Scenic Rivers Act; the Fish and Wildlife Coordination Act; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection Research and Sanctuary Act; the Resource Recovery and Conservation Act; and the Federal Insecticide, Fungicide, and Rodenticide Act.

L. Contamination of the Waters of the State. No person shall cause, allow, or permit solid waste to be disposed of in such a manner that it enters the waters of the state. This does not apply to discharges into waters of the state in accordance with state or federal wastewater-discharge permits.

M. Prohibition of Open Burning of Solid Waste. Open burning of solid waste is prohibited, except in accordance with R.S. 30:2001 et seq. and LAC 33:III.1109.

N. Spent Bauxite Waste and Byproduct Gypsum and Related Wastes

1. The administrative authority may give special consideration to landfills that receive only byproduct gypsum and related wastes (resulting from the production of phosphoric acid, phosphate fertilizers, and hydrofluoric acid) that is generated on-site, with regard to standards for receipt of liquid waste, standing water, specific design and operation of liners and leachate collection and removal systems, daily cover, and final cover, which may include waiver or modification of these standards.

2. The administrative authority may give special consideration to surface impoundments that receive only spent bauxite waste and related wastes (resulting from production of alumina) that is generated on-site, with regard to standards for liners and final cover, which may include waiver or modification of these standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:

NOTE: §317 has moved to §112.

NOTE: §319 has moved to §114.

Chapter 4. Administration, Classifications, and Inspection Procedures for Solid Waste Management Systems **[Formerly Chapter 5.Subchapter A]**

§401. Notification [Formerly §503]

A. Persons who generate industrial solid waste and/or persons who transport, process, or dispose of solid waste shall, within 30 days after they become subject to these regulations, notify the Office of Environmental Services, Waste Permits Division, in writing of such activity. A form to be used for notification shall be obtained from the Office of Environmental Services, Waste Permits Division, or through the department's website.

B. Persons who generate industrial solid waste and persons who transport, process, or dispose of solid waste who have previously notified the department of such activity are not required to renotify, unless changes are warranted.

C. Owners or operators of non-processing transfer stations and collection facilities are required to notify the Office of Environmental Services prior to operation of these types of facilities. Existing facilities that have previously notified are not required to renotify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§403. Existing Facilities Classification [Formerly §505]

A. Classification

1. Existing facilities that have not been previously regulated, classified, or issued a standard permit shall be classified by the administrative authority to the classification categories of "closure" or "upgrade."

2. Within 120 days after the review and acknowledgment of the notification by the administrative authority, a representative of the department shall perform an on-site investigation of the facility to determine its classification. At the time of the classification inspection, the processor and/or disposer shall provide the representative with a map clearly depicting the location and size of each facility (and units thereof) to be classified and a schematic of the waste entering each unit of a facility to be classified.

3. Within 30 days after the classification inspection, any person who processes or disposes of solid waste shall file with the Office of Environmental Services, Waste Permits Division, a notice of his intent to upgrade or close a facility.

B. Existing Facilities Not Operating under a Standard Permit. All facilities without a standard permit, whether operating or inactive, shall be upgraded or closed in accordance with LAC 33:VII.Subpart 1 unless they have previously been satisfactorily closed in accordance with LAC 33:VII.Subpart 1.

C. Permits for Existing Facilities Operating Without a Standard Permit. All existing solid waste facilities classified for upgrading shall apply for a standard permit according to these regulations.

D. Existing facilities that have not previously been classified or that are not operating under a standard permit shall be classified for upgrade or closure by the following criteria and procedure.

1. Classification criteria are based on compliance with standards detailed in LAC 33:VII.Chapters 5, 7, and 8, with emphasis on the following:

- a. potential for pollution of surface water;
- b. potential for pollution of groundwater;
- c. potential for pollution of air;
- d. location in flood plains or in wetlands;
- e. potential for danger to health due to disease vectors, use of waste-filled lands for food crops, and similar health-related practices;
- f. safety considerations, including danger from explosive gases, from fires, and from birds attracted to the site that might obstruct the glide path of aircraft; and

g. threat to endangered species.

2. The classification procedure comprises identifying, evaluating, and preliminary classification of facilities.

a. An ongoing effort shall be made to identify all solid waste facilities.

b. The facilities shall be evaluated on the basis of the criteria listed in this Subsection and based on the needs and plans of the facility.

E. Issuance of Temporary Permits

1. The administrative authority may issue a temporary permit for upgrading to persons who process or dispose of solid waste. The temporary permit shall require the submission of a permit application. The temporary permit will allow the facility to continue operations in accordance with an approved interim operational plan pending the standard permit application process.

2. The administrative authority may issue a temporary permit for closure to persons who process or dispose of solid waste. The temporary permit shall require the submission of a closure plan permit application and implementation schedule. The temporary permit may allow the facility to continue operations in accordance with an approved interim operational plan pending the closure process.

3. Temporary permits are subject to annual permit maintenance fees as provided in LAC 33:VII.1505.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§405. Categorization of Facilities [Formerly §507]

A. All existing and proposed facilities shall be categorized as defined in LAC 33:VII.115 and as one or more of the following:

1. *Type I*—industrial disposal facilities (landfills, surface impoundments, or landfarms);

2. *Type I-A*—industrial processing facilities (balers, shredders, transfer stations (processing), etc.);

3. *Type II*—non-industrial disposal facilities (landfills, surface impoundments, or landfarms);

4. *Type II-A*—non-industrial processing facilities (composting municipal solid waste facilities, balers, shredders, transfer stations (processing), refuse-derived fuel facilities, autoclaves, etc.); or

5. *Type III*—construction/demolition-debris and woodwaste landfills, separation facilities, composting facilities, or other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§407. Inspection Types and Procedures [Formerly §509]

A. Classification Inspection. A classification inspection is required for all existing facilities not previously classified, and each facility's initial classification is based on this inspection. It is performed after the department receives notification of operations (LAC 33:VII.401.A).

B. Compliance Inspections. The department shall inspect each facility and each facility's records periodically to

determine the facility's compliance with the terms of standard or temporary permits and these regulations.

C. Initial Start-Up Inspection—Newly Permitted Facilities

1. For existing facilities, the initial start-up inspection shall be made after a standard permit has been issued, all upgrading measures are completed, new activities as a result of upgrade are implemented, and certification is submitted to the Office of Environmental Services, Waste Permits Division, by a professional engineer, licensed in the state of Louisiana, that the facility is constructed and has been upgraded in accordance with the permit.

2. For new facilities, the initial start-up inspection shall be made after a standard permit has been issued, construction measures have been completed, and certification is submitted to the Office of Environmental Services, Waste Permits Division, by a professional engineer, licensed in the state of Louisiana, that the facility is constructed in accordance with the permit.

3. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Services, Waste Permits Division, unless a longer time period is set by mutual agreement.

4. Within 15 working days after a new or existing facility has undergone the initial start-up inspection, the administrative authority shall either issue an order authorizing commencement of operation or a written notice of deficiency to the permittee, unless a longer time period is set by mutual agreement.

D. Construction Inspections. At least 10 days prior to commencing construction of a liner, leak-detection system, leachate-collection system, or monitoring well at a Type I or Type II facility, the permit holder shall notify the Office of Environmental Services, Waste Permits Division, in writing, of the date on which construction will begin, in order to allow a representative of the division the opportunity to witness the construction.

E. Unit Start-Up Inspections—All Facilities

1. Start-up inspections for new units of a standard permitted facility shall be conducted after completion of all construction measures and after submittal of certification to the Office of Environmental Services, Waste Permits Division, by a professional engineer licensed in the state of Louisiana, that the unit is constructed in accordance with the permit.

2. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Services, Waste Permits Division.

3. Within 10 working days after a new unit of a facility has undergone a unit start-up inspection, the administrative authority shall issue either an approval of the construction or a notice of deficiency. The unit may commence operation only upon approval of the construction of the unit by the administrative authority.

F. Modification Start-Up Inspections—All Facilities

1. Start-up inspections for modified construction of a standard permitted facility shall be conducted after construction measures of the modification are completed and certification is submitted to the Office of Environmental Services, Waste Permits Division, by a professional engineer licensed in the state of Louisiana, that the modified feature/unit has been constructed in accordance with the

modification approved by the administrative authority and any conditions specified in such approval.

2. After a modified unit/feature of a facility has successfully undergone a start-up inspection and after the permit holder has been notified in writing of this, operation of the modified unit/feature may commence.

G. Closure Inspections. Closure inspections will be conducted within 30 days after the Office of Environmental Services, Waste Permits Division, has received written notice from the permit holder that closure requirements have been met in accordance with the approved closure plan and the permit holder has filed a request for a closure inspection. Closure inspections shall be conducted before backfilling of a facility takes place. The administrative authority reserves the right to determine if a facility has been closed properly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 5. Solid Waste Management System

NOTE: Former Subchapter A has moved to Chapter 4.

Subchapter A. General Standards for Nonpermitted Facilities

[Formerly Chapter 7.Subchapter A]

§501. Standards Governing Industrial Solid Waste Generators

[Formerly §701]

NOTE: Former §501 has been repealed.

A. Annual Reports

1. Generators of industrial solid waste shall submit annual reports to the Office of Management and Finance, Financial Services Division, listing the types and quantities, in wet-weight tons per year, of industrial solid waste they have disposed of off-site.

2. The generator's annual report shall name the transporter(s) who removed the industrial solid waste from the generator's site and the permitted solid waste processing or disposal facility or facilities that processed or disposed of the waste both in and out of state. The form to be used shall be obtained from the department or through the department's website.

3. The reporting period shall be from July 1 through June 30.

4. The report shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

5. Generators of industrial solid waste shall maintain, for two years, all records concerning the types and quantities of industrial solid waste disposed of off-site.

B. Generator Notification and Waste Testing

1. Prior to the initial transport of an industrial solid waste off-site, generators of industrial solid waste shall:

a. submit to the Office of Environmental Services, Waste Permits Division, a generator notification form, which is available on the department's website or by contacting the Office of Environmental Services, Waste Permits Division, that includes analysis, analytical data, and/or process knowledge that confirms that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:Part V or by federal regulations; and

b. obtain an industrial waste code number from the disposal facility.

2. Subsequent movements of the same industrial waste off-site shall not require new waste testing or a new industrial waste code number, unless the process that generates the waste or the characteristics of the waste change. However, the waste characterization data and the waste code required in Paragraph B.1 of this Section shall be maintained by the generator.

C. Except as otherwise provided in these regulations, all solid waste shall be processed or disposed of at a permitted solid waste facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§503. Standards Governing Solid Waste Accumulation and Storage
[Formerly §703]

NOTE: Former §503 has moved to §401.

A. Solid Waste Accumulation

1. No solid waste shall be stored or allowed to be stored long enough to cause a nuisance, health hazard, or detriment to the environment as determined by the administrative authority.

2. Containers used for solid waste shall prevent access by rodents and insects, shall minimize the escape of odors, and shall keep out water.

3. On-site processing or disposal, other than the exclusions provided for in LAC 33:VII.301, 303, or 305, is not allowed on the sites of commercial or industrial generators, unless a permit is obtained.

B. Solid Waste Stored in Tanks

1. Storage tanks shall be designed, constructed, and operated to prevent release of their solid waste contents into the surrounding environment.

2. A storage vessel that is partially buried underground shall meet the definition of *tank* provided in LAC 33:VII.115 in order to be considered a tank; otherwise, it will be considered a surface impoundment.

C. Solid Waste Generated by Offshore or Inland Waterway Facilities

1. The generation point for solid waste transported from offshore and inland waterway facilities shall be the place of delivery of the solid waste to a land-based facility. This facility shall not be considered off-site.

2. Storage of the solid waste shall meet the standards of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§505. Standards Governing Collectors and Off-Site Transporters of Solid Waste
[Formerly §705]

NOTE: Former §505 has moved to §403.

A. Vehicle Requirements

1. The types and sizes of vehicles shall comply with the regulations and licensing of the Department of Transportation and Development and with applicable local ordinances governing weight and size for the streets that must be traveled for solid waste pickup.

2. Cover

a. The bodies of vehicles used to transport trees, tree limbs, construction materials, or metals shall contain such waste without allowing materials to fall or blow off the vehicle.

b. The bodies of vehicles used to collect or transport all other solid waste shall be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching waste, inhibits access by rodents and insects, prevents waste from falling or blowing from the vehicle, minimizes escape of odors, and does not create a nuisance.

c. The bodies of vehicles used for the transportation of ash shall be leak-resistant and covered so as to prevent emissions.

3. The bodies of all vehicles used to transport solid waste that produces leachate shall be equipped with a collection and containment system to ensure that leachate from the waste is not discharged in violation of these regulations.

4. The interior and exterior of the body of a vehicle used to transport putrescible solid waste shall be washed down as often as needed to ensure that odors generated by putrescible matter are minimized.

B. Vehicle Washdown Area

1. The vehicle washdown area shall be designed, constructed, and operated to prevent leakage which may lead to groundwater contamination or uncontrolled contaminated surface runoff.

2. Water collected shall be discharged and the containment system thoroughly cleaned as often as is needed to minimize odors. The leachate and the cleanout water shall be discharged in accordance with all applicable state and federal regulations.

C. Standards Governing Waste Transportation by Other Modes

1. Barge and Ship Transport

a. Barge and ship transport shall be governed by Paragraphs A.2, 3, and 4 and Paragraphs B.1 and 2 of this Section.

b. Loading and unloading facilities shall comply with LAC 33:VII.507, as applicable.

2. Pipelines

a. Transfer points, pumping stations, and other facilities with a potential for spillage shall be located above grade, or in watertight compartments, and shall be in containment areas constructed to hold the maximum potential spill.

b. Containment areas shall consist of a base and dikes constructed of concrete, compacted clay, or other impervious materials. All joints must be sealed.

3. Rail

a. Rail car transport shall be governed by Paragraphs A.2, 3, and 4 and Paragraphs B.1 and 2 of this Section.

b. Loading and unloading facilities shall comply with LAC 33:VII.507, as applicable.

4. Other. Collectors and off-site transporters utilizing facilities not covered by Subsections A and C of this Section shall apply to the administrative authority for regulations governing the proposed facility.

D. Transportation to Processing and Disposal Facilities. Solid waste shall be transported, for processing or disposal, only to facilities permitted to receive such waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

§507. Standards Governing Collection Facilities for Solid Waste
[Formerly §707]

NOTE: Former §507 has moved to §405.

A. Owners/operators of collection facilities shall comply with existing local zoning, siting, and comprehensive land-use regulations and ordinances. The owner/operator shall be responsible for the management of the collection facility, in accordance with this Section.

B. Containers shall provide complete containment of waste, thereby preventing litter, discharges, odor, and other pollution of adjoining areas. Collection facilities shall meet the standards found in LAC 33:VII.503.A. They shall also occupy sufficient land so that vehicles using the facility will not adversely affect traffic or otherwise constitute a hazard or endanger public safety.

C. Cleanup of the facility shall be timed at intervals in order to comply with the requirements of LAC 33:VII.505.B.1 and 2. All waste accumulated or stored at the facility shall remain in containers that meet the following requirements.

1. Containers shall provide sufficient capacity to contain waste and prevent litter.

2. Containers shall be designed, constructed, and operated to keep out water and prevent leakage.

3. Containers shall be constructed and maintained to minimize odors and access by rodents and insects.

4. Containers shall be emptied before accumulation becomes a nuisance, a health hazard, or a detriment to the environment as determined by the administrative authority.

D. Inspections of collection facilities shall be made by the owner/operator at a minimum of twice per week, looking for cleanliness of the site, overfill of containers, closed lids, leaking containers, and deterioration of containers. Records of inspections shall be created, maintained, and available for inspection within 24 hours of request.

E. No processing or disposal shall occur at a collection facility.

F. Removal of all remaining wastes to a permitted facility shall occur at closure of a collection facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§508. Standards Governing Non-Processing Transfer Stations for Solid Waste

A. Owners/operators of non-processing transfer stations shall:

1. provide advanced written notice, at least 30 days prior to construction, to the parish governing authority whose jurisdiction may be affected, of the intent to operate a non-processing transfer station or other type of facility for the offloading and/or transloading of solid waste destined for disposal;

2. notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.401;

3. comply with existing local zoning, siting, and comprehensive land-use regulations and ordinances; and

4. maintain access roads or waterways in a manner that shall meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

B. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner and occupants. A copy of the notarized affidavit waiving the 200-foot buffer zone shall be entered in the mortgage and conveyance records of the parish in which the adjoining landowner's property is located.

C. No processing or disposal shall occur at a non-processing transfer station.

D. Facilities shall also comply with LAC 33:VII.503 and 505.

E. Owners/operators shall have the personnel necessary to achieve the operational requirements of the facility.

F. Facilities shall have control measures that prevent unauthorized ingress or egress, except by willful entry. During operating hours, each facility entry point shall be continuously monitored, manned, or locked. During non-operating hours, each facility entry point shall be locked.

G. Each tipping area shall be constructed and operated to prevent litter from leaving the tipping area. This area shall be constructed of sufficiently low permeable material (i.e., concrete or asphalt) to prevent soil and groundwater contamination.

H. Facilities shall be inspected by the owner/operator at the end of each operating day, and litter or waste shall be cleaned up and placed into the last transportation vehicle.

I. Odors shall be controlled by the best means practicable. The non-processing transfer stations shall be cleaned daily by an appropriate method to minimize odors and nuisance conditions.

J. Owner/operators shall maintain at the facility all records of facility inspections. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

K. The owner/operator of a non-processing transfer station may construct a drop-off area at the non-processing transfer station site such that certain activities can be conducted. No industrial waste shall be accepted, and materials shall be managed in accordance with this Section and LAC 33:VII.703, 707, and 708.F-I, K, and L. These areas are intended for the use of commercial facilities and residential solid waste. The following activities are allowed:

1. storage of white goods;

2. collection of presorted yard trash; or

3. collection of presorted household recyclable materials.

L. Discharges from the facility shall be controlled and shall conform to all applicable state and federal laws.

M. All waste shall be removed to a permitted facility at closure. Notification of closure shall be submitted to the Office of Environmental Services, Waste Permits Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

Subchapter B. Permit Administration

§509. Permit System

[Formerly §511, §315.E and F, and §513.F.5-7]

NOTE: Former §509 has moved to §407.

A. Scope

1. A permit shall be secured by any person who processes and/or disposes of solid waste, with the exception of those wastes or processing and disposal facilities described in LAC 33:VII.301, 303, and 305. Facilities (existing and proposed) subject to the permitting requirements detailed in these regulations are defined in LAC 33:VII.115 and categorized in LAC 33:VII.405.A.

2. Generators that are not processors or disposers of solid waste are not required to secure a permit. Generators of industrial solid waste shall notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.501.B. Generators of industrial solid waste are subject to the applicable standards provided in LAC 33:VII.501.

3. Transporters that are not processors or disposers of solid waste are not required to secure a permit. Transporters of solid waste shall notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.401.A and B. Transporters of solid waste are subject to the applicable standards provided in LAC 33:VII.505.

4. Collection facilities and non-processing transfer stations at which no solid waste is processed or disposed of are not required to secure a permit. Non-processing transfer stations and collection facilities are subject to the standards found in LAC 33:VII.503, 507, and 508 and shall notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.401.A and B.

5. No new solid waste facilities shall be constructed or operated without approval issued by the administrative authority in accordance with these regulations.

B. Types of Permits

1. Temporary Permit

a. A temporary permit allows continued operation of an existing facility that becomes subject to regulations in accordance with an interim operational plan, but does not allow the expansion or modification of the facility without prior approval of the administrative authority. The administrative authority may issue a temporary permit in the following situations:

i. to allow operations to continue at an existing facility while a standard permit application is being processed;

ii. to allow operations to continue at an existing facility while a closure plan permit application is being processed or while a facility is being closed in accordance with a closure plan; or

iii. to allow an applicant for a permit for a proposed facility to begin construction on a limited basis while an application for a proposed facility is being processed for good cause shown.

b. The types of temporary permits issued on or after February 20, 1993, will correspond to the facility categories defined in LAC 33:VII.405.A (*Type I, Type I-A, Type II, Type II-A, and Type III*).

c. Temporary permits that may have been issued in the form of administrative orders, compliance orders to upgrade, orders to upgrade, compliance orders to close, orders to close, and settlement agreements prior to February 20, 1993, may remain in effect until otherwise determined by the administrative authority. Notwithstanding this Subparagraph, any such temporary permit holder shall comply with applicable upgrade requirements and deadlines in LAC 33:VII.513.

2. Standard Permit. Standard permits may be issued by the administrative authority to applicants for solid waste processing and/or disposal facilities that have successfully completed the standard permit application process. The types of standard permits issued on or after February 20, 1993, shall correspond to the facility categories set forth in LAC 33:VII.405.A (*Type I, Type I-A, Type II, Type II-A, and Type III*).

C. Existing Facilities Not Previously Classified or Not Presently Operating Under a Standard Permit

1. Only those existing facilities that the administrative authority classifies for upgrading may apply for a standard permit. The person notifying the Office of Environmental Services, Waste Permits Division, shall be issued a temporary permit and may continue operations in accordance with the interim operational plan, pending a decision on the standard permit application.

2. A facility classified for closure shall be issued a temporary permit. That permit may allow operations to continue in accordance with the interim operational plan until closure activities are accomplished and may require that closure and/or post-closure activities be conducted in accordance with the approved closure plan.

D. Duration of Permit

1. Temporary permits are issued for a period not to exceed three years.

2. Standard permits are issued for a period not to exceed 10 years.

a. Processing and/or disposal facilities with an effective standard permit shall submit to the Office of Environmental Services, Waste Permits Division, a new permit application at least 455 calendar days before the expiration date of the standard permit, unless permission for later filing is granted by the administrative authority. If the reapplication is submitted on or before the deadline above, and the administrative authority does not issue a final decision on the reapplication on or before the expiration date of the standard permit, the standard permit shall remain in effect until the administrative authority issues a final decision.

b. For permits with expiration dates greater than ten years, upon expiration, the department may, in accordance with rules and regulations, extend or reissue a permit for another time period of up to 10 years.

E. Property Rights. Permits issued by the administrative authority do not convey any property rights of any sort or any exclusive privilege.

F. Public Hearings

1. Public hearings may be held concerning standard permits for facilities at the discretion of the administrative authority.

2. Public hearings may be held concerning major modifications of standard permits at the discretion of the administrative authority.

3. Public hearings shall not be held concerning mandatory modifications, which are considered an enhancement of a standard permitted facility.

4. Public hearings shall be held for all facilities when the administrative authority determines, on the basis of comments received and other information, that a hearing is necessary. Public hearings shall be conducted in accordance with the EQA for fact-finding hearings or other hearing procedures developed by the administrative authority and the Administrative Procedure Act (R.S. 49:950 et seq.).

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice (LAC 33:VII.513.F.3), request that the administrative authority consider whether a public hearing is necessary. If the administrative authority determines that the requests warrant it, a public hearing will be scheduled. If the administrative authority determines that the requests do not raise genuine and pertinent issues, the Office of Environmental Services, Waste Permits Division, shall send the person requesting the hearing written notification of the determination. The request for a hearing shall be in writing and shall contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, notices shall be published at least 20 days before a fact-finding hearing in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. Those persons on the Office of Environmental Services, Waste Permits Division's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

7. Receipt of Comments Following a Public Hearing. Comments received by the Office of Environmental Services, Waste Permits Division, until the close of business 30 days after the date of a public hearing shall be reviewed by the Office of Environmental Services, Waste Permits Division.

G. Other Requirements

1. The applicant may be required to obtain additional permits from other local state and federal agencies. Typical permits that may be needed are as follows:

- a. NPDES/LPDES (Section 402 of the Clean Water Act);
- b. Louisiana Water Discharge Permit;
- c. Louisiana Coastal Use Permit (issued by the Department of Natural Resources, Coastal Management Division);
- d. Louisiana Air Emissions Permit;
- e. U.S. Army Corps of Engineers Permit (Dredge and Fill, Section 404 of the Clean Water Act); or

f. appropriate local permits, licenses, certification, registration, or approval.

2. It is the responsibility of the applicant to identify the other applicable permits that may be required. A listing of the permits that the applicant intends to apply for shall be included in the solid waste permit application.

3. The applicant shall provide appropriate documentation to the Office of Environmental Services, Waste Permits Division, that the proposed use does not violate zoning or other land-use regulations.

H. Suspension, Revocation, or Modification of Permit. The administrative authority may review a permit at any time. After review of a permit, the administrative authority may, for cause, suspend, revoke, or modify a permit in whole or in part in accordance with the procedures outlined in the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

NOTE: §511 has moved to §509.

§513. Permit Process for Existing Facilities and for Proposed Facilities

A. Applicant Public Notice

1. The prospective applicant shall publish a notice of intent to submit an application for a standard permit. This notice shall be published 1 to 45 days prior to submission of the application to the Office of Environmental Services, Waste Permits Division. This notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of this state and in a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the legal or public notices section of the official journal of the state will be the only public notice required.

2. The public notice shall be published in accordance with the form provided in LAC 33:VII.3001.Appendix A.

3. Proof of publication of the notice shall be included in all applications for existing and proposed facilities submitted to the administrative authority.

B. Permit Application Requirements

1. Any person who generates, transports, or stores solid waste, and is not issued a permit, but is under the jurisdiction of the department, shall comply with the applicable provisions of these regulations.

2. Submittal of Permit Applications

a. Any applicant for a standard permit for existing or proposed processing and disposal facilities shall complete Part I, Part II, and Part III of the standard permit application, following the instructions for the appropriate facility class in LAC 33:VII.519, 521, 522, and 523, and submit six copies to the Office of Environmental Services, Waste Permits Division. Each individual copy of the application shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

b. Each application for which a standard permit application fee is prescribed shall be accompanied by a remittance in the full amount of the appropriate standard permit application review fee. No application shall be

accepted or processed prior to payment of the full amount specified.

c. The completed separate standard permit application for each existing facility shall be submitted to the Office of Environmental Services, Waste Permits Division, within 180 days after issuance of the temporary permit.

C. Notices to Parish Governing Authorities. As provided in R.S. 30:2022, upon receipt of a permit application the Office of Environmental Services, Waste Permits Division, shall provide written notice on the subject matter to the parish governing authority, which shall promptly notify each parish municipality affected by the application.

D. Permit Application Review and Evaluation

1. LAC 33:VII.Chapters 5, 7, and 8 establish the evaluation criteria used by the administrative authority.

2. The applicant shall make available to the department the assistance of professional engineers or other trained individuals responsible for the design of the facility to explain the design and operation.

3. The applicant shall furnish all other technical information the department may require to evaluate the standard permit application, monitor the performance of the facility, and insure that the purposes of this program are met.

E. Standard Permit Applications Deemed Unacceptable or Deficient

1. Applications deemed unacceptable for technical review will be rejected. For the administrative authority to reconsider the application, the applicant shall resubmit the entire standard permit application to the Office of Environmental Services, Waste Permits Division, including the review fee, by a reasonable due date set by the administrative authority.

2. Applicants submitting applications that are acceptable for technical review, but lack the information outlined in these regulations, will be informed of such deficiencies. These deficiencies shall be corrected by the submission of supplementary information by a reasonable due date set by the administrative authority.

3. The supplementary information as referenced in Paragraph E.2 of this Section shall address all deficiencies and/or show significant progression in addressing all outstanding deficiencies, or the application may be denied.

F. Standard Permit Applications Deemed Technically Complete

1. Applications that have been deemed technically complete shall be accepted for public review. When the permit is accepted for public review, the administrative authority shall request an additional six copies, or more if necessary. The copies shall be distributed for public review as follows:

- a. one copy to the local parish governing authority;
- b. one copy to the parish public library;
- c. one copy to the appropriate regional office; and
- d. three copies to remain in the department's headquarters in Baton Rouge.

2. Each copy of the permit application shall be provided as a standard three-ring-bound document (8 1/2 by 11 inches). The application shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing for all appendices, figures, etc. Permit applications that present revisions made during the review

process as a separate supplement to the application will not be accepted.

3. After the six copies are submitted to the Office of Environmental Services, Waste Permits Division, notices shall be placed in the department's bulletin (if one is available), the official journal of the state, and in a major local newspaper of general circulation. The Office of Environmental Services, Waste Permits Division, shall publish a notice of acceptance for review one time as a single classified advertisement in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The notices will solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper shall be reviewed by the Office of Environmental Services, Waste Permits Division. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Waste Permits Division. The applicant is responsible for providing the Office of Environmental Services, Waste Permits Division, with proof of publication.

G. Issuance or Denial of a Permit

1. The administrative authority shall issue a standard permit or shall issue a standard permit application denial, including reasons for the denial.

2. A temporary permit may be issued to allow closure activities to be accomplished at a facility that has been issued a standard permit application denial.

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Waste Permits Division. The applicant is responsible for providing the Office of Environmental Services, Waste Permits Division, with proof of publication.

I. As a permit condition, the department will establish a time frame for the facility to submit the necessary construction certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2519 (November 2000), amended by the Office of

Environmental Assessment, LR 30:2032 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2488 (October 2005), LR 33:

Subchapter C. Permit System for Facilities Classified for Upgrade or Closure

§515. Permit Process for Existing Facilities Classified for Closure

A. Closure Plan Review and Evaluation. LAC 33:VII.403 and Chapters 7 and 8 establish the criteria used by the Office of Environmental Services, Waste Permits Division, in evaluating closure plans.

B. Submittal of Closure Plans

1. Permit holders for facilities classified for closure shall submit to the Office of Environmental Services, Waste Permits Division, four bound copies of a closure plan within 60 days after issuance of the temporary permit for the facility. Each individual copy of the plan shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

2. The following sections of the regulations shall be addressed and incorporated in the closure plan for all solid waste processing and disposal facilities. All responses and exhibits shall be identified in the following sequence to facilitate the evaluation. All applicable sections of LAC 33:VII.Chapters 5, 7, and 8 shall be addressed and incorporated into the closure plan:

a. LAC 33:VII.519, Permit Application Form, Part I;

b. a map clearly delineating the location of the facility;

c. LAC 33:VII.709.A.10.a and b, Wells and Faults, respectively (only required for Type I and II facilities with on-site closure);

d. LAC 33:VII.521.C, Facility Characteristics;

e. LAC 33:VII.521.D, Facility Surface Hydrology;

f. LAC 33:VII.522.A, Facility Geology (only required for Type I and II facilities that have not undergone clean closure);

g. LAC 33:VII.522.B, Facility Subsurface Characterization (only required for Type I and II facilities that have not undergone clean closure);

h. LAC 33:VII.522.C, Groundwater Monitoring (only required for Type I and II facilities that have not undergone clean closure);

i. LAC 33:VII.521.E, Facility Plans and Specifications (only required for Type I and II facilities with on-site closure and with a potential to produce gases);

j. the types (including chemical and physical characteristics) and sources of waste processed or disposed of at the facility;

k. LAC 33:VII.521.I.1.b and c, Facility Closure;

l. LAC 33:VII.521.I.1-2, Facility Closure;

m. LAC 33:VII.521.J.1, Facility Post-Closure;

n. LAC 33:VII.521.J.2, Facility Post-Closure (only required for Type I and II facilities that have not undergone clean closure);

o. the name of the person who currently owns the land;

p. LAC 33:VII.521.K, Financial Responsibility; and

q. a detailed implementation schedule for closure of the facility with built-in flexibility to coincide with the date of approval of the closure plan.

3. Each closure plan for which a closure fee is prescribed shall be accompanied by a remittance in the full amount of the closure plans review fee. No closure plans shall be accepted or processed prior to payment of the full amount specified.

C. Closure Plans Determined Unacceptable or Deficient

1. Closure plans that are determined unacceptable for a technical review will be rejected. The permit holder shall be required to resubmit the entire application to the Office of Environmental Services, Waste Permits Division, including the review fee, by a date set by the administrative authority.

2. Permit holders submitting closure plans that lack the information contained in Paragraph B.2 of this Section and the applicable standards of LAC 33:VII.Chapters 7 and 8 shall be informed of such in a closure plan deficiency letter; these shall be corrected by submission of supplementary information within 30 days after receipt of the closure plan deficiency letter.

D. Closure Plans Deemed Technically Complete. Closure plans that have been deemed technically complete shall be approved. Within 30 days after receipt of closure plan approval, the permit holder shall submit to the Office of Environmental Services, Waste Permits Division, three copies of the closure plan that incorporate all revisions made during the closure plan review process. Additional copies will be required if deemed necessary by the administrative authority. Each copy shall be provided as a standard three-ring-bound document measuring 8 1/2 by 11 inches, and shall include appropriate tabbing for all appendices, figures, etc. Closure plans shall incorporate revisions made during the review process. Closure plans that present revisions made during the review process as a separate supplement to the closure plan shall not be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2489 (October 2005), LR 33:

§517. Modifications of Permits and Other Authorizations to Operate

A. Modification Requests

1. The permit holder shall notify the Office of Environmental Services, Waste Permits Division, in advance, of any change in a facility or deviation from a permit. Such notification shall detail the proposed modification and shall include an assessment of the effects of the modification on the environment and/or the operation. Modification details shall include, but not be limited to, a summary detailing the modification request and all appropriate drawings, narratives, etc., which shall illustrate and describe the originally permitted representations and the proposed modifications thereto. New language requested in the permit narrative and existing language requested to be deleted from the permit narrative shall be identified therein.

a. Initially, six copies of all modification requests shall be provided to the Office of Environmental Services, Waste Permits Division. Each individual copy of the document shall be 8 1/2 by 11 inches and shall be bound in a standard three-ring binder. The modification shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing, if applicable, for all appendices, figures, etc.

b. Each permit-modification request for which a permit-modification review fee is prescribed shall be accompanied by remittance of the fee. No permit modification requests shall be accepted or processed prior to payment in full of the amount specified.

2. All notifications of proposed changes in ownership of a permit for a facility are the responsibility of the permittee and shall include the following, to be submitted to the Office of Environmental Services, Waste Permits Division:

a. a statement from the proposed permit holder assuming liability for existing violations and conditions;

b. proof of financial responsibility by the proposed permit holder, as required by LAC 33:VII.1301.A and 1303.A; and

c. information required in LAC 33:I.1701.

3. All major modification requests shall address the additional supplemental information required pursuant to LAC 33:VII.523 in relation to the proposed permit modification activity.

B. Public Notice of Modifications

1. Major modifications require public notice. Modifications to a permit that require public notice include, but are not limited to, the following:

a. a change in the types of waste to be received at a facility (e.g., where a facility is modified to accept industrial waste);

b. an increase in the volume or rate of waste to be received at a facility;

c. a physical expansion of the service area;

d. an increase in the capacity of a facility;

e. a decrease in the personnel or equipment of a facility without a reasonable reduction in waste acceptance;

f. an extension of the operating hours or days of operation;

g. a change to the facility that may have an impact on traffic patterns;

h. a reduction in the number of groundwater sampling parameters or the number of groundwater monitoring wells;

i. a lateral or vertical expansion of the permitted area(s) for waste disposal, except for vertical expansion that would result in no net increase of in-place volume; or

j. other changes in the permit that tend to make the permit requirements less stringent.

2. Permit modifications that require public notice and that have been determined by the Office of Environmental Services, Waste Permits Division, to be technically complete will be accepted for public review. When the permit modification is accepted for public review, the administrative authority shall request an additional six copies, or more if necessary. The copies will be distributed for public review as follows:

a. three copies to the Office of Environmental Services, Waste Permits Division, in Baton Rouge;

b. one copy to the appropriate regional office;

c. one copy to the local parish public library; and

d. one copy to the local parish governing authority.

3. After distribution of the permit modification, a notice shall be published by the department in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state, one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located, and one time in the department's bulletin. The cost of the publication shall be borne by the applicant. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The notice shall solicit comments from interested individuals and groups. Comments delivered or received within 30 days after the date the notices are published shall be reviewed by the Office of Environmental Services, Waste Permits Division. The notice shall be published in accordance with a sample public notice provided by the Office of Environmental Services, Waste Permits Division.

4. Mandatory modifications are considered to be enhancements and will require neither public notice nor public hearing.

C. No modification shall be instituted without the written approval of the administrative authority.

D. Operation of a modified construction feature or unit of a standard permitted facility may commence after the provisions of LAC 33:VII.407.F are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430, 2490 (October 2005), LR 33:

Subchapter D. Permit Application

§519. Part I: Permit Application Form

A. The applicant shall complete a standard permit application Part I Form obtained from the Office of Environmental Services, Waste Permits Division, or the department's website. The form requires the following information:

1. the name of the applicant (prospective permit holder) applying for a standard permit;

2. the facility name;

3. a description of the location of the facility (identify by street and number or by intersection of roads, or by mileage and direction from an intersection);

4. the geographic location (section, township, range, and parish where the facility is located, and the coordinates, as defined by the longitude and latitude to the second), of the centerpoint of the facility;

5. the mailing address of the applicant;

6. the contact person for the applicant (the position or title of the contact person is acceptable);
7. the telephone number of the contact person;
8. the type and purpose of the operation (check each applicable box);
9. the status of the facility (if leased, state the number of years of the lease and provide a copy of the lease agreement);
10. the operational status of the facility;
11. the total site acreage and the amount of acreage that will be used for processing and/or disposal;
12. a list of all environmental permits that relate directly to the facility represented in this application;
13. the zoning of the facility (note the zone classification and zoning authority, and include a zoning affidavit or other documentation stating that the proposed use does not violate existing land-use requirements);
14. the types, maximum quantities (wet tons/week), and sources (percentage of the on-site or off-site-generated waste to be received) of waste to be processed or disposed of by the facility;
15. the specific geographic area(s) to be serviced by the solid waste facility;
16. proof of publication of the notice regarding the submittal of the permit application as required in LAC 33:VII.514.A;
17. the signature, typed name, and title of the individual authorized to sign the application (provide proof of the legal authority of the signatory to sign for the applicant); and
18. any additional information required by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§520. Compliance Information

A. All applicants for solid waste permits shall comply with the requirements of LAC 33:I.1701.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:661 (April 1999), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

§521. Part II: Supplementary Information, All Processing and Disposal Facilities

A. The permit application for solid waste processing and disposal facilities shall contain the information described in this Section. All responses and exhibits shall be identified in the following sequence to facilitate the evaluation. Additionally, all applicable Sections of LAC 33:VII.Chapters 7 and 8 shall be addressed and incorporated into the application responses. If a Section does not apply, the applicant shall state that it does not apply and explain why.

B. Location Characteristics. Standards pertaining to location characteristics are contained in LAC 33:VII.709.A (Type I and II facilities), LAC 33:VII.717.A (Type I-A and II-A facilities), and LAC 33:VII.719.A (Type III facilities). The following information is required for all facilities:

1. area master plans;
2. access facilities;
3. a letter from an appropriate agency concerning the traffic flow for facilities receiving waste generated off-site;
4. the distance to the nearest airport runway and proof of notification to the affected airport and the Federal Aviation Administration;
5. the existing land use;
6. an aerial photograph of the site;
7. the environmental characteristics of the site;
8. a wetlands demonstration, if applicable, as provided in LAC 33:VII.709.A.8;
9. demographic information concerning the estimated population density, within a 3-mile radius of the facility boundary, based on the latest census figures; and
10. information regarding wells, faults, seismic impact zones, unstable areas, and utilities, which is required for Type I and II facilities.

C. Facility Characteristics. Standards concerning facility characteristics are contained in LAC 33:VII.709.B (Type I and II facilities), LAC 33:VII.717.B (Type I-A and II-A facilities), and LAC 33:VII.719.B (Type III facilities). A facility plan, including drawings and a narrative, describing the information required below shall be provided.

1. The following information is required for all facilities:
 - a. elements of the process or disposal system employed;
 - b. the perimeter barrier and other control measures;
 - c. a buffer zone;
 - d. fire-protection and medical care measures;
 - e. landscaping and other beautification efforts;
 - f. devices or methods to determine, record, and monitor incoming waste;
 - g. NPDES/LPDES discharge points (existing and proposed); and
 - h. other features, as appropriate.

2. The following information is required for Type I and II facilities:
 - a. areas for isolating nonputrescible waste or incinerator ash, and borrow areas; and
 - b. location of leachate collection/treatment/removal system.

D. Facility Surface Hydrology. Standards governing facility surface hydrology are contained in LAC 33:VII.711.A (Type I and II landfills), LAC 33:VII.713.A (Type I and II surface impoundments), LAC 33:VII.715.A (Type I and II landfarms), LAC 33:VII.717.C (Type I-A and II-A facilities), LAC 33:VII.719.C (Type III facilities), and LAC 33:VII.723.B (composting facilities). The following information is required for all facilities:

1. a description of the method to be used to prevent surface drainage through the operating areas of the facility;
2. a description of the facility runoff/run-on collection system;
3. the rainfall amount from a 24-hour/25-year storm event;
4. the location of aquifer recharge areas in the site or within 1,000 feet of the site perimeter, along with a description of the measures planned to protect those areas from the adverse impact of operations at the facility; and

5. if the facility is located in a flood plain, a plan to ensure that the facility does not restrict the flow of the 100-year base flood or significantly reduce the temporary water-storage capacity of the flood plain, and documentation indicating that the design of the facility is such that the flooding does not affect the integrity of the facility or result in the washout of solid waste.

E. Facility Plans and Specifications. Standards governing facility plans and specifications are contained in LAC 33:VII.711.B (Type I and II landfills), LAC 33:VII.713.B (Type I and II surface impoundments), LAC 33:VII.715.B (Type I and II landfarms), LAC 33:717.E (Type I-A and II-A facilities), LAC 33:VII.721.A (Type III construction and demolition debris and woodwaste landfills), LAC 33:VII.723.A (Type III composting facilities), and LAC 33:VII.725.A (Type III separation and woodwaste processing facilities).

1. Certification. The person who prepared the permit application shall provide the following certification:

"I certify under penalty of law that I have personally examined and I am familiar with the information submitted in this permit application and that the facility as described in this permit application meets the requirements of the solid waste rules and regulations. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment."

2. Geotechnical field tests and laboratory tests shall be conducted according to the standards of the American Society for Testing and Materials (ASTM) or the EPA or other applicable standards approved by the administrative authority. The results of these tests may be used for modeling and analysis purposes.

3. The following information is required for Type I and II facilities:

a. detailed plan-view drawings showing original contours, proposed elevations of the base of units prior to installation of the liner system, and proposed final contours (e.g., maximum height);

b. detailed drawings of slopes, levees, and other pertinent features;

c. the type of material and its source for levee construction. Calculations shall be performed to indicate the volume of material required for levee construction;

d. representative cross sections showing original and final grades, drainage, the location and type of liner, and other pertinent information;

e. a description of the liner system, which shall include calculations of anticipated leachate volumes, rationales for particular designs of such systems, and drawings; and

f. a description of the leachate collection and removal system, which shall include calculations of anticipated leachate volumes, rationales for particular designs of such systems, and drawings.

4. The following information is required for Type I, II, and III landfills:

a. approximate dimensions of daily fill and cover; and

b. the type of cover material and its source for daily, interim, and final cover. Calculations shall be performed to indicate the volume of material required for daily, interim, and final cover.

5. Type I and II landfills and surface impoundments with a potential to produce gases shall provide a gas collection/treatment or removal system.

F. Facility Administrative Procedures. Standards governing facility administrative procedures are contained in LAC 33:VII.711.C (Type I and II landfills), LAC 33:VII.713.C (Type I and II surface impoundments), LAC 33:VII.715.C (Type I and II landfarms), LAC 33:VII.717.F (Type I-A and II-A facilities), LAC 33:VII.721.B (Type III construction and demolition debris and woodwaste landfills), LAC 33:VII.723.C (Type III composting facilities), and LAC 33:VII.725.B (Type III separation and woodwaste processing facilities).

1. The following information is required for all facilities:

a. a description of the recordkeeping system, including types of records to be kept, and the use of records by management to control operations as required;

b. an estimate of the minimum personnel, listed by general job classification, required to operate the facility;

c. the maximum days of operation per week and hours per facility operating day (maximum hours of operation within a 24-hour period); and

d. an annual report submitted to the administrative authority.

2. Type II and Type III facilities shall include the number of certified facility operators determined and certified by the Louisiana Solid Waste Operator Certification and Training Program Board (R.S. 37:3151 et seq. and LAC 46:Part XXIII).

G. Facility Operational Plans. Standards governing facility operational plans are contained in LAC 33:VII.711.D (Type I and II landfills), LAC 33:VII.713.D (Type I and II surface impoundments), LAC 33:VII.715.D (Type I and II landfarms), LAC 33:VII.717.G (Type I-A and II-A facilities), LAC 33:VII.721.C (Type III construction and demolition debris and woodwaste landfills), LAC 33:VII.723.D (Type III composting facilities), and LAC 33:VII.725.C (Type III separation and woodwaste processing facilities).

1. The following information is required for all facilities:

a. types of waste (including chemical, physical, and biological characteristics of industrial wastes generated on-site), maximum quantities of wastes per year, and sources of waste to be processed or disposed of at the facility;

b. waste-handling procedures from entry to final disposition, which could include shipment of recovered materials to a user;

c. minimum equipment to be furnished at the facility;

d. plan to segregate wastes, if applicable;

e. procedures planned in case of breakdowns, inclement weather, and other abnormal conditions (including detailed plans for wet-weather access and operations);

f. procedures, equipment, and contingency plans for protecting employees and the general public from accidents, fires, explosions, etc., and provisions for emergency response and care, should an accident occur (including proximity to a hospital, fire and emergency services, and training programs); and

g. provisions for controlling vectors, dust, litter, and odors.

2. The following information is required for Type I, I-A, II, II-A, and III facilities:

a. a comprehensive operational plan describing the total operation, including but not limited to, inspection of incoming waste to ensure that only permitted wastes are accepted (Type II landfills shall provide a plan for random inspection of incoming waste loads to ensure that hazardous wastes or Toxic Substances Control Act (TSCA) regulated PCB wastes are not disposed of in the facility.); traffic control; support facilities; equipment operation; personnel involvement; and day-to-day activities. A quality-assurance/quality-control (QA/QC) plan shall be provided for facilities receiving industrial waste; domestic-sewage sludge; incinerator ash; regulated asbestos-containing material (RACM) or non-RACM; nonhazardous petroleum-contaminated media; and debris generated from underground storage tanks (UST), corrective action, or other special wastes as determined by the administrative authority. The QA/QC plan shall include, but shall not be limited to, the necessary methodologies; analytical personnel; preacceptance and delivery restrictions; handling procedures; and appropriate responsibilities of the generator, transporter, processor, and disposer. The QA/QC plan shall ensure that only permitted, nonhazardous wastes are accepted;

- b. salvaging procedures and control, if applicable;
- c. scavenging control; and
- d. a comprehensive air monitoring plan for facilities receiving waste with a potential to produce methane gases.

3. The following information is required for Type I and II landfills.

a. Items to be submitted, regardless of land use, include:

i. a detailed analysis of waste, including but not limited to, pH, phosphorus, nitrogen, potassium, sodium, calcium, magnesium, sodium-adsorption ratio, and total metals (as listed in LAC 33:VII.715.D.3.b);

ii. soil classification, cation-exchange capacity, organic matter, content in soil, soil pH, nitrogen, phosphorus, metals (as listed in LAC 33:VII.715.D.3.b), salts, sodium, calcium, magnesium, sodium-adsorption ratio, and PCB concentrations of the treatment zone; and

iii. annual application rate (dry tons per acre) and weekly hydraulic loading (inches per acre).

b. Items to be submitted in order for landfills to be used for food-chain cropland include:

i. a description of the pathogen-reduction method for septage, domestic sewage sludges, and other sludges subject to pathogen production;

ii. crops to be grown and the dates for planting;

iii. PCB concentrations in waste;

iv. annual application rates of cadmium and PCBs; and

v. cumulative applications of cadmium and PCBs.

c. Items to be submitted for landfills to be used for non-food-chain purposes include:

i. a description of the pathogen-reduction method in septage, domestic sewage sludges, and other sludges subject to pathogen production; and

ii. a description of control of public and livestock access.

4. The following information is required for Type I-A and II-A incinerator waste-handling facilities and refuse-derived energy facilities:

a. a description of the method used to handle process waters and other water discharges that are subject to NPDES/LPDES permit and state water discharge permit requirements and regulations; and

b. a plan for the disposal and periodic testing of ash (All ash and residue shall be disposed of in a permitted facility.).

5. The following information is required for Type I-A and II-A refuse-derived fuel facilities and Type III separation and composting facilities:

a. a description of the testing to be performed on the fuel or compost; and

b. a description of the uses for and the types of fuel/compost to be produced.

6. Type I-A and II-A refuse-derived fuel facilities and Type III separation and composting facilities shall include a description of marketing procedures and control.

H. Implementation Plan. All facilities shall have implementation plans in accordance with standards in LAC 33:VII.709.D (Type I and II facilities), LAC 33:VII.717.H (Type I-A and II-A facilities), and LAC 33:VII.719.E (Type III facilities).

I. Facility Closure. Standards governing facility closure are contained in LAC 33:VII.711.E (Type I and II landfills), LAC 33:VII.713.E (Type I and II surface impoundments), LAC 33:VII.715.E (Type I and II landfills), LAC 33:VII.717.I (Type I-A and II-A facilities), LAC 33:VII.721.D (construction and demolition debris and woodwaste landfills), LAC 33:VII.723.E (Type III composting facilities), and LAC 33:VII.725.D (Type III separation and woodwaste processing facilities).

1. The closure plan for all facilities shall include the following:

a. the date of final closure;

b. the method to be used and steps necessary for closing the facility; and

c. an itemized cost of closure of the facility, based on the cost of hiring a third party to close the facility at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive.

2. The closure plan for Type I and II landfills and surface impoundments shall include:

a. a description of the final cover and the methods and procedures used to install the cover;

b. an estimate of the largest area of the facility ever requiring a final cover at any time during the active life;

c. an estimate of the maximum inventory of solid waste ever on-site over the active life of the facility; and

d. a schedule for completing all activities necessary for closure.

3. The closure plan for all Type I and II facilities and Type III woodwaste and construction/demolition debris facilities shall include the following:

a. the sequence of final closure of each unit of the facility, as applicable;

b. a drawing showing final contours of the facility; and

c. a copy of the document that will be filed upon closure of the facility with the official parish recordkeeper indicating the location and use of the property for solid waste disposal, unless the closure plan specifies a clean closure.

J. Facility Post-Closure. Standards governing post-closure requirements are contained in LAC 33:VII.711.F (Type I and II landfills), LAC 33:VII.713.F (Type I and II surface impoundments), LAC 33:VII.715.F (Type I and II landfarms), and LAC 33:VII.721.E (Type III construction and demolition debris and woodwaste landfills).

1. The post-closure plan for all facilities shall include the following:

a. discussion of the long-term use of the facility after closure, as anticipated; and

b. an itemized cost of conducting post-closure of the facility, based on the estimated cost of hiring a third party to conduct post-closure activities in accordance with the closure plan.

2. The post-closure plan for Type I and II facilities shall include the following:

a. the method for conducting post-closure activities, including a description of the monitoring and maintenance activities and the frequency at which they will be performed;

b. the method for abandonment of monitoring systems, leachate collection systems, gas-collection systems, etc.;

c. measures planned to ensure public safety, including access control and gas control; and

d. a description of the planned uses of the facility during the post-closure period.

K. Financial Responsibility. Standards governing financial responsibility are contained in LAC 33:VII.Chapter 13. All applicable Sections of LAC 33:VII.Chapter 13 must be addressed and incorporated into the permit application responses. A section documenting financial responsibility according to LAC 33:VII.Chapter 13 that contains the following information shall be included for all facilities:

1. the name and address of the person who currently owns the land and the name and address of the person who will own the land if the standard permit is granted (if different from the permit holder, provide a copy of the lease or document which evidences the permit holder's authority to occupy the property); or

2. the name of the agency or other public body that is requesting the standard permit, or if the agency is a public corporation, its published annual report, or if otherwise, the names of the principal owners, stockholders, general partners, or officers;

3. evidence of liability coverage, including:

a. personal injury, employees, and the public (coverage, carriers, and any exclusions or limitations);

b. property damage (coverage and carrier);

c. environmental risks; and

4. evidence of a financial assurance mechanism for closure and/or post-closure care and corrective action for known releases when needed.

L. Solid Waste Fees. Standards governing solid waste fees are contained in LAC 33:VII.Chapter 15. A section

documenting compliance with applicable fees according to LAC 33:VII.Chapter 15 shall be included for all facilities.

M. Special Requirements. The administrative authority may require additional information for special processes or systems and for supplementary environmental analysis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§522. General Facility Geology, Subsurface Characterization, and Facility Groundwater Monitoring

A. General Facility Geology. Standards governing facility geology are contained in LAC 33:VII.801. The following information is required for Type I, Type I-A, Type II, Type II-A, and Type III facilities:

1. a demonstration that the person who characterized the subsurface soil and groundwater conditions at the facility is qualified; and

2. a demonstration that the facility has natural soils of low permeability as provided in LAC 33:VII.801.A.2; or

3. a design for surfacing natural soils that do not meet the low permeability standard as provided in LAC 33:VII.801.A.3.

B. Subsurface Characterization. Standards governing subsurface characterization are contained in LAC 33:VII.803.

1. Type I, II, and III facilities shall demonstrate that the facility meets the boring requirements provided in LAC 33:VII.803.A.

2. Type I and II facilities shall demonstrate that:

a. the facility meets the piezometer or monitoring well requirements as provided in LAC 33:VII.803.B; and

b. the facility meets the geology and groundwater flow characterization requirements provided in LAC 33:VII.803.C.

C. Facility Groundwater Monitoring. Standards governing facility groundwater monitoring are contained in LAC 33:VII.805. The following information is required for Type I and II facilities:

1. a designation of each zone that will be monitored;

2. a map for each groundwater monitoring zone that depicts the locations of all monitoring wells (including proposed monitoring wells) that are screened in a particular zone and each zone's relevant point of compliance, along with information that demonstrates that monitoring wells meet the standards in LAC 33:VII.805.A.1 and 2. For proposed monitoring wells, the response to this requirement shall provide an implementation schedule for submitting a revised well location map showing all existing and proposed monitoring wells that are screened in each particular zone;

3. a geologic cross section along the perimeter of the facility showing screen intervals for existing and proposed monitoring wells, along with other applicable information required in LAC 33:VII.803.C.2.a. For proposed monitoring wells, the response to this requirement shall include an implementation schedule for revising applicable geologic cross sections to include the screen interval of the newly

installed monitoring wells and other applicable information required in LAC 33:VII.803.C.2.a;

4. a designation of each monitoring well (including any proposed monitoring wells) as either "background" or "down gradient," for each zone that will be monitored;

5. a table displaying pertinent well construction details for each monitoring well, including the elevation of the reference point for measuring water levels to the National Geodetic Vertical Datum (NGVD), the elevation of the ground surface (NGVD), the drilled depth (in feet), the depth to which the well is cased (in feet), the depth to the top and bottom of the bentonite seal (in feet), the depth to the top and bottom of the screen (in feet), the slot size, the casing size, and the type of grout; and as-built diagrams (cross sections) of each well providing the aforementioned well construction details. For proposed monitoring wells, the response to this requirement shall provide an implementation schedule for submitting the information specified in this requirement;

6. a demonstration that the monitoring wells are constructed according to the standards in LAC 33:VII.805.A.3. For proposed monitoring wells, the response to this requirement shall provide an implementation schedule for submitting the information specified in this requirement;

7. for an existing facility, all background data and at least three years of detection monitoring data from monitoring wells in place at the time of the permit application. If this data exists in the department records, the administrative authority may allow references to the data in the permit application. For an existing facility with no wells, groundwater data shall be submitted within 90 days after the installation of monitoring wells. For a new facility, groundwater data (one sampling event) shall be submitted before waste is accepted;

8. a sampling and analysis plan that meets the standards in LAC 33:VII.805.B and includes a table that specifies each parameter, analytical method, practical quantitation limit, and Chemical Abstracts Service registry number (CAS RN); and

9. a plan for detecting, reporting, and verifying changes in groundwater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§523. Part III: Additional Supplementary Information

A. The following supplementary information is required for all solid waste processing and disposal facilities. All responses and exhibits shall be identified in the following sequence to facilitate the evaluation:

1. a discussion demonstrating that the potential and real adverse environmental effects of the facility have been avoided to the maximum extent possible;

2. a cost-benefit analysis demonstrating that the social and economic benefits of the facility outweigh the environmental-impact costs;

3. a discussion and description of possible alternative projects that would offer more protection to the environment without unduly curtailing nonenvironmental benefits;

4. a discussion of possible alternative sites that would offer more protection to the environment without unduly curtailing nonenvironmental benefits; and

5. a discussion and description of the mitigating measures which would offer more protection to the environment than the facility, as proposed, without unduly curtailing nonenvironmental benefits.

B. An application for renewal or extension of an existing permit shall not be subject to submittal of the additional supplementary information required in Subsection A of this Section, unless said renewal or extension encompasses changes that need to be addressed as major applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Waste Services, Solid Waste Division, LR 23:1685 (December 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

NOTE: Former Subchapter D has moved to Chapter 15.

NOTE: §525 has moved to §1501.

NOTE: §527 has moved to §1503.

NOTE: §529 has moved to §1505.

Chapter 7. Solid Waste Standards

NOTE: Former Subchapter A has moved to Chapter 5.Subchapter A]

NOTE: §701 has moved to §501]

NOTE: §703 has moved to §503]

NOTE: §705 has moved to §505]

NOTE: §707 has moved to §507]

Subchapter A. Landfills, Surface Impoundments, Landfarms

§709. Standards Governing Type I and II Solid Waste Disposal Facilities

[Formerly some of the provisions in Subsections A and B existed in §521]

A. Location Characteristics. The information on location characteristics listed in this Subsection is required and shall be provided for all Type I and II solid waste disposal facilities, as outlined in LAC 33:VII.521.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings must be legible. Area master plans shall show:

- a. the facility;
- b. the road network;
- c. major drainage systems;
- d. drainage-flow patterns;
- e. the location of the closest population centers;
- f. if the facility disposes of putrescible solid waste, the location of any public-use airport used by turbojet aircraft or piston-type aircraft (if within a 5-mile radius);
- g. the location of the 100-year flood plain, based on the most recent data; and
- h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. A letter shall be acquired from the appropriate agency or agencies regarding any facility receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

4. Facilities that dispose of putrescible solid waste shall not be located within 10,000 feet of the end of any public-use airport runway used by turbojet aircraft or within 5,000 feet of the end of any public-use airport runway used by only piston-type aircraft. Permit applicants for proposed Type II landfills to be located within a 5-mile radius of any airport runway must notify the affected airport and the Federal Aviation Administration.

5. A description shall be included of the total existing land use within 3 miles of the facility (by approximate percentage) including, but not limited to:

- a. residential;
- b. health-care facilities and schools;
- c. agricultural;
- d. industrial and manufacturing;
- e. other commercial;
- f. recreational; and
- g. undeveloped.

6. A current aerial photograph, representative of the current land use, of a 1-mile radius surrounding the facility, is required. The aerial photograph shall be of sufficient scale to depict all pertinent features.

7. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly-owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations. The following information on environmental characteristics shall be provided:

a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter, or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter; and

c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility.

8. Units of a disposal facility that have not received waste prior to October 9, 1993, shall not be located in wetlands, unless the permit holder or applicant can make the following demonstrations to the administrative authority:

a. where applicable under Section 404 of the Clean Water Act or applicable state wetlands laws, the presumption that a practicable alternative to the proposed landfill is available that does not involve wetlands is clearly rebutted;

b. the construction and operation of the facility will not:

i. cause or contribute to violations of any applicable state water-quality standard;

ii. violate any applicable toxic effluent standard or prohibition under Section 307 of the Clean Water Act;

iii. jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973; and

iv. violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;

c. the facility will not cause or contribute to significant degradation of wetlands. The owner or operator must demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:

i. erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the facility;

ii. erosion, stability, and migration potential of dredged and fill materials used to support the facility;

iii. the volume and chemical nature of the waste managed in the facility;

iv. impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

v. the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

vi. any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

d. to the extent required under Section 404 of the Clean Water Act or applicable state wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by Paragraph A.8 of this Section; then, minimizing unavoidable impacts to the maximum extent practicable; and, finally, offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and

e. sufficient information is available to make a reasonable determination with respect to these demonstrations.

9. A statement of the estimated population, the source of the estimation, and the population density, within a 3-mile radius of the facility boundary is required of all facilities.

10. Well, Fault, and Utility Requirements for Type I and II Facilities

a. Wells. A map is required showing the locations of all known or recorded shot holes and seismic lines, private water wells, and oil and/or gas wells, operating or abandoned, within the facility and within 2,000 feet of the facility perimeter and the locations of all public water systems, industrial water wells, and irrigation wells within 1 mile of the facility. A plan shall be provided to prevent adverse effects on the environment from the wells and shot holes located on the facility.

b. Faults

i. A scaled map is required showing the locations of all recorded faults within the facility and within 1 mile of the perimeter of the facility.

ii. For faults mapped as existing through the facility, verification of their presence by geophysical mapping or stratigraphic correlation of boring logs is required. If the plane of the fault is verified within the facility's boundaries, a discussion of measures that will be taken to mitigate adverse effects on the facility and the environment is required.

iii. A demonstration, if applicable, is required of alternative fault setback distance. Units of a disposal facility that have not received waste prior to October 9, 1993, shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the permit holder or applicant demonstrates to the administrative authority that an alternate setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

c. Seismic Impact Zone

i. For a facility located in a seismic impact zone, a report is required with calculations demonstrating that the facility will be designed and operated so that it can withstand the stresses caused by the maximum ground motion, as provided in Clause A.10.c.ii of this Section.

ii. Units of a facility located in a seismic impact zone, which have not received waste prior to October 9, 1993, shall be designed and operated so that all containment structures, including liners, leachate collection systems, and surface water control systems, can withstand the stresses caused by the maximum horizontal acceleration in lithified earth material for the site.

d. Unstable Areas

i. A facility shall not be located in an unstable area unless the permit holder or applicant can demonstrate that the facility is designed to ensure the integrity of structural components, such as liners; leak-detection systems; leachate collection, treatment, and removal systems; final covers; run-on/runoff systems; or any other component used in the construction and operation of the facility that is necessary for the protection of human health or the environment.

ii. In determining whether an area is unstable, the permit holder or applicant must consider, at a minimum, the following factors:

(a). on-site or local soil conditions that may result in significant differential settling;

(b). on-site or local geologic or geomorphological features; and

(c). on-site or local human-made features or events (both surface and subsurface).

e. Utilities. A scaled map showing the location of all pipelines, power lines, and rights-of-way within the site is required.

11. Facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

B. Facility Characteristics. The following facility characteristics are required for Type I and II solid waste facilities, as outlined in LAC 33:VII.521.C.

1. Elements of the disposal system employed shall be provided, including, as applicable, property lines, original

contours (shown at not greater than 5-foot intervals), buildings, units of the facility, drainage, ditches, and roads.

2. Perimeter barriers and other control measures, such as security and signs, shall be provided as follows.

a. Facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

b. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

c. During non-operating hours, each facility entry point shall be locked.

d. Facilities that receive wastes from off-site sources shall post readable signs that list the types of wastes that can be received at the facility.

3 Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property. Buffer zone requirements may be waived or modified by the administrative authority for areas of landfills that have been closed in accordance with these regulations and for existing facilities.

b. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

4. Fire Protection and Medical Care. Facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

5. Landscaping. All facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, shall provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods for Receiving and Monitoring Incoming Wastes

a. All disposal facilities shall be equipped with a device or method to determine quantity (by wet-weight tonnage); sources (whether the waste was generated in-state or out-of-state and, if it is industrial solid waste, where it was generated); and types of incoming waste (i.e., commercial, residential, infectious). All facilities shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous waste, PCB waste, and unauthorized or unpermitted solid waste). At Type II landfills, this method shall include random inspections of incoming waste loads at a frequency to reasonably ensure exclusion of such prohibited wastes.

b. All facilities shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph B.6.a of this Section.

7. Discharges from operating units of all facilities shall be controlled and shall conform to applicable state and federal laws, including the federal Clean Water Act and Louisiana Water Pollution Control Law. Applications for applicable state and federal discharge permits shall be filed before a standard permit may be issued.

8. Additional information for facilities is required as follows:

a. areas for isolating nonputrescible waste or incinerator ash, and borrow areas; and

b. location of leachate collection/treatment/removal system.

C. Facility geology standards are located in LAC 33:VII.Chapter 8.

D. Implementation Plans. The implementation plans for all facilities shall include the following:

1. construction schedules for existing facilities, which shall include beginning and ending time frames and time frames for the installation of all major features such as monitoring wells and liners. Time frames shall be specified in days, with day one being the date of standard permit issuance;

2. details on phased implementation if any proposed facility is to be constructed in phases; and

3. a plan for closing and upgrading existing operating areas if the application is for expansion of a facility or construction of a replacement facility.

E. Groundwater monitoring requirements shall be in accordance with LAC 33:V.Chapter 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1315 (October 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2490 (October 2005), LR 33:

§711. Standards Governing Landfills (Type I and II)

A. Surface Hydrology

1. Facilities located in a 100-year flood plain shall be filled to bring site elevation above flood levels, or perimeter levees or other measures must be provided to maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system shall be designed for a 24-hour/25-year storm event.

4. Facilities located in a 100-year flood plain shall not restrict the flow of a 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

5. Runoff from operating areas or areas that contain solid waste and have not yet received interim compacted cover or final cover shall be considered contaminated and shall not be allowed to mix with noncontaminated surface runoff.

6. A run-on control system shall be installed to prevent run-on during the peak discharge from a 24-hour/25-year storm event.

B. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the

supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Daily and Interim Cover Requirements

a. Cover material shall:

i. minimize vector-breeding areas and animal attraction by controlling:

(a). fly, mosquito, and other insect emergence and entrance;

(b). rodent burrowing for food and harborage; and

(c). bird and animal attraction;

ii. control leachate generation by:

(a). minimizing external-moisture infiltration;

(b). minimizing erosion; and

(c). utilizing materials with minimum free-liquid content;

iii. reduce fire-hazard potential;

iv. minimize blowing paper and litter;

v. reduce noxious odors by minimizing outward movement of methane and other gases;

vi. provide an aesthetic appearance to the landfill operation; and

vii. allow accessibility regardless of weather.

b. Silty or sandy clays applied a minimum of 6 inches thick at the end of each operating day are satisfactory for daily cover, and silty clays applied a minimum of 1 foot thick are satisfactory for interim cover.

c. Alternative daily cover, interim cover, or interim compacted cover materials may be approved by the administrative authority provided the standards of Subparagraph B.2.a of this Section are met. The administrative authority reserves the right to require testing to confirm acceptability. The administrative authority may waive the requirements for daily cover, for Type I landfills only, if the permit holder or applicant can demonstrate that the nature of the waste is such that daily cover is not necessary. Daily cover requirements may not be waived for Type II landfills.

d. Alternative daily cover, interim cover, and interim compacted cover materials submitted for approval shall be available on a regular basis and demonstrate reasonably consistent composition and performance characteristics.

e. Interim cover or interim compacted cover shall be applied on all operating areas of a facility that will not receive solid waste for a period longer than 60 days. Interim cover or interim compacted cover must be applied within 48 hours of the last receipt of solid waste in the operating area. Facilities that provide interim cover or interim compacted cover shall also implement an erosion control plan.

f. Daily and interim cover shall be applied and maintained in a condition that meets the purposes of Subparagraph B.2.a of this Section.

g. The source of daily and interim cover must be accessible regardless of weather.

3. Levee Construction

a. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion and shall

have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

4. Leachate Control, Collection, Treatment, and Removal Systems. Leachate control, collection, treatment, and removal systems for proposed landfills and units of existing landfills that receive waste on or after the required upgrade date specified in LAC 33:VII.513.B must comply with these standards. These standards also apply to units of Type II landfills that have not received waste prior to October 9, 1993.

a. Leachate shall not be managed by allowing the leachate to be absorbed in the waste, unless it is a part of leachate recirculation or other approved technology.

b. Infiltration of water into the waste shall be minimized by daily, interim, and final cover, as required by these regulations.

c. The impact of leachate on the environment shall be minimized by a leachate collection and removal system and a leachate treatment system designed to ensure positive removal and treatment of generated leachate.

d. Leachate removed shall be handled in such a manner that it does not adversely affect the environment.

e. Migration of leachate shall be prevented by liners or other barriers.

f. The following minimum standards apply to leachate collection and removal systems.

i. The leachate collection system shall be located above the primary liner.

ii. All leachate collection pipes shall be perforated, a minimum of 6 inches in diameter, and constructed of materials resistant to the leachate.

iii. Leachate cleanout risers or manholes shall be provided for each leachate collection line. The maximum length of leachate collection lines shall not exceed the capabilities of the cleanout device.

iv. A granular leachate collection drainage blanket, consisting of a natural or a synthetic material with permeability of 1×10^{-3} cm/sec or higher, shall be provided to trap fines and prevent waste from entering the drainage layer while allowing the passage of leachate. If natural material is used for the drainage blanket, the thickness of the material shall be at least 12 inches, unless otherwise approved by the administrative authority. If synthetic material is used, sufficient thickness of buffer material shall be placed over the synthetic material to provide protection for the liner system.

v. The flow path of leachate on the liner surface shall be no greater than 100 feet to the point of collection. (For the purpose of determining this distance, the permit holder or applicant may assume that the leachate flow path is perpendicular to the leachate collection pipe.)

vi. The slope on the surface of the liner toward the leachate collection lines shall be a minimum of two percent.

vii. The slope of all leachate collection pipes shall be a minimum of one percent.

viii. The leachate head shall be maintained in a pumped-down condition such that not more than 1 foot of head shall exist above the lowest elevation of the leachate collection lines.

ix. The equipment used to remove leachate from the collection system shall be adequately sized to accommodate normal facility operations.

x. Trenches or swales shall be provided to protect the leachate collection pipes.

xi. The leachate collection lines shall be sloped down toward the perimeter of the unit. However, other designs may be approved depending on site-specific conditions.

xii. An adequate thickness of gravel shall be placed on all sides of the leachate pipes.

xiii. Gravel size shall be selected to ensure that it is larger than the perforations in the collection pipe.

xiv. The migration of fines into the tops of the trenches shall be minimized by a properly designed, graded soil filter or geotextile.

xv. Materials such as limestone and dolomite shall not be used in the leachate collection system. However, the administrative authority may allow alternate materials to be used in construction of the leachate collection system if the permit holder or applicant can demonstrate that the materials can provide equivalent or superior performance.

xvi. Leachate lines (and other engineering structures) shall not penetrate the liner, unless the permit holder or applicant can demonstrate that special or unusual circumstances warrant liner penetration.

xvii. An antiseep collar shall be placed around the leachate line that penetrates the liner. A minimum of 3 feet of recompacted clay or equivalent material shall be placed around the collar.

xviii. All leachate transfer (force-main) lines shall be pressure tested prior to their use.

xix. All control systems for pumps, valves, and meters shall be designed to be operated from the ground level.

5. Liners. Liners for proposed landfills and units of existing landfills that receive waste on or after the required upgrade date in LAC 33:VII.513 must comply with these standards. These standards also apply to units of Type II landfills that did not receive waste before October 9, 1993, as provided in LAC 33:VII.513.

a. The permit holder or applicant shall provide and implement a quality-assurance/quality-control plan for liner construction and maintenance that will ensure that liners are designed, constructed, installed, and maintained properly. All facilities shall have quality-assurance/quality-control plans for the excavations. All excavations and liners shall be inspected and certified by a professional engineer, licensed in the state of Louisiana, with the appropriate expertise.

b. The permit holder or applicant must demonstrate that the liner is placed upon a base that provides the following:

i. adequate support for the contents;

ii. maximum resistance to settlement of a magnitude sufficient to affect the integrity of the liner or the proper positioning of the leachate collection or leak-detection system;

iii. maximum resistance to hydrostatic heave on the sides or bottom of the excavation; and

iv. maximum resistance to desiccation.

c. Units of landfills shall be lined along the sides and bottom with a liner system installed under the supervision of a professional engineer, licensed in the state of Louisiana and with the appropriate expertise, which consists of the following, in descending order:

i. a leachate collection system designed and constructed in accordance with Paragraph B.4 of this Section; and

ii. a composite liner that consists of a geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3-foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec (If the geomembrane component is high-density polyethylene, then the geomembrane component must be at least 60-mil thick. Any geomembrane liner used must be compatible with the solid waste and leachate in the unit.); or

iii. an alternative liner system that provides equivalent or greater groundwater protection at the site as compared to the composite liner design in Clause B.5.c.ii of this Section, as demonstrated by generally accepted modeling techniques and based on factors specific to the site and to the solid wastes received. The burden of proof of adequacy of the alternate liner design shall be on the permit holder or applicant.

d. Special design conditions may be required in areas where circumstances warrant such conditions, as determined by the administrative authority. These special design standards may include more protective or stringent standards.

6. Gas Collection/Treatment or Removal System

a. Each unit of the facility with a potential for methane gas production and migration may be required to provide a gas collection/treatment or removal system.

b. If the facility is subject to 40 CFR Part 60, Subpart WWW, then installation of a collection and control system that captures generated gas within the landfill is required.

c. If the facility is not subject to 40 CFR Part 60, Subpart WWW, a gas collection/treatment or removal system shall be such that it limits methane gas to lower-explosive limits at the facility boundary and to 25 percent of the lower explosive limits in facility buildings.

d. Sampling protocol, chain of custody, and test methods shall be established for all gas collection/treatment or removal systems.

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight tons per year, or for landfills, expressed in both wet- and dry-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. The annual disposer's report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period and to determine remaining capacity shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be

obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the disposer annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

e. A facility that receives industrial solid waste shall utilize, in its annual report, the appropriate industrial waste code number.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application;

iv. permit modifications;

v. certified field notes for construction;

vi. operator training programs;

vii. daily log;

viii. quality-assurance/quality-control records;

ix. inspections by the permit holder or operator, including, but not limited to, inspections to detect incoming hazardous waste loads;

x. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable;

xi. records demonstrating that liners, leachate-control systems, and leak-detection and cover systems are constructed or installed in accordance with appropriate quality assurance procedures;

xii. records on the leachate volume and results of the leachate sampling;

xiii. monitoring, testing, or analytical data;

xiv. any other applicable or required data deemed necessary by the administrative authority;

xv. records on groundwater sampling results;

xvi. post-closure monitoring reports; and

xvii. copies of all documents received from and submitted to the department.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility. All personnel involved in waste handling at the facility must be

trained adequately in procedures to recognize and exclude receipt or disposal of hazardous wastes and PCB wastes.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste and PCB waste shall be strictly prohibited and prevented. Permit holders of Type II landfills must implement a program of random inspections of incoming loads to detect and prevent the disposal of hazardous waste or PCB waste and must keep records of these inspections. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning of solid waste shall not be practiced at Type I or II landfills.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

e. Infectious waste from hospitals or clinics may be deposited in Type I or II landfills only if it has been properly packaged and identified and is certified noninfectious by the Department of Health and Hospitals.

f. Grazing of domestic livestock shall not be allowed in the vicinity of active landfill units or units under closure or post closure.

g. Liquid wastes shall not be disposed of in a landfill, and facilities that plan to accept liquid wastes shall provide a means for solidifying them and an appropriate quality-assurance/quality-control program. Bulk or non-containerized liquid shall not be placed in a landfill unless the waste is residential waste, other than septic waste, leachate and gas condensate that is derived from the landfill, or liquid from a leachate recirculation operation.

h. Residential, commercial, and other wastes deemed acceptable by the administrative authority on a site-specific basis may be disposed of in Type I and II landfills. A comprehensive quality-assurance/quality-control plan shall be provided for facilities receiving RACM and non-RACM and dewatered domestic wastewater treatment plant sludge.

i. No solid waste shall be deposited in standing water.

j. Industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be disposed of or processed only in Type I or Type I-A facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;

f. the methods that will be used to ensure that the grade and slope of both the on-site drainage system and the run-on diversion system are maintained and serve their intended functions;

g. the methods that will be used to ensure that the leachate collection/treatment system is functioning as designed; and

h. the measuring protocol to be used and the frequency with which the depth of leachate within the collection system will be checked, as well as how the leachate will be removed and transported to the treatment facility.

3. Facility Operational Standards

a. Air-Monitoring Standards

i. Facilities receiving waste with a potential to produce methane gas shall be subject to the air-monitoring requirements.

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Waste Permits Division, a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

(a). The type and frequency of monitoring shall be determined based on the following factors:

(i). soil conditions;

(ii). hydrogeologic conditions surrounding the facility;

(iii). hydraulic conditions surrounding the facility; and

(iv). the locations of facility structures and property boundaries.

(b). The minimum frequency of monitoring shall be quarterly.

iii. If methane gas levels exceeding the limits specified in Clause D.3.a.ii of this Section are detected, the permit holder shall:

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923;

(b). within 30 days of detection, submit a remediation plan to the Office of Environmental Assessment, Environmental Technology Division, for the methane gas releases. The plan shall describe the nature and extent of the problems and the proposed remedy and shall include an implementation schedule. The plan shall be implemented within 60 days of detection.

iv. The permit holder shall make prompt notification to the Office of Environmental Compliance in accordance with LAC 33:I.3923 when strong odors occur at facility boundaries.

v. Records of inspections, surveys, and gas monitoring results shall be maintained at the facility.

vi. Odors shall be controlled by the best means practicable.

vii. Facilities shall ensure that the units do not violate any applicable requirements developed under a state implementation plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

b. Waste shall be deposited under facility supervision in the smallest practicable area, spread in layers, and compacted to approximately two feet thick or, if baled, stacked and daily cover applied.

c. Vector Control

i. Food or harborage shall be denied to rats, insects, and birds to the extent possible by using proper cover or other means acceptable on a site-specific basis. Where necessary, an approved pesticide shall be applied in accordance with applicable state and federal laws.

ii. A schedule of the type and frequency of vector control measures to be used shall be submitted to the Office of Environmental Services, Waste Permits Division, for approval in the operational plan.

d. Waste Characterization. Hazardous waste determination, in accordance with LAC 33:V.1103, shall be performed by the generator on all solid waste going to disposal facilities, prior to acceptance of the solid waste and annually for two years following acceptance. Every year thereafter, the generator shall certify that the waste remains unchanged.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Segregation of Wastes

a. White goods may be stored in a unit separate from other solid wastes and shall be removed every 30 days. The facility shall maintain a log of dates and volumes of white goods removed from the facility.

b. Tree limbs, leaves, clippings, and similar residues may be segregated and deposited in a permitted unit separate from other solid waste and shall be covered every 30 days, or more often if necessary to control blowing and prevent rodent harborage.

c. Construction material and woodwastes may be deposited in a permitted unit separate from other solid wastes and covered every 30 days. This unit must meet the standards provided in LAC 33:VII.719 and 721.

6. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type I facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a) fire department as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association;

(b) emergency medical services agency as to whether or not that agency has the ability to meet the response requirements of Section 473 of the Life Safety Code of the National Fire Protection Association; and

(c) hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.6.c.i of this Section, the applicant for a Type I facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.6.c.i of this Section.

iii. The requirements of Clauses D.6.c.i and ii of this Section shall not apply if the applicant for a Type I facility has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association.

d. Applicants for Type II facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a) fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b) hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.6.d.i of this Section, the applicant for a Type II facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.6.d.i of this Section.

iii. The provisions of this Subparagraph shall not apply to a Type I facility that is also a Type II facility.

e. Facility operators for a Type II facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Preclosure Requirements

a. Final cover installation shall be initiated no later than 30 days after and shall be completed no later than 90 days after final grades are reached in each unit of a facility or the date of known final receipt of solid waste in the unit, whichever comes first. These deadlines may be extended by the administrative authority if necessary due to inclement weather or other circumstances to a maximum of 60 days for initiation and a maximum of 180 days for completion.

b. Standing water shall be solidified or removed.

c. The runoff-diversion system shall be maintained until the final cover is installed.

d. The runoff-diversion system shall be maintained and modified to prevent overflow of the landfill to adjoining areas.

e. Insect and rodent inspection is required to be documented before installation of final cover, and extermination measures must be provided if required as a result of the facility inspection.

f. Final compaction and grading shall be completed before capping.

g. All facilities with a potential for gas production or migration shall provide a gas collection/treatment or removal system.

3. Closure Requirements

a. Final Cover

i. Final cover shall be placed on top of the daily or intermediate cover that is used as the grading layer to provide a stable base for subsequent layers.

ii. Final cover shall be a minimum of 24 inches of recompacted clay with a permeability of less than 1×10^{-7} cm/sec overlain with an approved geomembrane covering the entire area. Areas that are steeper than 4:1 slope do not require geomembrane overlay.

iii. The Office of Environmental Compliance, Surveillance Division, shall be notified after the final cover is applied.

iv. A minimum of 6 inches of topsoil shall be placed on top of the soil cover to support vegetative growth to prevent erosion.

v. Other covers that satisfy the purposes of minimizing infiltration of precipitation, fire hazards, odors, vector food and harborage, as well as discouraging scavenging and limiting erosion, may be submitted for consideration by the administrative authority.

vi. Alternate final cover used in accordance with Clause E.3.a.v of this Section must provide performance equivalent to or better than the final cover requirements in Clauses E.3.a.ii and iv of this Section.

vii. The side slopes shall be no steeper than 3(H):1(V) and the top of the final cap shall be at minimum a four percent slope, for proper maintenance and drainage.

b. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

c. Landfills must be closed in a manner that minimizes the need for further maintenance and minimizes the post-closure release of leachate to groundwaters or surface waters to the extent necessary to protect human health and the environment. Quality-assurance/quality-control procedures shall be developed and implemented to

ensure that the final cover is designed, constructed, and installed properly.

d. The permit holder shall update the parish mortgage and conveyance records by recording the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services, Waste Permits Division, with a true copy of the document filed and certified by the parish clerk of court.

4. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Waste Permits Division, approves closure. The length of the post-closure care period for landfills may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13, and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. Post-Closure Care Length

a. Facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility.

b. Existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

c. However, if the facility received waste on or after October 9, 1991, the final cover must be maintained as specified in Subparagraph F.3.a of this Section for 30 years after closure.

3. The post-closure care, except as otherwise specified above, must consist of at least the following:

a. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Services, Waste Permits Division, on the integrity of the final cap (The Office of Environmental Compliance, Environmental Technology Division, shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover.);

b. maintaining and operating the leachate collection and removal system, until leachate is no longer generated or until the permit holder can demonstrate that the leachate no

longer poses a threat to human health or the environment in accordance with LAC 33:I.Chapter 13;

c. maintaining and operating the gas collection/treatment or removal system and the gas-monitoring system; and

d. maintaining the groundwater-monitoring system and monitoring the groundwater in accordance with LAC 33:VII.805.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2492 (October 2005), LR 33:

§713. Standards Governing Surface Impoundments (Type I and II)

A. Surface Hydrology

1. Facilities located in a 100-year flood plain shall be filled to bring site elevation above flood levels, or perimeter levees or other measures must be provided to maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system must be designed for a 24-hour/25-year storm event. Adequate freeboard shall be provided to prevent overtopping by wave action.

4. Facilities located in a 100-year flood plain shall not restrict the flow of the 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

5. Surface run-on from outside the facility shall be diverted and prevented from entering the facility, with provisions for maintaining adequate freeboard above the requirements of Paragraph A.1 of this Section. A run-on control system shall be installed to prevent run-on during the peak discharge from a 24-hour/25-year storm event.

6. Existing surface impoundments, including existing ditches that receive solid waste, that are designed to collect or transport run-on (e.g., storm water) are not required to comply with any of the requirements of LAC 33:VII.713.A.3, 4, and 5. This Subsection does not relieve such facilities from compliance with the Louisiana Water Quality regulations (LAC 33:Part IX).

B. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures must be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

3. Liners

a. Liners for Type I and II proposed surface impoundments and for surface impoundments constructed subsequent to the required upgrade date specified in LAC 33:VII.513 must comply with these standards. (Units of surface impoundments on which construction is completed prior to the upgrade date specified in LAC 33:VII.513 and that have received a temporary permit or standard permit prior to February 1, 1993, are not governed by these liner standards.)

b. The permit holder or applicant shall provide and implement a quality-assurance/quality-control plan for liner construction and maintenance that will ensure that liners are designed, constructed, installed, and maintained properly. All facilities shall have quality-assurance/quality-control plans for the excavations. All excavations and liners shall be inspected and certified by a professional engineer, licensed in the state of Louisiana, with the appropriate expertise.

c. The permit holder or applicant must demonstrate that the liner is placed upon a base that provides the following:

- i. adequate support for the contents;
- ii. maximum resistance to settlement of a magnitude sufficient to affect the integrity of the liner or the proper positioning of the leachate-collection or leak-detection system;
- iii. maximum resistance to hydrostatic heave on the sides or bottom of the excavation; and
- iv. maximum resistance to desiccation.

d. Units of surface impoundments shall be lined along the sides and bottom with a composite liner consisting of a geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3-foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec that has been installed under the supervision of a professional engineer, licensed in the state of Louisiana and with the appropriate expertise. (If the geomembrane component is high-density polyethylene, then the geomembrane component must be at least 60-mil thick. Any geomembrane liner used must be compatible with the solid waste and leachate in the unit.) An alternative liner system that provides equivalent or greater groundwater protection at the site as compared to the composite liner, as demonstrated by generally accepted modeling techniques and based on factors specific to the site and to the solid wastes received, may be used. The burden of proof of adequacy of the alternate liner design shall be on the permit holder or applicant.

e. Special design conditions may be required in areas where circumstances warrant such conditions, as determined by the administrative authority. These special

design standards may include more protective or stringent standards.

4. Gas Collection/Treatment or Removal System. The following standards apply to Type I and II surface impoundments not performing clean closure.

a. Each unit of the facility with a potential for methane gas production and migration shall be required to provide a gas collection/treatment or removal system.

b. If the facility is subject to 40 CFR Part 60, Subpart WWW, then installation of a collection and control system that captures generated gas within the landfill is required.

c. If the facility is not subject to 40 CFR Part 60, Subpart WWW, a gas collection/treatment or removal system shall be such that it limits methane gas to lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

d. Sampling protocol, chain of custody, and test methods shall be established for all gas collection/treatment or removal systems.

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. If applicable, the annual disposer's report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal and to determine remaining capacity during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor and/or disposer annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual-reporting form.

e. A facility that receives industrial solid waste shall utilize, in its annual report, the appropriate industrial waste code number.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of

shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application;

iv. permit modifications;

v. certified field notes for construction;

vi. operator training programs;

vii. daily log;

viii. quality-assurance/quality-control records;

ix. inspections by the permit holder or operator;

x. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable;

xi. records demonstrating that liners and leak-detection and cover systems are constructed or installed in accordance with appropriate assurance procedures;

xii. monitoring, testing, or analytical data;

xiii. any other applicable or required data deemed necessary by the administrative authority;

xiv. records on groundwater sampling results;

xv. post-closure monitoring reports; and

xvi. copies of all documents received from or submitted to the department.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);

- d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;
- e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;
- f. the methods that will be used to ensure that the grade and slope of both the on-site drainage system and the run-on diversion system are maintained and serve their intended functions;
- g. the methods that will be used to ensure that the designed capacity of the impoundment remains unchanged; and
- h. the methods and inspection frequencies that will be used to establish that the levees and required freeboards are maintained.

3. Facility Operational Standards

a. Air-Monitoring Standards

i. Facilities receiving waste with a potential to produce methane gas shall be subject to the air-monitoring requirements.

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Waste Permits Division, a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

(a). The type and frequency of monitoring shall be determined based on the following factors:

- (i). soil conditions;
- (ii). hydrogeologic conditions surrounding the facility;
- (iii). hydraulic conditions surrounding the facility; and
- (iv). the locations of the facility structures and property boundaries.

(b). The minimum frequency of monitoring shall be quarterly.

iii. If methane gas levels exceeding the limits specified in Clause D.3.a.ii of this Section are detected, the owner or operator shall:

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923; and

(b). within 30 days of detection, submit a remediation plan for the methane gas releases to the Office of Environmental Assessment, Environmental Technology Division. The plan shall describe the nature and extent of the problem and the proposed remedy, and shall include an implementation schedule. The plan shall be implemented within 60 days of detection.

iv. The permit holder shall make prompt notification to the Office of Environmental Compliance in accordance with LAC 33:I.3923 when strong odors occur at facility boundaries or when methane gas levels exceed the limit specified in Clause D.3.a.ii of this Section.

v. Records of inspections, surveys, and gas monitoring results shall be maintained at the facility.

vi. Odors shall be controlled by the best means practicable.

vii. Facilities shall ensure that the units not violate any applicable requirements developed under a state

implementation plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

b. Surface impoundments shall be designed, constructed, maintained, and operated to prevent overtopping by overfilling, wave action, or action of storms.

c. Surface impoundments shall be inspected daily and after storms to detect evidence of deterioration of the dikes and levees, overtopping, malfunctions, or improper operation. Excessive vegetative growth that prevents proper access, inspection, or operation, or may provide a conduit for groundwater contamination shall be removed.

d. If a leak in an impoundment is found, the administrative authority shall be notified in accordance with LAC 33:I.Chapter 39.

e. Waste Characterization. Hazardous waste determination, pursuant to LAC 33:V.1103, shall be performed on all solid waste going to disposal facilities, prior to acceptance of the solid waste and annually for two years following acceptance. Every year thereafter, the generator shall certify that the waste remains unchanged.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type I facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association;

(b). emergency medical services agency as to whether or not that agency has the ability to meet the response requirements of Section 473 of the Life Safety Code of the National Fire Protection Association; and

(c). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.5.c.i of this Section, the applicant for a Type I facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.5.c.i of this Section.

iii. The requirements of Clauses D.5.c.i and ii of this Section shall not apply if the applicant for a Type I facility has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association.

d. Applicants for Type II facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.5.d.i of this Section, the applicant for a Type II facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.5.d.i of this Section.

iii. The provisions of this Subparagraph shall not apply to a Type I facility that is also a Type II facility.

e. Facility operators for a Type II facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Preclosure Requirements. The following standards apply to preclosure requirements for surface impoundments with on-site closure.

a. All facilities with a potential for gas production or migration shall provide a gas collection/treatment or removal system.

b. The runoff-diversion system shall be maintained and modified to prevent overflow of the facility to adjoining areas.

3. Closure Requirements

a. Surface liquids and sludges containing free liquids shall be dewatered or removed.

b. If a clean closure is achieved, there are no further post-closure requirements. The closure plan shall reflect a method for determining that all waste has been removed and such a plan shall, at a minimum, include the following:

i. identification (waste analysis) of the wastes that have entered the facility;

ii. selection of the indicator parameters to be sampled that are intrinsic to the wastes that have entered the facility in order to establish clean-closure criteria. Justification of the parameters selected shall be provided in the closure plan;

iii. sampling and analyses of the uncontaminated soils in the general area of the facility for a determination of background levels using the indicator parameters selected. A diagram showing the location of the area proposed for the background sampling, along with a description of the sampling and testing methods, shall be provided and the Office of Environmental Compliance, Surveillance Division, shall be notified at least five days prior to any sampling event;

iv. a discussion of the sampling and analyses of the "clean" soils for the selected parameters after the waste and contaminated soils have been excavated. Documentation regarding the sampling and testing methods (i.e., including a plan view of the facility, sampling locations, and sampling quality-assurance/quality-control programs) shall be provided;

v. a discussion of a comparison of the samples from the area of the excavated facility to the background samples, or applicable RECAP standards. Concentrations of the selected parameters of the bottom and side soil samples of the facility shall be equal to or less than the background sample or applicable RECAP non-industrial standards to meet clean closure criteria;

vi. analyses to be sent to the Office of Environmental Services, Waste Permits Division, confirming that clean closure has been achieved;

vii. identification of the facility to be used for the disposal of the excavated waste; and

viii. a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services, Waste Permits Division, before backfilling takes place. The administrative authority shall determine whether the facility has been closed properly.

c. If solid waste remains at the facility a final cover shall be required that meets the following standards.

i. Final cover shall be a minimum of 24 inches of recompacted clay with a permeability of less than 1×10^{-7} cm/sec overlain with an approved geomembrane covering the entire area. Areas that are steeper than 4:1 slope do not require geomembrane overlay.

ii. The Office of Environmental Compliance, Surveillance Division, shall be notified after the final cover is applied.

iii. A minimum of 6 inches of topsoil shall be placed on top of the soil cover to support vegetative growth to prevent erosion.

iv. Other covers that satisfy the purposes of minimizing infiltration of precipitation, fire hazards, odors, vector food and harborage, as well as discouraging scavenging and limiting erosion, may be submitted for consideration and approval by administrative authority.

v. Alternate final cover used in accordance with Clause E.3.c.iv of this Section must provide performance equivalent to or better than the final cover requirements in Clauses E.3.c.i and iii of this Section.

vi. The finished grade shall be sufficiently sloped for proper maintenance and drainage.

vii. All facilities with a potential for gas production or migration shall provide a gas collection/treatment or removal system.

d. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

e. Surface impoundments shall be closed in a manner that minimizes the need for further maintenance and minimizes the post-closure release of leachate to groundwaters or surface waters to the extent necessary to protect human health and the environment. Quality-assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly.

4. Alternate Closure Standards. The administrative authority may allow alternative closure under the following conditions.

a. If levels of contamination at the time of closure meet non-industrial standards as specified in LAC 33:I.Chapter 13 and approval of the administrative authority is granted, the requirements of Subparagraph E.4.b and Subsection F of this Section shall not apply.

b. If levels of contamination at the time of closure meet industrial standards as specified in LAC 33:I.Chapter 13 and approval of the administrative authority is granted, the requirements of this Paragraph and Subsection F of this Section shall apply.

5. With the exception of those sites clean closed or closed in accordance with Subparagraph E.4.a of this Section, within 90 days after a closure is completed, the permit holder shall have entered in the mortgage and conveyance records of the parish in which the property is located, a notation stating that solid waste remains at the site and providing the indicator levels obtained during closure.

6. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Waste Permits Division, approves closure. The length of the post-closure care period for surface impoundments may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13 and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. The following standards regarding post-closure requirements apply to surface impoundments with on-site closure and alternative closure standards.

a. Post-Closure Care Length

i. Facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility.

ii. Existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

iii. However, if the facility received waste on or after October 9, 1991, the final cover must be maintained as specified in Subparagraph F.2.b of this Section for 30 years after closure.

b. The post-closure care, except as otherwise specified above, must consist of at least the following:

i. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Services, Waste Permits Division, on the integrity of the final cap;

ii. maintaining and operating, if applicable, the leak-detection system;

iii. maintaining and operating the gas collection/treatment or removal system and the gas-monitoring system; and

iv. maintaining the groundwater-monitoring system and monitoring the groundwater in accordance with LAC 33:VII.805.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:

§715. Standards Governing Landfarms (Type I and II)

A. Surface Hydrology

1. Facilities located in a 100-year flood plain shall be filled to bring site elevation above flood levels, or perimeter levees or other measures shall be provided to maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not completed the post-closure period to adjoining areas during a 24-hour/25-year storm event.

4. Facilities located in a 100-year flood plain shall not restrict the flow of a 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

5. A run-on control system shall be installed to prevent run-on during the peak discharge from a 24-hour/25-year storm event.

6. Land slope shall be controlled to prevent erosion.

7. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

B. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight and dry-weight tons per year) received from in-state generators and from out-of-state generators during the reporting period. The annual disposer's report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the disposer annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual-reporting form.

e. A facility that receives industrial solid waste shall utilize, in its annual report, the appropriate industrial waste code number.

f. The following reports shall be submitted to the Office of Environmental Assessment, Environmental Technology Division:

i. a copy of the semiannual soil waste mixtures tests and analyses of the results with conclusions, submitted semiannually, or more frequently if deemed necessary by the administrative authority. Test parameters shall consist of soil pH, total nitrogen, phosphorus, organic matter, salts (intrinsic to the waste), cumulative metals, and others as deemed necessary on a site- and waste-specific basis;

ii. annual reports of the analysis of all test results on the soils, land-use, and crop information, calculated

amounts of waste applied per acre, total amounts of nitrogen applied per acre, and cumulative-metals loading. Annual reports shall be submitted to the Office of Environmental Services, Waste Permits Division, for a minimum of three years for Type II landfarms and 10 years for Type I landfarms after closure and shall contain analyses of all test results of the soils. The post-closure monitoring annual reporting may be reduced for certain types of landfarms if the permit holder demonstrates to the administrative authority's satisfaction that such a change is warranted.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application;

iv. permit modifications;

v. certified field notes for construction;

vi. operator training programs;

vii. daily log;

viii. quality-assurance/quality-control records;

ix. inspections by the permit holder or operator;

x. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable;

xi. monitoring, testing, or analytical data;

xii. any other applicable or required data deemed necessary by the administrative authority;

xiii. records on groundwater sampling results;

xiv. post-closure monitoring reports;

xv. copies of all documents received from or submitted to the department; and

xvi. reports specified in Subparagraph C.1.f of this Section.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present

special handling or disposal problems may be excluded by the administrative authority.

b. Industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be disposed of or processed only in Type I or Type I-A facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes.

c. Grazing by animals whose products are consumed by humans shall be prevented.

d. Only waste that is demonstrated to be biodegradable will be considered for disposal in a landfarm.

e. A comprehensive quality-assurance/quality-control plan shall be provided to ensure that incoming wastes are in conformance with the facility permit.

f. Solid waste with concentrations of polychlorinated biphenyls (PCBs) of 10 mg/kg or more shall not be disposed of in a landfarm.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing or disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;

f. the methods that will be used to ensure that the grade and slope of both the on-site drainage system and the run-on diversion system are maintained and serve their intended functions;

g. a comprehensive operational management plan for the facility that indicates with calculations that the acreages and methods are adequate for treating the type and volume of wastes anticipated. The plan shall include contingencies for variations.

3. Facility Operational Standards

a. Air-Monitoring Standards

i. Facilities receiving waste with a potential to produce gases shall be subject to the air-monitoring requirements.

ii. The permit holder shall make prompt notification to the Office of Environmental Compliance in accordance with LAC 33:I.3923 when strong odors occur at facility boundaries.

iii. Records of inspections, surveys, and, if applicable, gas-monitoring results shall be maintained at the facility.

iv. Odors shall be controlled by the best means practicable.

v. Facilities shall ensure that the units do not violate any applicable requirements developed under a State Implementation Plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

b. The maximum allowable lifetime-metals loading for soils at facilities shall be restricted to the limits specified in the following table. For organic waste, the application rate shall be controlled to ensure that the residual concentration in soils does not exceed the applicable standard of LAC 33:I.Chapter 13 (RECAP). The requirements may be modified by the department if the unit is constructed with an underdrain system that captures liquid infiltrating the treatment zone.

Maximum Allowable Metal Loading (lb/acre)*	
Arsenic	37
Cadmium	35
Copper	1300
Lead	270
Mercury	15
Nickel	370
Selenium	89
Zinc	2500
*Other metals not listed may be subject to restrictions based upon the metal content of the waste.	

c. Surface application of liquid waste shall not exceed 2 inches per week.

d. Soil in the zone of incorporation shall be monitored to assess the effectiveness of ongoing treatment, management needs, and soil integrity.

e. Nitrogen concentrations in the waste shall be within the limits deemed acceptable, as determined by plant-nitrogen uptake and soil and waste analyses (which shall indicate the movement of all forms of nitrogen). The potential for nitrogen to enter the groundwater shall be addressed.

f. Waste shall be applied to the land surface or incorporated into the soil within 3 feet of the surface.

g. A comprehensive quality-assurance/quality-control plan shall be provided to ensure that all incoming wastes are in conformance with the facility permit and these regulations.

h. Tests of soil/waste mixtures and analyses of the results, with conclusions, shall be conducted semiannually, or more frequently if deemed necessary by the administrative authority. Test parameters shall consist of soil pH, total nitrogen, phosphorus, salts intrinsic to waste, cumulative metals, organic matter, and others deemed necessary by the administrative authority.

i. The administrative authority may provide additional requirements necessary on a site-specific basis depending on waste type and method of application.

j. Landfarms that receive only domestic sewage sludge and septic tank pumpings shall do so in accordance with LAC 33:IX.Chapter 69.

k. Waste Characterization. Hazardous waste determination, in accordance with LAC 33:V.1103, shall be performed on all solid waste going to disposal facilities, prior to acceptance of the solid waste and annually for two years following acceptance. Every year thereafter, the generator shall certify that the waste remains unchanged.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facility's operational needs.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type I facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association;

(b). emergency medical services agency as to whether or not that agency has the ability to meet the response requirements of Section 473 of the Life Safety Code of the National Fire Protection Association; and

(c). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.5.c.i of this Section, the applicant for a Type I facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.5.c.i of this Section.

iii. The requirements of Clauses D.5.c.i and ii shall not apply if the applicant for a Type I facility has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association.

d. Applicants for Type II facilities shall submit certifications from the local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.5.d.i of this Section, the applicant for a Type II facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.5.d.i of this Section.

iii. The provisions of this Subparagraph shall not apply to a Type I facility that is also a Type II facility.

e. Facility operators for a Type II facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

3. Closure Requirements. During the closure period the permit holder shall:

a. continue with all operations (including pH control) necessary to continue normal waste treatment within the treatment zone;

b. maintain the run-on control system;

c. maintain the runoff management system;

d. control wind dispersal of odors and/or waste; and

e. continue to comply with any prohibitions or conditions concerning growth of food-chain crops.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Waste Permits Division, approves closure. The length of the post-closure care period for landfarms may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13 and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. Type I Landfarms. For facilities that receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under this Section for 10 years after closure. For facilities that did not receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under this Section for three years after closure.

3. Type II Landfarms

a. The permit holder shall continue to comply with any prohibitions or conditions under this Section for three years after closure.

b. Annual reports shall be submitted to the Office of Environmental Compliance, Surveillance Division, for a period of three years after closure and shall contain results of analysis of all soil/waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:

Subchapter B. Solid Waste Processors

§717. Standards Governing All Type I-A and II-A Solid Waste Processors

A. Location Characteristics. The information on location characteristics listed in this Subsection is required and shall be provided for all Type I-A and II-A solid waste processing and disposal facilities, as outlined in LAC 33:VII.521.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings shall be legible. Area master plans shall show:

- a. the facility;
- b. the road network;
- c. major drainage systems;
- d. drainage-flow patterns;
- e. the location of the closest population centers;
- f. if the facility processes or disposes of putrescible

solid waste, the location of any public-use airport used by turbojet aircraft or piston-type aircraft (if within a 5-mile radius);

g. the location of the 100-year flood plain, based on the most recent data; and

- h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. A letter shall be acquired from the appropriate agency or agencies regarding any facility receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

4. Facilities that process or dispose of putrescible solid waste shall not be located within 10,000 feet of the end of any public-use airport runway used by turbojet aircraft or within 5,000 feet of the end of any public-use airport runway used only by piston-type aircraft.

5. A description shall be included of the total existing land use within 3 miles of the facility (by approximate percentage) including, but not limited to:

- a. residential;
- b. health-care facilities and schools;
- c. agriculture;
- d. industrial and manufacturing;
- e. other commercial;

f. recreational; and

g. undeveloped.

6. A current aerial photograph, representative of the current land use, of a 1-mile radius surrounding the facility is required. The aerial photograph shall be of sufficient scale to depict all pertinent features.

7. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly-owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations. The following information on environmental characteristics shall be provided:

a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter, or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter; and

c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility.

8. Processing facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

9. A statement of the estimated population, the source of the estimation, and the population density within a 3-mile radius of the facility boundary is required of all facilities.

10. A wetlands demonstration, if applicable, is required in accordance with LAC 33:VII.709.A.8.

B. Facility Characteristics. The following facility characteristics are required for Type I-A and Type II-A solid waste processors and disposers, as outlined in LAC 33:VII.521.C.

1. Elements of the process or disposal system employed shall be provided, including, as applicable, property lines, original contours (shown at not greater than 5-foot intervals), buildings, units of the facility, drainage, ditches, and roads.

2. Perimeter barriers and other control measures, such as security and signs, shall be provided as follows.

a. Facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

b. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

c. During nonoperating hours, each facility entry point shall be locked.

d. Facilities that receive wastes from off-site sources shall post readable signs that list the types of waste that can be received at the facility.

3. Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the

adjoining landowner. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property. Buffer zone requirements may be waived or modified by the administrative authority for areas of processing facilities that have been closed in accordance with these regulations and for existing facilities.

b. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

4. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical care, or such services shall be provided internally and in accordance with Paragraph G.5 of this Section.

5. Landscaping. All facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, shall provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods for Receiving and Monitoring Incoming Wastes

a. All processing facilities shall be equipped with a device or method to determine quantity (by wet-weight tonnage); sources (whether the waste was generated in-state or out-of-state and, if it is industrial solid waste, where it was generated); and types of incoming waste (i.e., commercial, residential, infectious). All facilities shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, unauthorized, or unpermitted solid waste).

b. All processing facilities shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph B.6.a of this Section.

7. Discharges from operating units of all facilities shall be controlled and shall conform to applicable state and federal laws. Applications for applicable state and federal discharge permits shall be filed before a standard permit may be issued.

C. Surface Hydrology

1. Facilities located in a flood plain, wetlands, or areas historically subject to overflow from floods shall be filled to bring site elevation above flood levels or otherwise protected by measures approved on a site-specific basis. Perimeter levees or other measures shall provide and maintain adequate protection against a 100-year flood.

2. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system shall be designed for a 24-hour/25-year storm event.

D. Facility Geology

1. Except as provided in Paragraph D.2 of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that shall provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing stratum that would provide a conduit to such aquifers.

2. A design for surfacing natural soils that do not meet the requirement in Paragraph D.1 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with

expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph D.1 of this Section shall be provided to the Office of Environmental Services, Waste Permits Division.

3. Specific requirements for Type III facilities are found in LAC 33:VII.Chapter 8.

E. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures shall be constructed adjacent to the facility in order to protect the facility against a 100-year flood.

b. The perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity.

F. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual-reporting form.

e. A facility that receives industrial solid waste shall utilize, in its annual report, the appropriate industrial waste code number.

f. The annual report for incinerator waste-handling facilities, shredders, balers, compactors, and transfer stations shall identify the quantity (expressed in wet-weight tons per year), and types of solid waste transported for disposal. The report shall also identify the permitted facility used for disposal of the waste.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application;
- iv. permit modifications; and
- v. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

G. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

e. Industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be processed only in Type I-A facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes.

f. The receipt of mercury and/or cadmium-bearing batteries by Type I-A and II-A incinerator waste-handling facilities is strictly prohibited.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing operations. At a minimum, the plan shall address:

- a. the route the waste will follow after receipt;
- b. the sequence in which the waste will be processed or disposed of within a unit;
- c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.); and
- d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented.

3. Facility Operational Standards

a. Waste Characterization. Hazardous waste determination, in accordance with LAC 33:V.1103, shall be performed on all solid waste received for processing, prior to acceptance of the solid waste and annually for two years following acceptance. Every year thereafter, the generator shall certify that the waste remains unchanged.

b. All containers shall provide containment of the wastes and thereby control litter, odor, and other pollution of adjoining areas.

c. Provisions shall be made for at least daily cleanup of the facility, including equipment and waste-handling areas.

d. No solid waste shall be stored long enough to cause a nuisance, health hazard, or detriment to the environment.

e. Treatment facilities for washdown and other contaminated water shall be provided.

f. Facilities that employ incineration shall develop an ash-management plan that includes, at a minimum, testing, handling, transportation, and disposal of ash at a permitted facility.

g. Facilities shall have a plan for handling contaminated water.

h. Specific Operational Standards for Incinerator Waste-Handling Facilities

i. Handling. Ash shall be properly wetted and contained so as to ensure that there are no dust emissions during loading, transporting, or unloading.

ii. Testing. Testing procedures, schedules, and methods shall be submitted to the Office of Environmental Services, Waste Permits Division, for review and approval before disposal operations begin. Disposal of ash shall be only in a permitted Type I facility. Processing of ash shall be only in a permitted Type I-A facility.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph G.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type I-A facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a) fire department as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association;

(b). emergency medical services agency as to whether or not that agency has the ability to meet the response requirements of Section 473 of the Life Safety Code of the National Fire Protection Association; and

(c). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause G.5.c.i of this Section, the applicant for a Type I-A facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause G.5.c.i of this Section.

iii. The requirements of Clauses G.5.c.i and ii of this Section shall not apply if the applicant for a Type I-A facility has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association.

d. Applicants for Type II-A facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clauses G.5.d.i of this Section, the applicant for a Type II-A facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause G.5.d.i of this Section.

iii. The provisions of this Subparagraph shall not apply to a Type I-A facility that is also a Type II-A.

e. Facility operators for a Type II-A facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

H. Implementation Plans. The implementation plans for all facilities shall include the following:

1. a construction schedule for existing facilities, which shall include beginning and ending time frames and time frames for the installation of all major features; and

2. details on phased implementation, if any proposed facility is to be constructed in phases.

I. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Closure Requirements

a. Insect and rodent inspection is required to be documented before closure, and extermination measures

shall be provided if required as a result of the final inspection.

b. All remaining waste shall be removed to a permitted facility for disposal.

c. The permit holder shall verify that the underlying soils have not been contaminated due to the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.3-6 shall be provided to the administrative authority. The Office of Environmental Compliance, Surveillance Division, shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526, 2610 (November 2000), repromulgated LR 27:704 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2494 (October 2005), LR 33:

Subchapter C. Minor Processing and Disposal Facilities **§719. Standards Governing All Type III Processing and Disposal Facilities**

[Formerly some of the provisions in Subsections A, B, and E were in §521

A. Location Characteristics. The information on location characteristics listed in this Subsection is required and shall be provided for all Type III solid waste processing and disposal facilities, as outlined in LAC 33:VII.521.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings shall be legible. Area master plans shall show:

- a. the facility;
- b. the road network;
- c. major drainage systems;
- d. drainage-flow patterns;
- e. the location of the closest population centers;
- f. if the facility processes or disposes of putrescible solid waste, the location of any public-use airport used by turbojet aircraft or piston-type aircraft (if within a 5-mile radius);
- g. the location of the 100-year flood plain based on the most recent data; and
- h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. Facilities that compost putrescible solid waste shall not be located within 10,000 feet of the end of any public-use airport runway used by turbojet aircraft or within 5,000 feet of the end of any public-use airport runway used by only piston-type aircraft.

4. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly-owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations. The following information on environmental characteristics shall be provided:

a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter, or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter; and

c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility.

5. A letter shall be acquired from the appropriate agency or agencies regarding any facility receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

6. A description shall be included of the total existing land use within 3 miles of the facility (by approximate percentage) including, but not limited to:

- a. residential;
- b. health-care facilities and schools;
- c. agriculture;
- d. industrial and manufacturing;
- e. other commercial;
- f. recreational; and
- g. undeveloped.

7. A current aerial photograph, representative of the current land use, of a 1-mile radius surrounding the facility is required. The aerial photograph shall be of sufficient scale to depict all pertinent features.

8. Processing or disposal facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

9. A statement of the estimated population, the source of the estimation, and the population density within a 3-mile radius of the facility boundary is required of all facilities.

10. A wetlands demonstration, if applicable is required, in accordance with LAC 33:VII.709.A.8.

B. Facility Characteristics. The following facility characteristics are required for all Type III solid waste facilities, as outlined in LAC 33:VII.521.C.

1. Elements of the process or disposal system employed shall be provided, including, as applicable, property lines, original contours (shown at not greater than

5-foot intervals), buildings, units of the facility, drainage, ditches, and roads.

2. Perimeter barriers and other control measures, such as security and signs, shall be provided as follows.

a. Facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

b. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

c. During nonoperating hours, each facility entry point shall be locked.

d. Facilities that receive wastes from off-site sources shall post readable signs that list the types of wastes that can be received at the facility.

3. Buffer Zones

a. Buffer zones of not less than 50 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property. Buffer zone requirements may be waived or modified by the administrative authority for areas of woodwaste/construction/demolition-debris landfills that have been closed in accordance with these regulations and for existing facilities. Notwithstanding this Paragraph, Type III air curtain destructors and composting facilities that receive putrescible, residential, or commercial waste shall meet the buffer zone requirements in LAC 33:VII.717.B.3. In addition, air curtain destructors shall maintain at least a 1,000-foot buffer from any dwelling other than a dwelling or structure located on the property on which the burning is conducted (unless the appropriate notarized affidavit waivers are obtained).

b. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

4. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph B.4 of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

5. Landscaping. All facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, shall provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods for Receiving and Monitoring Incoming Wastes

a. All processing or disposal facilities shall be equipped with a device or method to determine quantity (by

wet-weight tonnage), sources (whether the waste was generated in-state or out-of-state), and types of incoming waste. All facilities shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, unauthorized, or unpermitted solid waste).

b. All processing or disposal facilities shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph B.6.a of this Section.

7. Discharges from operating units of all facilities shall be controlled and shall conform to applicable state and federal laws. Applications for applicable state and federal discharge permits shall be filed before a standard permit may be issued.

C. Surface Hydrology

1. Facilities located in a flood plain, wetlands, or areas historically subject to overflow from floods shall be filled to bring site elevation above flood levels or otherwise protected by measures approved on a site-specific basis. Perimeter levees or other measures shall provide and maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system shall be designed for a 24-hour/25-year storm event.

4. Specific Surface Hydrology Standard for Type III Composting Facilities. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

D. Facility Geology

1. Except as provided in Paragraph D.2 of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that shall provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing stratum that would provide a conduit to such aquifers.

2. A design for surfacing natural soils that do not meet the requirement in Paragraph D.1 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph D.1 of this Section shall be provided to the Office of Environmental Services, Waste Permits Division.

3. Specific requirements for Type III facilities are found in LAC 33:VII.Chapter 8.

E. Implementation Plans. The implementation plans for all facilities shall include the following:

1. a construction schedule for existing facilities, which shall include beginning and ending time frames and time frames for the installation of all major features; and

2. details on phased implementation, if any proposed facility is to be constructed in phases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:

§721. Standards Governing Construction and Demolition Debris and Woodwaste Landfills (Type III)

A. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Interim Cover Requirements

a. Cover material shall:

i. minimize vector-breeding areas and animal attraction by controlling:

(a). fly, mosquito, and other insect emergence and entrance;

(b). rodent burrowing for food and harborage; and

(c). bird and animal attraction;

ii. control leachate generation by:

(a). minimizing external-moisture infiltration;

(b). minimizing erosion; and

(c). utilizing materials with minimum free-liquid content;

iii. reduce fire-hazard potential;

iv. minimize blowing paper and litter;

v. reduce noxious odors by minimizing outward movement of methane and other gases;

vi. provide aesthetic appearance to the landfill operation; and

vii. allow accessibility regardless of weather.

b. Wastes shall be deposited in the smallest practical area each day and compacted. The wastes shall be covered with silty clays applied a minimum of 12 inches thick, at least every 30 days and documented in the facility's records.

3. Levee Construction

a. Levees or other protective measures approved by the administrative authority shall be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

B. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state

generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor and/or disposer annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application; and
- iv. permit modifications.

3. Personnel

a. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Type III facilities receiving construction and demolition debris and woodwaste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators. The requirements of this Subparagraph are not applicable to facilities meeting the criteria of LAC 33:VII.305.A.4.

C. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

e. The following types of waste may be disposed of:

i. *construction/demolition debris* as defined in LAC 33:VII.115;

ii. *woodwastes* as defined in LAC 33:VII.115; and

iii. *yard trash* as defined in LAC 33:VII.115.

f. The disposal of liquid waste, infectious waste, residential waste, industrial waste, commercial waste, RACM, and putrescible waste shall be strictly prohibited and prevented.

g. No solid waste shall be deposited in standing water.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing or disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the side slope, which shall be no steeper than 3(H):1(V);

f. the run-on/runoff-diversion system, which shall be maintained to ensure proper operation of the drainage system; and

g. a quality-assurance/quality-control plan for the management of non-RACM waste, which shall include, at a minimum, detailed procedures involved in transportation, disposal, and monitoring of the waste.

3. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

4. Segregation of Wastes. Waste determined to be unacceptable at a woodwaste and construction/demolition-debris landfill shall be removed from the facility at least every seven days. Storage of this waste shall be in a closed container that prevents vector and odor problems. The facility shall maintain a log of dates and volumes of waste removed from the facility.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type III facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a) fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b) hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause C.5.c.i of this Section, the applicant for a Type III facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause C.5.c.i of this Section.

d. Facility operators for a Type III facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Preclosure Requirements

a. Final cover shall be applied within 30 days after final grades are reached in each unit of a facility. This deadline may be extended by the administrative authority if necessary due to inclement weather or other circumstances.

b. Standing water shall be solidified or removed.

c. The runoff-diversion system shall be maintained until the final cover is installed.

d. The runoff-diversion system shall be maintained and modified to prevent overflow of the landfill to adjoining areas.

e. Insect and rodent inspection is required to be documented before installation of final cover, and extermination measures shall be provided, if required as a result of the facility inspection.

f. Final compaction and grading shall be completed before capping.

3. Closure Requirements

a. Final Cover

i. Final cover shall consist of a minimum of 24 inches of silty clays and 6 inches of topsoil cover for supporting vegetative growth; however, other covers that provide a more practical answer and satisfy the purposes of minimizing fire hazards, odors, vector food and harborage, and infiltration of precipitation, as well as discouraging scavenging and limiting erosion, may be submitted to the Office of Environmental Services, Waste Permits Division, for approval.

ii. The side slope shall be no steeper than 3(H):1(V) and shall have a minimum of a four percent slope on the top of the final cap, unless it can be demonstrated that a lesser slope is sufficient for proper drainage following the post-settlement.

iii. The Office of Environmental Compliance, Surveillance Division, shall be notified prior to planting a ground cover, and the permit holder shall notify the Office of Environmental Compliance, Surveillance Division, once the ground cover is established.

iv. Quality-assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly. An engineering certification verifying that the facility meets the final cover requirements shall be prepared under the supervision of a professional engineer licensed in the state of Louisiana. This certification shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, for approval.

v. A combination of clay and synthetic material approved by the administrative authority may also be used as final cover.

b. The permit holder shall update the parish mortgage and conveyance records by recording the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services, Waste Permits Division, with a true copy of the document filed and certified by the parish clerk of court.

4. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority may release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

E. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Waste Permits Division, approves closure. The time frame of post-closure care may be lengthened, if necessary, to protect human health or the environment in accordance with LAC 33:I.Chapter 13.

2. The integrity of the grade and cap shall be maintained for no less than three years after the date of the administrative authority's approval of the closure of the facility. The Office of Environmental Assessment, Environmental Technology Division, shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover.

3. Annual reports concerning the integrity of the cap shall be submitted to the Office of Environmental Compliance, Surveillance Division, for a period of three years after closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), LR 31:1577 (July 2005), amended by the Office

of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:

§723. Standards Governing Composting Facilities

A. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

b. The perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity.

3. Leachate Management

a. Leachate produced in the composting process shall be collected and treated or disposed of at a permitted facility.

b. Leachate may also be reused in the composting process as a source of moisture.

B. Facility Surface Hydrology. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

e. The annual reports for composting facilities shall identify the quantity (expressed in both dry- and wet-weight tons per year) and types of solid waste distributed for reuse and/or recycling and the ultimate use of the product or the quantity (expressed in both dry- and wet-weight tons per year) of solid waste disposed of. The report shall also identify the permitted facility used for the disposal of the waste.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the

effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application; and
- iv. permit modifications.

3. Personnel

a. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Type III facilities receiving solid waste for composting shall have the number and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling problems may be excluded by the administrative authority.

b. The following types of wastes may be processed:

- i. *yard trash* and *woodwaste* as defined in LAC 33:VII.115;
- ii. *manure* as defined in LAC 33:VII.115;
- iii. *residential* or *commercial solid waste* as defined in LAC 33:VII.115;
- iv. other materials deemed acceptable by the administrative authority.

c. The processing of infectious waste and asbestos waste shall be strictly prohibited and prevented.

d. No solid waste shall be deposited in standing water.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing operations. At a minimum, the plan shall address:

- a. the route the waste will follow after receipt;
- b. the sequence in which the waste will be processed within a unit;
- c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.); and

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented.

3. Facility Operational Standards

a. The operation of composting facilities shall be by methods that result in the aerobic, biochemical decomposition of the organic material received.

b. The facility shall be designed and operated to control vectors, odors, dust, and litter.

c. The construction and turning frequency (if turning is necessary) of a composting facility shall be sufficient to maintain aerobic conditions and to produce a compost product in a time frame that is consistent with the level of technology employed and acceptable to the administrative authority.

d. In-vessel composting shall be conducted in accordance with the manufacturer's specifications and these regulations.

e. The following special requirements apply to facilities handling residential or commercial waste.

i. If the compost is to be used exclusively for application to non-food-chain cropland, the criteria for a process to significantly reduce pathogens (LAC 33:VII.3007.Appendix D.1) shall be met. Otherwise, the facility shall meet the criteria for the processes to further reduce pathogens and for vector attraction reduction (LAC 33:VII.3007.Appendix D.2 and 3009.Appendix E).

ii. The facility shall include the following components:

(a). a receiving area, mixing area, curing area, compost storage area, drying and screening areas, and truck wash area located on surfaces capable of preventing groundwater contamination and resistant to rutting caused by vehicular traffic (Periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated.);

(b). a runoff collection system;

(c). a leachate collection system; and

(d). on-site/off-site treatment systems.

f. The following parameters are to be monitored and recorded during the operation in the time frame specified below (The samples taken for the parameters listed below shall be representative of the compost unit.):

i. temperature, daily;

ii. process odors, daily;

iii. blower operation, daily; and

iv. other parameters as deemed appropriate by the administrative authority.

g. Compost shall be classified based on the type of waste processed, compost maturity, particle size, and organic matter. The following characteristics shall be used.

i. Compost Maturity

(a). *Fresh Organic Matter*—raw material before undergoing decomposition (or at beginning of process).

(b). *Fresh Compost*—organic matter that has been through the thermophilic stage and has undergone partial decomposition.

(c). *Semimature Compost*—compost material that is at the mesophilic stage.

(d). *Mature Compost*—a highly stabilized product that results from exposing compost to a prolonged period of humidification and mineralization, beyond the stage of maturity. Mature compost shall have been cured for at least 60 days after the mesophilic stage is complete. Minimum starting moisture content for curing semimature

compost shall be above 45 percent (by weight) and shall be raised to this value if necessary.

(e). A plot of time versus temperature (to indicate that the temperature of the compost has stabilized over a period of time) or other acceptable methods may be used to determine the level of maturity of compost as defined in Subclauses D.3.g.i.(b)-(d) of this Section.

ii. Particle Size. Particle size shall be determined by using the screen size, listed in Subclauses D.3.g.ii.(a)-(c) of this Section, that the compost passed through. Organic matter content shall be determined by measuring the volatile solids content using the Environmental Protection Agency's (EPA's) approved methods.

(a). *Fine*: < 12 mm and organic matter > 25 percent.

(b). *Medium*: < 15 mm and organic matter > 30 percent.

(c). *Coarse*: < 30 mm and organic matter > 35 percent.

iii. Moisture Content. In the finished compost, the moisture content shall not exceed 55 percent (by weight). The moisture content shall be determined by using the EPA's approved methods.

iv. Concentration Levels. The concentration level of finished compost shall be as shown in the following table.

Metal Concentration Levels of Finished Compost (shown in mg/kg in dry weight)		
Parameter	Category I	Category II
Arsenic	<41	41-75
Cadmium	<39	39-85
Copper	<1500	1500-4300
Lead	<300	300-840
Mercury	<17	17-57
Nickel	<420	420
Selenium	<100	100
Zinc	<2800	2800-7500

h. Finished Compost

i. The finished compost shall be sufficiently stable that it can be stored or applied to land without causing a health hazard, detriment, or nuisance to the environment as determined by the administrative authority.

ii. All distributed compost shall be accompanied with a label or leaflet that indicates, at a minimum, the type of waste from which the compost was derived, any restriction on the use of the product, and recommended application rates.

iii. Compost derived from residential or commercial waste shall meet the criteria of the processes to further reduce pathogens (LAC 33:VII.3007.Appendix D.2) or the process to significantly reduce pathogens (LAC 33:VII.3007.Appendix D.1) as provided in Clause D.3.e.i of this Section. Such compost shall not be offered for sale to or otherwise distributed to the general public unless it meets the criteria of the processes to further reduce pathogens and for vector attraction reduction (LAC 33:VII.3007.Appendix D.2 and 3009.Appendix E).

iv. Any compost made from solid waste that cannot be used pursuant to these regulations shall be reprocessed or disposed of in an approved solid waste facility.

v. Waste received at a composting facility shall be used as compost, sold as compost, or disposed of at a permitted disposal facility within 36 months after receipt.

vi. The sampling and testing methods shall be the EPA's approved methods.

vii. Compost produced outside of the state of Louisiana, which is used or sold for use within the state, shall comply with the requirements of these regulations.

viii. Classes of Finished Compost

(a). *Class M1*—compost that is made only from manure or manure with yard trash and/or woodwaste, which is mature or semimature, is fine or medium, and meets the metals concentrations of Category 1 of Clause D.3.g.iv of this Section. This compost shall have unrestricted distribution except as provided in Clause D.3.e.i of this Section.

(b). *Class M2*—compost that is made only from manure or manure with yard trash and/or woodwaste, which is mature or semimature, is fine or medium, and meets the metals concentrations of Category 2 (but not of Category 1) of Clause D.3.g.iv of this Section. This compost shall be restricted to use with non-food-chain crops.

(c). *Class S1*—compost that is made from solid waste other than only manure or manure with yard trash and/or woodwaste, which is mature, is fine, and meets the metals concentrations in Category 1 of Clause D.3.g.iv of this Section. This compost shall have unrestricted distribution except as provided in Clause D.3.e.i of this Section.

(d). *Class S2*—compost that is made from solid waste other than only manure or manure with yard trash and/or woodwaste, which is mature or semimature, is fine or medium, and meets the metals concentrations in Category 1 or Category 2 of Clause D.3.g.iv of this Section, but does not meet the requirements of Class S1 compost. This compost shall be restricted to use with non-food-chain crops and shall not be used in areas where public contact is likely, such as parks or recreation areas.

(e). *Class YW*—compost that is made only from yard trash and/or woodwaste, which is mature or semimature, and is fine or medium. This compost shall have unrestricted distribution except as provided in Clause D.3.e.i of this Section.

(f). All classes of compost shall be used in accordance with the maximum allowable metal loading limits and annual allowable metal loading limits provided in the following tables and are subject to the restrictions provided in Clause D.3.e.i of this Section. The following metal loading limits shall apply provided specific plant nitrogen uptake and other limitations are met.

Maximum Allowable Metal Loading Limits (lbs/acre)	
Arsenic	37
Cadmium	35
Copper	1300
Lead	270
Mercury	15
Nickel	370
Selenium	89
Zinc	2500

Annual Allowable Metal Loading Limits (lbs/acre)	
Arsenic	1.85
Cadmium	1.75
Copper	65
Lead	135
Mercury	0.75
Nickel	18.5
Selenium	4.45
Zinc	125

ix. Testing of Finished Compost. Composite samples of batches produced at compost facilities shall be analyzed, in accordance with SW-846, at intervals of every three months (see *Liquid Waste* as defined in LAC 33:VII.115) for the following parameters:

- (a). moisture;
- (b). total nitrogen;
- (c). total phosphorus;
- (d). total potassium;
- (e). pH;
- (f). cadmium;
- (g). copper;
- (h). lead;
- (i). nickel;
- (j). zinc;
- (k). arsenic;
- (l). mercury;
- (m). selenium; and
- (n). appropriate parameters for pathogens and vector attraction reduction analysis.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Segregation of Waste

a. Composting facilities involving residential and commercial solid waste shall provide a waste-segregation plan and a recyclables separation program that shall be instituted prior to composting operations.

b. Wastes not intended for composting shall be removed from the facility to a permitted facility at least every seven days. Storage of wastes not intended for composting shall be in a closed container that prevents vector and odor problems. The facility shall maintain a log of dates and volumes of waste removed from the facility due to its inability to be composted.

c. Recyclable waste removed from the waste stream shall be stored in a manner that prevents vector and odor problems and shall be removed from the facility at least every 90 days. The facility shall maintain a log of dates and volumes of recycled waste removed from the facility.

6. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated and submitted annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type III facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.6.c.i of this Section, the applicant for a Type III facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.6.c.i of this Section.

d. Facility operators for a Type III facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Closure Requirements

a. Insect and rodent inspection shall be performed and documented before closure, and extermination measures shall be provided if required as a result of the final inspection.

b. All remaining waste shall be removed to a permitted facility for disposal.

c. The permit holder shall verify that the underlying soils have not been contaminated in the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.4 and 6 shall be provided to the Office of Environmental Services, Waste Permits Division. The Office of Environmental Compliance, Surveillance Division, shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

4. Financial assurance shall be adequate to cover removal of the maximum inventory at any given time, including (if part of closure) the cost of dismantling and removal of materials and buildings, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2496 (October 2005), LR 33:

§725. Standards Governing Separation and Woodwaste Processing Facilities (Type III)

A. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. The perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity.

b. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

B. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

e. The annual report for separation facilities shall identify the quantity (expressed in both dry- and wet-weight tons per year) and types of solid waste transported for disposal. The report shall also identify the permitted facility used for disposal of the waste.

f. The annual reports for separation facilities shall identify the quantity (expressed in both dry- and wet-weight tons per year) and types of solid waste distributed for reuse and/or recycling and the ultimate use of the product.

g. The annual report for portable air curtain destructors shall identify the site and quantity of solid waste processed at each individual site.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the Office of Environmental Services, Waste Permits Division.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application; and
- iv. permit modifications.

3. Personnel. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

4. Type III facilities receiving solid waste for processing shall have the number and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

C. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing operations. At a minimum, the plan shall address:

- a. the route the waste will follow after receipt;
- b. the sequence in which the waste will be processed or disposed of within a unit;
- c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.); and
- d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented.

3. Facility Operational Standards

a. All containers shall provide containment of the wastes and thereby control litter, odor, and other pollution of adjoining areas.

b. Provisions shall be made for at least daily cleanup of the facility, including equipment and waste-handling areas.

c. No solid waste shall be stored long enough to cause a nuisance, health hazard, or detriment to the environment.

d. Treatment facilities for washdown and other contaminated water shall be provided.

e. Facilities shall have a plan for handling contaminated water.

f. Applications for air curtain destructors shall provide the specifications of the type of air curtain unit proposed and additionally adhere to the following requirements.

i. If the air curtain destructor is a trench burner, the approximate dimensions of the trench (pit) shall be specified.

ii. Ash shall be removed on a regular basis so as to not cause a hazard or nuisance.

iii. Water shall be applied to the ash before removal.

iv. Excessive smoldering of woodwaste shall be prevented during non-operating hours.

v. Only untreated *woodwaste* and *yard trash* as defined by LAC 33:VII.115 may be accepted. No burning of treated woodwaste or other solid waste is permitted.

vi. All emissions and burning operations are subject to the Louisiana air quality regulations (LAC 33:Part III). These regulations and any other permit requirements shall be followed.

vii. Only clean fuels (diesel fuel No. 2, etc.) shall be used to light refuse.

viii. Burning shall be conducted between the hours of 8 a.m. and 5 p.m.

ix. Incoming woodwaste shall be inspected at the gate before unloading. If any waste other than woodwaste is detected, the entire load shall be rejected. All rejected loads shall be recorded in the daily log.

x. Storage of woodwaste and yard trash shall be in a designated area.

xi. The volume of woodwaste and yard trash stored on-site shall not exceed 10 days of the processing capacity of the air curtain destructor unless otherwise approved by the administrative authority.

xii. No waste or combustible material shall be stored within 50 feet of the air curtain destructor.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type III facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause C.5.c.i of this Section, the applicant for a Type III facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause C.5.c.i of this Section.

d. Facility operators for a Type III facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Closure Requirements

a. Insect and rodent inspection shall be performed and documented before closure, and extermination measures shall be provided if required as a result of the final inspection.

b. All remaining waste shall be removed to a permitted facility for disposal or properly disposed of on-site as provided for in LAC 33:VII.305.A.8. If waste is removed from the facility, documentation shall be provided that the material was properly disposed of in a permitted facility.

c. The permit holder shall verify that the underlying soils have not been contaminated from the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.4 and 6 shall be provided to the Office of Environmental Services, Waste Permits Division. The Office of Environmental Compliance, Surveillance Division, shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2026 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2496 (October 2005), LR 33:

NOTE: Subchapter E.Financial Assurance for All Processors and Disposers of Solid Waste is moved to Chapter 13

NOTE: §727 is moved to §§1301, 1303, 1305, and 1399.

Chapter 8. Standards Governing General Facility Geology, Subsurface Characterization, and Facility Groundwater Monitoring for Type I, I-A, II, II-A, and III Facilities [Formerly §709.C-E]

§801. General Facility Geology

A. The following standards regarding facility geology are applicable to all Type I, Type I-A, Type II, Type II-A, and Type III facilities.

1. The subsurface soils and groundwater conditions at facilities shall be characterized by a geologist or a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Both field boring logs and laboratory results shall be included as part of the permit application.

2. Except as provided in Paragraph A.3 of this Section, facilities shall have natural soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that shall provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to an underlying sand or other permeable stratum that would provide a conduit to such aquifers.

3. A design for surfacing natural soils that do not meet the requirement in Paragraph A.2 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph A.2 of this Section shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§803. Subsurface Characterization

A. Boring Requirements

1. Boring Requirements Applicable to Type I, II, and III Facilities

a. Borings shall be installed and plugged and abandoned in accordance with the standards in this Chapter, as well as the guidelines established in the latest versions of the LDEQ's and Louisiana Department of Transportation and Development's (LDOTD's) *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook* and the LDOTD's Water Well Rules, Regulations, and Standards in LAC 56. The administrative

authority may approve other forms of geological investigation for Type III facilities, such as hand-augered borings, test pits, excavations, etc., provided that subsurface conditions are characterized by an individual who meets the requirements in LAC 33:VII.801.A, and any holes, test pits, etc., are properly plugged and abandoned.

b. Boring logs shall be submitted for each borehole, including boreholes for monitoring wells and piezometers, and shall include information for boring logs established in the latest versions of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook* and the LDOTD's Water Well Rules, Regulations, and Standards in LAC 56, including the ground surface elevation with respect to NGVD, lithology and the intervals that were cored continuously, and the depth of first encountered groundwater.

c. If the ground surface elevation has changed in any permitted area due to construction or other activities at the facility, than the affected borings shall be re-surveyed to reflect the current ground surface elevation.

d. A plan-view map shall be provided that shows existing topographic contours and locations of all borings, monitoring wells, and piezometers with respect to the facility.

e. A detailed plan-view drawing shall be provided that shows the proposed elevations of the base of units prior to installation of the liner system and boring locations.

2. Requirements Applicable to Type I and Type II Facilities

a. Geotechnical borehole spacing shall be no greater than 450 feet (minimum of four borings required) except for Type II landfarms that require a sufficient spacing between borings to adequately characterize the subsurface soils and groundwater conditions for the facility.

b. Existing permitted facilities that are planning a lateral and/or vertical expansion or changing the permitted lowest point of excavation within the permitted footprint may submit a work plan to the Office of Environmental Assessment, Environmental Technology Division, to demonstrate that an alternative to the geotechnical borehole minimum spacing requirements set forth in Subparagraph A.2.a of this Section will achieve adequate characterization of the subsurface soils and groundwater conditions for the facility. The proposed alternative method shall include a demonstration that the subsurface soils and groundwater conditions have been adequately characterized or shall propose additional actions necessary to achieve adequate characterization. If the department concurs that adequate characterization has been performed, the spacing requirements of Subparagraph A.2.a of this Section may be waived.

c. The elevation (NGVD) of the lowest point of excavation shall be provided.

d. All boreholes shall extend to a depth of at least 30 feet below the elevation (NGVD) of the lowest point of excavation (or the lowest point of the zone of incorporation, for landfarms). At least 10 percent of the borings (minimum of three borings) shall extend to 100 feet below grade level to characterize the shallow geology.

e. All borings shall be continuously sampled to at least 30 feet below the elevation (NGVD) of the lowest point of excavation (or lowest point of the zone of incorporation,

for landfarms), with the use of thin-wall and/or split-spoon devices or similar coring devices. After 30 feet, samples shall be at a maximum of 5-foot intervals. The Office of Environmental Assessment, Environmental Technology Division, may approve other forms of boreholes logging on a case-by-case basis and with proper justification.

3. Boring Requirements Applicable to Type III Facilities

a. Type III facilities shall install a minimum of three borings and at least one boring for every 8 acres of regulated unit(s) to a minimum depth of 5 feet below the lowest point of excavation.

b. All borings shall be continuously sampled to at least 5 feet below the lowest point of excavation with the use of the administrative authority's approved form of geological investigation device.

c. Ground surface elevations (NGVD) of the boring location and the lowest point of excavation shall be surveyed or estimated through the use of USGS quadrangle maps.

d. Logs of borings and other forms of geological investigation approved by the administrative authority for Type III facilities shall be submitted on a geologic cross section and shall include applicable information required in Subparagraph C.2.a of this Section.

B. Groundwater Flow Determination Requirements Applicable to Type I and Type II Facilities

1. Groundwater flow directions shall be determined using a minimum of three piezometers or monitoring wells in each water-bearing zone including zones that comprise the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present).

2. Piezometers and monitoring wells that are used to characterize groundwater flow directions shall be constructed, and well-completion diagrams submitted, in accordance with the applicable well construction standards in LAC 33:VII.805.A.3.

3. The reference point of each piezometer and monitoring well that is used for measuring water levels shall be surveyed by a professional surveyor, licensed in the state of Louisiana.

4. Water levels of piezometers and monitoring wells that are used for determining groundwater flow directions shall be measured at least four times in a one-year period (quarterly) to provide seasonal and temporal fluctuations in groundwater flow rates and directions.

C. Geology and Groundwater Flow Characterization Requirements Applicable to Type I and II Facilities

1. Regional Geology and Groundwater Flow Characterization

a. A geologic cross-section from available published information that depicts the stratigraphy to a depth of at least 200 feet below the ground surface shall be provided.

b. The areal extent, thickness, and depth to the upper surface, and any interconnection of aquifers, from all available information shall be provided for all recognized aquifers that have their upper surfaces within 200 feet of the ground surface.

c. The directions and rates of groundwater flow shall be provided for all recognized aquifers that have their upper surface within 200 feet of the ground surface, shown on potentiometric maps.

2. Facility Geology and Groundwater Flow Characterization

a. Geologic cross sections shall be provided for each transect (line of borings) and shall depict the following information in relation to NGVD:

i. lithologic and boring log data from all borings drilled at the facility, including borings for existing, as well as plugged and abandoned, monitoring wells and piezometers;

ii. locations and depths of borings, monitoring wells, and piezometers;

iii. excavation depths (or depths of the zone of incorporation, for landfarms) on applicable cross sections;

iv. screen intervals of all existing and plugged and abandoned monitoring wells and piezometers;

v. other applicable features such as faults, slurry walls, groundwater dewatering systems, etc.; and

vi. identification of individual stratigraphic units, including units that comprise the uppermost aquifer, uppermost water-bearing permeable zone(s) (if present), lower confining unit, and confining unit that underlies the uppermost water-bearing permeable zone(s) (if present).

b. The areal extent, depths, and thickness of all permeable zones to a depth of at least 30 feet below the lowest point of excavation (or zone of incorporation, for landfarms) shall be provided on structure contour maps and isopach maps, including the zones that comprise the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present). Structure contour maps and isopach maps shall display the location of the facility, boring locations, and corresponding elevation or thickness measurement at each boring location.

c. The areal extent, depths, and thickness of the lower confining unit for the uppermost aquifer and the confining unit underlying the uppermost water-bearing permeable zone(s) (if present) shall be provided on structure contour maps and isopach maps. Structure contour maps and isopach maps shall display the location of the facility, boring locations, and corresponding elevation or thickness measurement at each boring location.

d. Any faults that are mapped as existing through the facility shall be displayed on structure contour maps and shall show the fault trace and arrows pointing to the downthrown side of fault.

e. At least four scaled potentiometric surface maps shall be provided over a one-year period (quarterly) for each saturated permeable zone to a depth of at least 30 feet below the lowest point of excavation (or zone of incorporation, for landfarms), including the zone that comprises the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present). Scaled potentiometric surface maps shall display the location of the facility, monitoring well and piezometer locations, and corresponding water level elevation measurement at each well location.

f. Characterization of groundwater flow directions shall be provided between saturated permeable zones. The characterization shall include the use of various illustrations such as potentiometric surface maps, flow nets depicting vertical and horizontal flow directions, etc.

g. Discussion of any change in groundwater flow direction anticipated to result from any facility activities shall be provided.

h. Establishment of zones that comprise the uppermost aquifer, uppermost water-bearing permeable zone(s) (if present), and lower confining unit shall be provided.

i. Groundwater flow rates and calculations shall be provided for each zone that comprises the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§805. Facility Groundwater Monitoring

A. Groundwater Monitoring System

1. At each facility, a groundwater-monitoring system shall be installed that consists of a sufficient number of wells, installed at appropriate locations and depths, in accordance with Paragraph A.2 of this Section, to yield groundwater samples from the uppermost aquifer, and from the uppermost water-bearing permeable zone(s), to yield sufficient quantities of water for sampling that:

a. represent the quality of the background groundwater that has not been affected by leakage from a unit; and

b. represent the quality of groundwater passing the relevant point of compliance. For the purposes of these regulations, the *relevant point of compliance* is the vertical surface that is located no more than 150 meters downgradient from the unit being monitored and extends down into the uppermost aquifer underlying the facility and any other permeable zones being monitored. The distance may be reduced by the administrative authority. The relevant point of compliance shall be on property owned or controlled by the permit holder and shall be selected based on at least the following factors:

i. hydrological characteristics of the facility and the surrounding land;

ii. volume and physical and chemical characteristics of the leachate;

iii. quantity, quality, and direction of flow of groundwater;

iv. proximity and withdrawal rate of the groundwater users;

v. availability of alternative drinking water supplies;

vi. existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater, and whether the groundwater is currently used or reasonably expected to be used for drinking water; and

vii. public health, safety, and welfare effects.

2. Location of Wells

a. Enough monitoring wells shall be located hydraulically upgradient of the facility to yield samples that represent background groundwater quality as required in Paragraph A.1 of this Section.

b. A minimum of one upgradient well per zone monitored is required.

c. Monitoring wells other than upgradient of the facility may be sampled for background groundwater quality if:

i. hydrologic conditions do not allow the permit holder to determine which wells are hydraulically upgradient; or

ii. sampling at other wells will provide an indication of background groundwater quality that is more representative than sampling of upgradient wells.

d. Enough monitoring wells shall be located hydraulically downgradient from the facility to yield samples that are representative of the groundwater passing the relevant point of compliance. Downgradient monitoring well locations and screen intervals shall target the most likely contaminant pathways. At least two downgradient wells per zone monitored shall be provided. The downgradient wells shall be screened in the same zone as the upgradient wells. Spacing between downgradient wells shall not exceed 800 feet.

e. The number, spacing, and depths of monitoring wells shall be determined based upon site-specific technical information that shall include thorough characterization of:

i. aquifer thickness, groundwater flow rate, and groundwater flow direction including seasonal and temporal fluctuations in groundwater flow; and

ii. saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer, including, but not limited to, thickness, stratigraphy, lithology, hydraulic conductivities, porosities, and effective porosities.

f. The administrative authority will consider for approval multi-unit groundwater monitoring systems, provided these systems meet the requirements of Paragraph A.1 of this Section and will be as protective of human health and the environment as groundwater monitoring systems for individual units.

g. The administrative authority may modify the requirements of this Subsection for site-specific considerations in approving groundwater monitoring systems for ditches.

3. Well Construction

a. Well construction shall be in accordance with the Water Well Rules, Regulations, and Standards, as adopted by the Louisiana Department of Transportation and Development, Water Resources Section, in LAC 56, as well as the guidelines established in the latest version of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*.

b. Construction of monitoring wells for facilities regulated by the department shall require approval of the administrative authority prior to construction.

c. In addition to the construction standards set forth in LDOTD's Water Well Rules, Regulations, and Standards, the following is required for monitoring wells.

i. All wells shall have protective casing with locking covers and a secure locking device in place.

ii. All wells shall have guard posts firmly anchored outside the well slab, but not in contact with the slab.

iii. The maximum allowable screen length shall not exceed 10 feet.

iv. A sign or plate shall be permanently affixed to the protective well casing and shall prominently display:

(a) the well identification number;

(b) identification of the well as upgradient or downgradient;

(c) the elevation of the top of the well casing in relation to NGVD;

(d) screen depth in relation to NGVD; and

(e) the date of well installation and any subsequent repairs.

4. Post Construction. Within 90 days after construction of the wells, the permit holder or applicant shall submit to the Office of Environmental Services, Waste Permits Division, well-completion details to verify that the wells were constructed according to the approved specifications and to document construction procedures. A permit modification fee will not be required. Well-completion details shall include, but are not limited to:

a. daily field notes documenting construction procedures and any unusual occurrences, such as grout loss, etc.;

b. a boring log for each well including surface elevation with respect to NGVD or comparable reference points; and

c. well-completion diagrams for each well showing all pertinent features, such as the elevation of the reference point for measuring groundwater levels, screen interval, and ground surface. If features change from the approved plans, then a permit-modification request shall be submitted in accordance with LAC 33:VII.517.

5. Plugging and Abandonment of Monitoring Wells and Geotechnical Borings

a. The Water Well Rules, Regulations, and Standards, as adopted by the Louisiana Department of Transportation and Development, Water Resources Section, in LAC 56, as well as the guidelines established in the latest version of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*, shall apply to all plugging and abandonment of wells and holes including, but not limited to, observation wells, monitoring wells, piezometer wells, leak-detection wells, assessment wells, recovery wells, abandoned pilot holes, test holes, and geotechnical boreholes.

b. In addition to the standards in LDOTD's Water Well Rules, Regulations, and Standards and in the latest version of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*, the following standards shall apply to plugging and abandonment.

i. For any well, the primary method of plugging and abandonment shall be removal of the well's casing and other components of the well, including, but not limited to, the screen, grout, bentonite seal, filter pack, concrete slab, protective casing, guard posts, and native soil in immediate contact with the grout, and subsequent installation of cement-bentonite grout, from the bottom of the resulting borehole to the ground surface using the tremie method.

ii. In areas where all or a part of the well's casing and other components of the well cannot be plugged and abandoned in accordance with the procedure stated in Clause A.5.b.i of this Section, the well shall be plugged and abandoned by installation of cement-bentonite grout inside the well's casing, from the bottom of the well to the ground

surface, provided that the annular seal is demonstrated to be adequately sealed and the following items are submitted:

(a). supporting documentation, prior to plugging the well, that demonstrates that removal of all or part of the well's casing and other components of the well in accordance with the procedure stated in Paragraph A.5 of this Section will be detrimental to the environment; and/or

(b). certification and supporting documentation by a qualified professional well constructor that shows that removal of the well's casing was attempted and that continued attempts to remove all or a part of the well's casing and other components of the well, as stated in Paragraph A.5 of this Section, would have been detrimental to the environment.

iii. After plugging and abandoning a well, all surface features of the well, including, but not limited to, the concrete slab, guard posts, and protective casing, shall be dismantled and disposed of in an environmentally sound manner, and the surface shall be restored to its original condition.

iv. The permit holder shall notify the Office of Environmental Assessment, Environmental Technology Division, of the plugging and abandonment of monitoring wells or geotechnical borings and keep records of such abandonments.

6. Monitoring wells, piezometers, and other measurement, sampling, and analytical devices shall be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

B. Groundwater Sampling and Analysis Requirements

1. A groundwater-monitoring program shall be implemented, at each facility, that includes consistent sampling and analysis procedures that ensure monitoring results are representative of groundwater quality at the background and downgradient well locations.

2. A groundwater sampling and analysis plan shall be prepared that meets the requirements of this Subsection, as well as the requirements of LAC 33:VII.3005.Appendix C, and that includes procedures and techniques for:

a. sample collection that ensures that collected samples are representative of the zones being monitored and that prevents cross-contamination of or tampering with samples;

b. sample preservation and shipment that ensure the integrity and reliability of the sample collected for analysis;

c. chain of custody control;

d. quality-assurance/quality-control, including detection limits, precision and accuracy of analyses, rinsate samples, field blanks, trip blanks, field duplicates, and matrix spikes/matrix spike duplicates; and

e. statistical evaluation of the groundwater monitoring data for each parameter or constituent sampled at each monitoring well.

3. The sampling and analysis plan shall provide the sampling frequency and include:

a. the selection of parameters or constituents to be sampled and analyzed during detection monitoring, and justification for the parameters or constituents, where applicable;

b. identification of the analytical procedures to be followed (reference source of analytical method); and

c. the practical quantitation limit (PQL) for each parameter or constituent.

4. The PQL for each groundwater monitoring parameter or constituent shall be:

a. the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility; and

b. equal to or lower than the groundwater protection standard for that parameter or constituent as set in accordance with LAC 33:I.Chapter 13, when applicable.

5. Background groundwater quality shall be established for the facility in a hydraulically upgradient well, or other well as provided in Subparagraph A.2.c of this Section, for each groundwater parameter or constituent.

6. Statistical Methods

a. The number of samples collected to establish groundwater quality data shall be consistent with the appropriate statistical procedures used. A decision tree diagram is included in LAC 33:VII.3005.Appendix C, as a reference in the selection of an appropriate statistical procedure.

b. The statistical methods used in evaluating groundwater data shall be specified in the sampling and analysis plan for each parameter or constituent to be monitored. The statistical test chosen shall be conducted separately for each parameter or constituent in each well. One of the following statistical methods shall be used:

i. a parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each parameter or constituent;

ii. an analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's median and the background median levels for each parameter or constituent;

iii. a tolerance or prediction interval procedure in which an interval for each parameter or constituent is established from the distribution of the background data, and the level of each parameter or constituent in each compliance well is compared to the upper tolerance or prediction limit;

iv. a control chart approach that gives control limits for each parameter or constituent; or

v. another statistical test method that meets the performance standards of Subparagraph B.6.c of this Section. The permit holder shall place a justification for this alternative in the operating record and notify the administrative authority of the use of this alternative test. The justification shall demonstrate that the alternative method meets the performance standards of Subparagraph B.6.c of this Section.

c. Any statistical method chosen under Subparagraph B.6.b of this Section shall comply with the following performance standards, as appropriate.

i. The statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of the parameters or constituents. If the

distribution of the chemical parameters or constituents or hazardous parameters or constituents is shown by the permit holder to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the parameters or constituents differ, more than one statistical method may be needed.

ii. If an individual well comparison procedure is used to compare an individual compliance well parameter or constituent concentration with background parameters or constituent concentrations or a groundwater protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment-wide error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons shall be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

iii. If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter or constituent values shall be protective of human health and the environment. The parameters or constituents shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each parameter or constituent of concern.

iv. If a tolerance interval or a prediction interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval shall contain, shall be protective of human health and the environment. These parameters or constituents shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each parameter or constituent of concern.

v. The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit (PQL) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

vi. If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

d. The permit holder shall determine whether or not there is a statistically significant increase over background values for each parameter or constituent required in the particular groundwater monitoring program that applies to the facility, as determined in Subsections C and D of this Section.

i. In determining whether a statistically significant increase has occurred, the permit holder shall compare the groundwater quality of each parameter or constituent at each monitoring well designated in accordance with Subparagraph A.1.b of this Section to the background value of that parameter or constituent, according to the statistical procedures and performance standards specified under Subparagraphs B.6.b and c of this Section.

ii. Within 90 days after the date of sampling, the permit holder shall determine whether there has been a statistically significant increase over background at each monitoring well.

C. Detection Monitoring Program

1. All Type I and II facilities shall conduct a detection monitoring program as described in this Subsection.

2. Initial Sampling

a. For a new facility, monitoring wells shall be sampled and the groundwater monitoring data for a sampling event shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, before waste is accepted.

b. For an existing facility with no wells in place at the time of the application submittal or at the time at which the facility becomes subject to these regulations, the groundwater monitoring data shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, within 90 days after installation of the monitoring wells.

c. A minimum of four independent samples from each well (upgradient and downgradient) shall be collected and analyzed during the initial sampling event for a facility. The initial sampling event shall consist of quarterly sampling over a 1-year period. Thereafter, at least one sample shall be collected and analyzed at each well for each sampling event.

3. After the initial 1-year sampling event, sampling and analysis of all wells shall be conducted every six months.

4. The groundwater monitoring program shall be conducted for the life of the facility and for the duration of the post-closure care period of the facility, which is specified in LAC 33:VII.721.E or 723.E. Groundwater monitoring may be extended beyond the period specified if deemed necessary by the administrative authority.

5. The permit holder or applicant shall submit three bound copies (8 1/2 by 11 inches) of a report of all groundwater sampling results to the Office of Environmental Assessment, Environmental Technology Division, no later than 90 days after each sampling event.

a. The reports shall be submitted on forms provided by the administrative authority and shall include, at a minimum:

i. documentation of the chain of custody of all sampling and analyses;

ii. scaled potentiometric surface maps showing monitoring well and piezometer locations and groundwater elevations with respect to NGVD for each stratum monitored;

iii. plots by well showing concentration of parameters or constituents versus time. If the facility is conducting assessment or corrective action monitoring, then in addition to the plots by well of concentration versus time, an isopleth map shall be submitted for each zone monitored; and

iv. a statement of whether a statistically significant difference in concentration over background concentrations is detected.

b. The administrative authority may waive or require information to be included in each groundwater sampling report.

6. If a statistically significant increase over background concentrations is determined for one or more parameters or constituents required to be monitored, the permit holder shall:

a. submit to the Office of Environmental Assessment, Environmental Technology Division:

i. within 14 days after the determination is made, a report that identifies which parameters or constituents were determined to have shown statistically significant changes over background levels; and

ii. written notification at least 14 days prior to conducting any verification resampling event; and

b. within 90 days after the determination is made:

i. initiate an assessment monitoring program for the facility meeting the requirements of Subsection D of this Section; or

ii. submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating that a source other than the facility being sampled caused the contamination or that the statistically significant increase resulted from an error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration, in writing, the permit holder may continue the detection monitoring program. If the administrative authority does not approve the demonstration, in writing, the permit holder shall establish an assessment monitoring program meeting the requirements of Subsection D of this Section within 90 days after the determination in this Paragraph is made.

7. Detection Monitoring Parameters or Constituents

a. During detection monitoring, Type I landfills and Type I surface impoundments (except Type I landfills that are also Type II landfills and Type I surface impoundments that are associated with such Type I landfills) shall monitor for at least 10 chemical parameters or constituents, both inorganic and organic, that are indicator parameters or constituents or reaction products of the waste and that provide a reliable indication of the presence of contaminants in the groundwater. The administrative authority may reduce the number of parameters, if appropriate, based on site-specific and waste-specific consideration. Selection of these parameters or constituents is subject to the approval of the administrative authority and shall be based on the following factors:

i. types, quantities, and concentrations of constituents in the wastes disposed of at the facility;

ii. mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the facility;

iii. detectability of indicator parameters, waste constituents, or their reaction products in the groundwater; and

iv. concentrations or values and coefficients of variation of the proposed monitoring parameters or constituents in the background groundwater at the facility.

b. During detection monitoring, Type II landfills, including Type II surface impoundments associated with Type II landfills, shall be monitored for all the parameters or constituents listed in LAC 33:VII.3005.Appendix A, Table 1.

c. During detection monitoring, Type I landfills, including runoff and containment areas (ROCAs) or surface

impoundments associated with Type I landfills, shall be monitored for the same parameters or constituents as provided for Type II landfills in Subparagraph C.7.d of this Section and also for at least six parameters or constituents, both organic and inorganic, that are intrinsic to the wastes being disposed at the facility. The intrinsic parameters or constituents shall be selected on the basis of the factors in Clauses C.7.a.i-iv of this Section and shall be subject to the approval of the administrative authority.

d. During detection monitoring, Type II landfills, including runoff and containment areas (ROCAs) or surface impoundments associated with such landfills, shall be monitored for 5-day biochemical oxygen demand (BOD₅), fecal coliform, total dissolved solids (TDS), nitrate, total Kjeldahl nitrogen, and polychlorinated biphenyls (PCBs), if applicable.

e. Type II surface impoundments shall be monitored for the same parameters or constituents as provided for Type II landfills in Subparagraph C.7.d of this Section.

f. The administrative authority may waive or require additional parameters or constituents, based on site-specific or waste-specific information.

D. Assessment Monitoring Program for Type I and Type II Facilities

1. An assessment monitoring program as described in this Subsection is required to be conducted at Type I and Type II facilities whenever a statistically significant increase over background concentrations is detected for one or more of the parameters or constituents sampled and analyzed during the detection monitoring program.

2. The assessment monitoring parameters for:

a. Type II landfills and associated Type II impoundments shall be the parameters listed in Table 2 of LAC 33:VII.3005.Appendix C; and

b. Type I and Type II facilities, other than Type II landfills and associated Type II impoundments, shall be the detection monitoring parameters or constituents listed in Table 1 of LAC 33:VII.3005.Appendix C, although the administrative authority may add additional parameters or constituents on a site-specific and waste-specific basis.

3. Within 90 days of triggering an assessment monitoring program, and annually thereafter, the permit holder shall sample and analyze the groundwater for the assessment monitoring parameters or constituents. A minimum of one sample from each downgradient well shall be collected and analyzed during each sampling event. For any parameter or constituent detected in the downgradient wells as a result of sampling for the assessment monitoring parameters or constituents, a minimum of four independent samples from each well (background and downgradient) shall be collected and analyzed to establish background for the parameters or constituents.

a. The administrative authority may specify an appropriate subset of the wells to be sampled and analyzed for assessment monitoring parameters or constituents during assessment monitoring.

b. The administrative authority may delete any of the assessment monitoring parameters or constituents for a facility if it can be shown that the omitted parameters or constituents are not reasonably expected to be in or derived from the waste contained in the unit.

4. No later than 90 days after the completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Paragraph D.3 of this Section, the permit holder shall submit a report to the Office of Environmental Assessment, Environmental Technology Division, identifying the assessment monitoring parameters or constituents that have been detected. No later than 180 days after completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Paragraph D.3 of this Section, the permit holder shall:

a. resample all wells and analyze for all detection monitoring parameters or constituents and for those assessment monitoring parameters or constituents that are detected in response to Paragraph D.3 of this Section. At least one sample shall be collected from each well (background and downgradient) during these sampling events. This sampling shall be repeated semiannually thereafter;

b. establish background groundwater concentrations for any parameter or constituent detected in accordance with Paragraph D.3 or 4 of this Section; and

c. establish groundwater protection standards for all parameters or constituents detected in accordance with Paragraph D.3 or 4 of this Section. The groundwater protection standards shall be established in accordance with Paragraph D.8 of this Section.

5. If the concentrations of all assessment monitoring parameters or constituents are shown to be at or below background values, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), for two consecutive sampling events, the permit holder shall notify the Office of Environmental Assessment, Environmental Technology Division, and upon written approval of the administrative authority, may return to detection monitoring.

6. If the concentrations of any assessment monitoring parameters or constituents are above background values, but all concentrations are below the groundwater protection standard established under Paragraph D.8 of this Section, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), the permit holder will be placed in assessment monitoring for the life of the facility or until the assessment monitoring parameters are below the established background values. As part of the corrective action development, the permit holder shall submit a work plan for approval to the Office of Environmental Assessment, Environmental Technology Division.

a. This work plan shall include:

i. proposal of additional groundwater wells outside the area of contamination in order to demonstrate that the facility has control of the plume and/or source of contamination;

ii. proposal of semiannual groundwater monitoring reports demonstrating that the concentrations of the constituents of concern is not increasing;

iii. a scaled figure depicting the location of the area of investigation, existing and proposed groundwater monitoring wells, and property boundaries;

iv. scaled potentiometric maps depicting water elevations of all existing and proposed monitoring wells. These maps shall be submitted as part of the semiannual groundwater monitoring reports; and

v. an isopleth map for each well of all parameters or constituents, or plots by well concentration of parameters or constituents verses time.

b. The Office of Environmental Assessment, Environmental Technology Division, may request additional information based on the data submitted in the work plan.

7. If one or more assessment monitoring parameters or constituents are detected at statistically significant levels above the groundwater protection standard established in Paragraph D.8 of this Section, in any sampling event, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), the permit holder shall, within 14 days of the determination, notify all appropriate local government officials and submit a report to the Office of Environmental Assessment, Environmental Technology Division, identifying the assessment monitoring parameters or constituents that have exceeded the groundwater protection standard. The permit holder shall comply with one of the following requirements.

a. The permit holder shall:

i. within 90 days after the determination is made, submit four bound copies (8 1/2 x 11 inches) of an assessment plan to the Office of Environmental Assessment, Environmental Technology Division, as well as any necessary permit modification to the Office of Environmental Services, Waste Permits Division, that provides for:

(a). characterization of the nature and extent of the release by installing and sampling additional monitoring wells as necessary;

(b). installation of at least one additional monitoring well at the facility boundary in the direction of the contaminant migration and sampling of this well in accordance with Subparagraph D.4.b of this Section; and

(c). a schedule for implementing the plan;

ii. notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off site as indicated by the sampling of the wells in accordance with Clause D.7.a.i of this Section;

iii. upon consultation with and approval of the administrative authority, implement any interim measures necessary to ensure the protection of human health and the environment. Interim measures shall, to the greatest extent practicable, be in accordance with LAC 33:1.Chapter 13 and be consistent with the objectives of and contribute to the performance of any remedy that may be required in accordance with Subsection F of this Section. The following factors shall be considered by a permit holder in determining whether interim measures are necessary:

(a). the time required to develop and implement a final remedy;

(b). actual or potential exposure of nearby populations or environmental receptors to hazardous parameters or constituents;

(c). actual or potential contamination of drinking water supplies or sensitive ecosystems;

(d). further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;

(e). weather conditions that may cause hazardous parameters or constituents to migrate or be released;

(f). risk of fire or explosion, or potential for exposure to hazardous parameters or constituents as a result of an accident or failure of a container or handling system; and

(g). other situations that may pose threats to human health and the environment;

iv. initiate an assessment of corrective measures as required by Subsection E of this Section.

b. If the facility being sampled did not cause the contamination, the permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating that a source other than the facility being sampled caused the contamination, or the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration in writing, the permit holder shall continue assessment monitoring at the facility in accordance with this Subsection or may return to detection monitoring if the assessment monitoring parameters or constituents are below background as specified in Paragraph D.5 of this Section. Until such a written approval is given, the permit holder shall comply with Subparagraph D.7.a of this Section, including initiating an assessment of corrective action measures.

8. The permit holder shall establish a groundwater protection standard for each assessment monitoring parameter or constituent detected in the groundwater. The groundwater protection standard shall be in accordance with LAC 33:I.Chapter 13.

E. Assessment of Corrective Measures at Type I and Type II Facilities

1. Within 90 days of finding that any of the assessment monitoring parameters or constituents listed in Table 2 of LAC 33:VII.3005.Appendix C have been detected at a statistically significant level exceeding the groundwater protection standards defined in Paragraph D.8 of this Section, the permit holder shall initiate an assessment of corrective measures.

2. The permit holder shall continue to monitor in accordance with the assessment monitoring program throughout the period of corrective action, as specified in Subsection D of this Section.

3. The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described in Subsection F of this Section, addressing at least the following:

a. performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

b. the time required to begin and complete the remedy;

c. the costs of remedy implementation; and

d. institutional requirements such as state or local permit requirements or other environmental or public health

requirements that may substantially affect implementation of the remedy.

4. For Type II landfills and associated surface impoundments, the results of the corrective measures assessment shall be discussed by the permit holder, in a public meeting prior to the selection of remedy, with interested and affected parties.

F. Selection of Remedy and Corrective Action Plan at Type II Landfills and Associated Surface Impoundments

1. Based on the results of the corrective measures assessment required in Subsection E of this Section, the permit holder shall select a remedy that, at a minimum, meets the standards of Paragraph F.2 of this Section. Within 180 days after initiation of the corrective measures assessment required in Subsection E of this Section, the permit holder shall submit four bound copies (8 1/2 by 11 inches) of a corrective action plan to the Office of Environmental Assessment, Environmental Technology Division, describing the selected remedy, which will meet the requirements of Paragraphs F.2-4 of this Section and be in accordance with LAC 33:I.Chapter 13. The corrective action plan shall also provide for a corrective action groundwater monitoring program as described in Subparagraph G.1.a of this Section.

2. Remedies shall:

a. be protective of human health and the environment;

b. attain the groundwater protection standard as specified in accordance with Paragraph D.8 of this Section;

c. control the source of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of assessment monitoring parameters or constituents into the environment that may pose a threat to human health or the environment; and

d. comply with standards for management of wastes as specified in Paragraph G.7 of this Section.

3. In selecting a remedy that meets the standards of Paragraph F.2 of this Section, the permit holder shall consider the following evaluation factors:

a. long-term and short-term effectiveness and protectiveness of the potential remedy, along with the degree of certainty that the remedy will prove successful based on consideration of the following:

i. the magnitude of reduction of existing risks;

ii. the magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;

iii. the type and degree of long-term management required, including monitoring, operation, and maintenance;

iv. short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal of containment;

v. the time until full protection is achieved;

vi. the potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;

- vii. the long-term reliability of the engineering and institutional controls; and
 - viii. the potential need for replacement of the remedy;
 - b. the effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:
 - i. the extent to which containment practices will reduce further releases; and
 - ii. the extent to which treatment technologies may be used;
 - c. the ease or difficulty of implementing a potential remedy based on consideration of the following types of factors:
 - i. the degree of difficulty associated with constructing the technology;
 - ii. the expected operational reliability of the technologies;
 - iii. the need to coordinate with and obtain necessary approvals and permits from other agencies;
 - iv. the availability of necessary equipment and specialists; and
 - v. the available capacity and location of needed treatment, storage, and disposal services;
 - d. the practicable capability of the permit holder, including a consideration of the technical and economic capability; and
 - e. the degree to which community concerns are addressed by a potential remedy.
4. The permit holder shall specify, as part of the selected remedy, a schedule for initiating and completing remedial activities. Such a schedule shall require the initiation of remedial activities within a reasonable period of time. The permit holder shall consider the following factors in determining the schedule of remedial activities:
- a. the extent and nature of the contamination;
 - b. the practical capabilities of remedial technologies in achieving compliance with groundwater protection standards established in Paragraph D.8 of this Section and other objectives of the remedy;
 - c. the availability of treatment or the disposal capacity for wastes managed during implementation of the remedy;
 - d. the desirability of utilizing technologies that are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;
 - e. potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;
 - f. the resource value of the aquifer, including:
 - i. current and future uses;
 - ii. proximity and withdrawal rate of users;
 - iii. groundwater quantity and quality;
 - iv. potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to parameters or constituents;
 - v. the hydrogeologic characteristic of the facility and surrounding land;
 - vi. groundwater removal and treatment costs;

- vii. the cost and availability of alternative water supplies;
- viii. the practicable capability of the permit holder; and
- g. other relevant factors.

5. The administrative authority may determine that remediation of a release of an assessment monitoring parameter or constituent from a facility is not necessary if the permit holder demonstrates to the satisfaction of the administrative authority that:

- a. the groundwater is additionally contaminated by substances that have originated from a source other than a facility, and those substances are present in such concentrations that cleanup of the release from the facility would provide no significant reduction in risk to actual or potential receptors;
- b. a parameter or constituent is present in groundwater that is:
 - i. not currently or reasonably expected to be a source of drinking water; and
 - ii. not hydraulically connected with waters to which the parameters or constituents are migrating or are likely to migrate in a concentration that would exceed the groundwater protection standards established in Paragraph D.8 of this Section;
- c. remediation of the release is technically impracticable; or
- d. remediation results in unacceptable cross-media impacts.

6. A determination by the administrative authority in accordance with Paragraph F.5 of this Section shall not affect the authority of the administrative authority to require the permit holder to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and that significantly reduce threats to human health or the environment.

G. Implementation of the Corrective Action Programs at Type I and Type II Facilities

1. After the corrective action plan has been approved by the administrative authority and, based on the corrective action plan schedule established under Paragraph F.4 of this Section for initiation and completion of remedial activities, the permit holder shall:

- a. implement a corrective action groundwater monitoring program as described in the approved corrective action plan that:
 - i. at a minimum, meets the requirements of an assessment monitoring program in Subsection D of this Section;
 - ii. indicates the effectiveness of the corrective action remedy; and
 - iii. demonstrates compliance with the groundwater protection standard in accordance with Paragraph D.8 of this Section; and
- b. implement the corrective action plan established under Subsection F of this Section.

2. A permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology

Division, demonstrating, based on information developed after implementation of the corrective action plan has begun or other information, that compliance with requirements of Paragraph F.2 of this Section are not being achieved through the remedy selected. A revised corrective action plan providing other methods or techniques that could practically achieve compliance with the requirements of Paragraph F.2 of this Section shall accompany the demonstration.

3. If the administrative authority approves, in writing, the demonstration and revised corrective action plan submitted in accordance with Paragraph G.2 of this Section, the permit holder shall implement the revised corrective action plan.

4. The permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating that compliance with the requirements of Paragraph F.2 of this Section cannot be achieved with any currently available methods.

5. If the administrative authority approves, in writing, the demonstration submitted in accordance with Paragraph G.4 of this Section, the permit holder shall, within 30 days of the approval, submit a plan to the Office of Environmental Assessment, Environmental Technology Division, (which includes an implementation schedule) to implement alternate measures in accordance with LAC 33:I.Chapter 13:

a. to control exposure of humans and the environment to residual contamination as necessary to protect human health and the environment; and

b. for the control of the sources of contamination, or for the removal or decontamination of equipment, devices, or structures, that are technically practicable and consistent with the overall objective of the remedy.

6. If the administrative authority approves the plan for alternate measures submitted in accordance with Paragraph G.5 of this Section, the permit holder shall implement the plan.

7. All solid wastes that are managed in accordance with a remedy required in Subsection F of this Section, or an interim measure required in Subparagraph D.7.c of this Section, shall be managed in a manner:

a. that is protective of human health and the environment; and

b. that complies with applicable RCRA requirements.

8. Remedies selected in accordance with Subsection F of this Section shall be considered complete when:

a. the permit holder complies with the groundwater protection standards established in Paragraph D.8 of this Section at all points within the plume of contamination that lie beyond the groundwater monitoring well system established in Subsection A of this Section; and

b. compliance with the groundwater protection standards established in Paragraph D.8 of this Section has been achieved by demonstrating that concentrations of assessment monitoring parameters or constituents have not exceeded the groundwater protection standard for a period of three consecutive years using the statistical procedures and performance standards in Paragraph B.6 of this Section. The administrative authority may specify an alternative length of time during which the permit holder shall demonstrate that concentrations of the assessment monitoring parameters or

constituents have not exceeded the groundwater protection standard, taking into consideration:

i. the extent and concentration of the release;

ii. behavior characteristics of the hazardous parameters or constituents in the groundwater;

iii. accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and

iv. the characteristics of the groundwater; and

c. all actions required to complete the remedy have been satisfied.

9. Upon completion of the remedy, the permit holder shall submit to the administrative authority, within 14 days, a certification that the remedy has been completed in compliance with the requirements of Paragraph G.8 of this Section. The certification shall be signed by the permit holder and approved by the administrative authority.

10. When, upon completion of the certification, the administrative authority determines that the corrective action remedy has been completed in accordance with the requirements of Paragraph G.8 of this Section, the permit holder shall be released from the requirements for financial assurance for corrective action in LAC 33:VII.1305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 9. Enforcement

§901. Failure to Comply

A. Failure of any person to comply with any of the provisions of these regulations or of the terms and conditions of any permit granted or order issued hereunder constitutes a violation of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

§903. Investigations: Purposes, Notice

A. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the persons or parties involved. The results of an investigation shall be given to any complainant who provided the information prompting the investigation, upon written request and, if advisable, to the person under investigation, if the identity of such person is known.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

§905. Development of Facts, Reports

A. The administrative authority may conduct inquiries and develop facts in investigations by staff investigatory procedures or formal investigations and may conduct inspections and examinations of facilities and records. The administrative authority or his presiding officer may hold public hearings and/or issue subpoenas pursuant to R.S. 30:2025(I) and require attendance of witnesses and

production of documents, or may take such other action as may be necessary and authorized by the act or rules promulgated by the administrative authority. At the conclusion of the investigation, all facts and information concerning any alleged violation that have been developed shall be compiled by the staff of the department. A report of the investigation shall be presented to the administrative authority for use in possible enforcement proceedings. Any complainant who provided the information prompting the investigation shall be notified of its results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

§907. Enforcement Action

A. When the administrative authority determines that a violation of the act or these regulations or the terms and conditions of any permit issued hereunder has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

§909. Closing Unauthorized and Promiscuous Dumps

A. The administrative authority shall require closure of unauthorized dumps either by removal of the waste to an approved solid waste facility or by completing on-site closure requirements. The method of closure must be approved by the administrative authority prior to closure.

B. After an unauthorized dump is discovered, the administrative authority may issue an enforcement action with a closure directive to the owner/operator. Directives issued for unauthorized dumps shall require closure of the unauthorized dump in accordance with the procedures in this Section.

C. Requirements for on-site closure are as follows.

1. If required, or authorized and approved, by the administrative authority, closure shall be conducted in accordance with LAC 33:I.Chapter 13. However, the requirements of Subparagraph C.2.g of this Section shall apply. If closure in accordance with LAC 33:I.Chapter 13 results in constituent-of-concern levels remaining above those allowed for residential scenarios, the requirements of Subparagraph C.2.f of this Section shall also apply.

2. If closure will not be conducted in accordance with Paragraph C.1 of this Section, then approval or authorization may be granted by the administrative authority for the following alternative closure requirements:

- a. extinguish all fires;
- b. dewater and either solidify waste for return to the landfill or discharge it as governed by a NPDES/LPDES permit, if applicable;
- c. implement a disease vector extermination program, if applicable;
- d. compact the waste with suitable equipment;
- e. provide a final cover consisting of a minimum of 24 inches of silty clays and 6 inches of topsoil cover for

supporting vegetative growth, and revegetate the area to control erosion if necessary;

f. record in the parish mortgage and conveyance records a document describing the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name of the person with knowledge of the contents of the facility, as well as providing the chemical levels remaining, if present. A true copy of the document, filed and certified by the parish clerk of court, shall be sent to the Office of Environmental Compliance, Enforcement Division; and

g. conduct long-term monitoring in accordance with Subsection E of this Section, if deemed necessary by the administrative authority.

D. Inspection and Reports. The administrative authority reserves the right to inspect the facility to determine if the requirements for closure have been met.

E. Long-Term Monitoring Responsibilities. The administrative authority may require the following or other long-term monitoring responsibilities of the person legally responsible for the unauthorized dump if deemed necessary.

1. Installation of groundwater monitoring wells in accordance with LAC 33:VII.709.E may be required, along with semiannual reporting for a period of 10 years of monitoring of the facility after closure, or longer if deemed necessary, on a facility-specific basis.

2. Annual reports may be required for a period of three years, or longer if deemed necessary, on the condition of the final cover and the use of the property.

F. An owner who voluntarily requests closure of a promiscuous dump shall close it either by removal of the waste to an approved solid waste facility or by completing on-site closure requirements in accordance with Subsection C of this Section. The method of closure must be approved by the administrative authority prior to closure. The department reserves the right to apply the provisions of Subsections C, D, and E of this Section to close promiscuous dumps.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 2025, 2039, and 2155.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), LR 33:

Chapter 11. Solid Waste Beneficial Use and Soil Reuse

§1101. Applicability

A. Solid waste beneficial use and soil reuse options apply to all solid waste generators. Solid waste beneficial use is available to solid waste streams that are typically disposed of in a solid waste disposal facility and that meet certain requirements as described in this Chapter.

B. Sewage sludge (including domestic septage) shall be generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed of in accordance with LAC 33:IX.Chapter 69.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1103. On-Site Soil Reuse Requirements

A. Soil that is to be reused on-site is exempt from these regulations provided the level of contaminants in the soil is at or below the pertinent RECAP standards developed by the department in accordance with LAC 33:I.Chapter 13, as applicable to surface soil meeting the *non-industrial* standards in the RECAP document. This Section is limited to *in situ* contaminated soil and does not include sludges and sediments from regulated solid waste units. Any person claiming this exemption shall have records clearly documenting the particular soils reused on-site pursuant to the exemption, including, for example, soil source, soil quantities, and site locations where the soil was reused.

B. Soil that is not exempt under Subsection A of this Section and that is to be reused on-site at an *industrial/commercial* property, as that term is defined in the RECAP document, is exempt from these regulations, provided that:

1. the level of contaminants in the soil is at or below the pertinent RECAP standards developed by the department in accordance with LAC 33:I.Chapter 13, as applicable to surface soil located in an area meeting the *industrial* standards (MO-1 or MO-2) in the RECAP document;

2. the owner or operator of the property notifies the Office of Environmental Services, Waste Permits Division, in writing, of his intent to reuse soil on-site, and attaches the following to the notification:

- a. a characterization of the soil in question;
- b. a description of the property in question;
- c. a description of the proposed uses of the soil on-site (e.g., levee construction, road bed construction, construction fill, daily cover in a regulated facility, etc.); and
- d. an on-site soil reuse plan regarding the reuse of the soil in question, which shall address at least the following:

i. procedures for storage of the soil pending reuse;

ii. procedures for handling, transportation, and application of the soil on-site;

iii. procedures for recordkeeping; and

iv. any other procedures required for the protection of human health and the environment (e.g., security, restricted site access, institutional controls, control of storm water runoff, etc.); and

3. the administrative authority notifies the owner/operator of the facility upon the approval of the on-site soil reuse plan.

C. Soil that is not addressed in Subsection A or B of this Section and that is to be reused on-site shall be addressed in accordance with LAC 33:VII.303.A.11, or LAC 33:VII.Chapter 11, or as otherwise deemed appropriate by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1105. Beneficial Use of Other Solid Waste

A. An application for beneficial use of solid waste streams shall provide the following information:

1. the name, address, and telephone number of the applicant;

2. the name, address, and telephone number of the applicant's primary contact for departmental correspondence and inquiries, and of the applicant's attorney or other representative, if applicable;

3. the address or site of origin of the solid waste proposed for beneficial use;

4. the chemical and physical characteristics of the material to be beneficially used;

5. statements of the quantity, quality, consistency, and source of the solid waste;

6. a description of the process by which the solid waste is generated, and a demonstration that the generator has minimized the quantity and toxicity of the solid waste proposed for beneficial use to the extent reasonably practicable. The applicant shall provide a detailed narrative and schematic diagram of the production, manufacturing, and/or residue process by which the solid waste that will be beneficially used is generated;

7. a detailed description of the processing activity, if applicable, that will be used to make the solid waste suitable for beneficial use;

8. a demonstration that there is a known or reasonably probable market for the intended use of the beneficial use material, such as a contract to purchase or utilize the material, a description of how the material will be used, and a demonstration that the material complies with industry standards for a product, or other documentation that a market exists;

9. a description of the proposed methods of handling, storing, and utilizing the beneficial use material to ensure that it will not adversely affect the public health or safety, or the environment. This description shall consist of:

a. a statement of procedures to be employed for periodic testing for quality control purposes;

b. a statement of intended storage procedures that will be used, including:

i. run-on/run-off control;

ii. the maximum anticipated inventory;

iii. measures to ensure that no contamination of underlying soil or groundwater occurs;

iv. measures for dispersion control due to wind; and

c. recordkeeping procedures;

10. an acknowledgement that at least 75 percent of the material placed in storage during a year will be sent to market or to other secure storage within the following year, unless the operator demonstrates that a particular order requires greater than one year of product storage prior to shipment;

11. a demonstration that the end use of the material is protective of public health, safety, and the environment;

12. a discussion of the end users of the material and the locations of the end-use; and

13. any other information the secretary may require or the applicant believes will demonstrate that the proposed beneficial use of the material will conserve, improve, and/or protect human health, natural resources, and the environment.

B. The application shall be signed by the applicant and the individual or individuals responsible for actually

preparing the information and supporting data submitted with the application, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate, and complete to the best of my knowledge and belief.

"I understand that a false statement made in the submitted information may be punishable as a criminal offense, in accordance with La. R.S. 30:2025(F) and in accordance with any other applicable statute."

C. Upon approval the material shall be handled, processed, stored, or otherwise managed in accordance with the proposed plan outlined in the application.

D. Respondents in actions to enforce regulations who raise a claim that the transportation, storage, handling, processing, and/or use of certain material has been approved by the administrative authority pursuant to this Section must demonstrate that there is a known or reasonably probable market or disposition for the material and that the terms of this Section and any department approval are met. In doing so, respondents must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not discarded, but is, instead, subject to beneficial use. In addition, owners or operators of facilities claiming that they actually are preparing materials for beneficial use pursuant to this Section must be able to show that they have the necessary equipment to do so. The administrative authority may revoke or rescind any prior approval provided by the department pursuant to this Section upon failure of a respondent to provide adequate proof in accordance with this Subsection.

E. The Louisiana Pulp and Paper Association and the department established an agreement in May 1997 regarding the applicability of the solid waste regulations (LAC 33:Part VII) to a variety of materials produced by the pulp and paper industry. This agreement, found in LAC 33:VII.3017.Appendix I, may be utilized by the pulp and paper industry in lieu of submitting a beneficial use plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1107. Part II Supplementary Information Required for Beneficial-Use Facilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:

§1109. Standards Governing Beneficial-Use Facilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), repromulgated LR 27:40 (January 2001), LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), repealed LR 33:

Chapter 13. Financial Assurance for All Processors and Disposers of Solid Waste [Formerly Chapter 7.Subchapter E]

NOTE: Former Chapter 13 has moved to Chapter 14.

§1301. Financial Responsibility During Operation [Formerly §727.A.1]

NOTE: Former §1301 has moved to §1401.

A. Financial Responsibility for Type I, I-A, II, II-A, and III Facilities. Permit holders or applicants for standard permits of Type I, I-A, II, II-A, and III facilities have the following financial responsibilities while the facility is in operation.

1. Type I and II facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$1 million per occurrence and \$1 million annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Waste Permits Division.

2. Type I-A and II-A facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$500,000 per occurrence, and \$500,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Waste Permits Division.

3. Type III facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$250,000 per occurrence, and \$250,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Waste Permits Division.

B. Establishment of Financial Responsibility. The financial responsibility during operation may be established by any one or a combination of the following: an insurance policy, a letter of credit, or the financial test and/or corporate guarantee.

1. Insurance. Evidence of liability insurance shall consist of either a signed duplicate original of a solid waste liability endorsement or a certificate of insurance.

a. All liability endorsements and certificates of insurance must include:

i. a statement of coverage relative to environmental risks;

ii. a statement of all exclusions to the policy; and

iii. a certification by the insurer that the insurance

afforded with respect to such sudden accidental occurrences is subject to all of the terms and conditions of the policy, provided, however, that any provisions of the policy inconsistent with the following Subclauses are amended to conform with said Subclauses:

(a). bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy;

(b). the insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in Paragraph B.4, 5, or 6 of this Section;

(c). whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements;

(d). cancellation of the policy, whether by the insurer or the insured, shall be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the Office of Environmental Services, Waste Permits Division;

(e). any other termination of the policy shall be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the Office of Environmental Services, Waste Permits Division; and

(f). the insurer is admitted, authorized, or eligible to conduct insurance business in Louisiana.

b. Liability Endorsement. The wording of the liability endorsement shall be identical to the wording in LAC 33:VII.1399.Appendix A, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

c. Certificate of Liability Insurance. The wording of the certificate of insurance shall be identical to the wording in LAC 33:VII.1399.Appendix B, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

2. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements, and by submitting the letter to the administrative authority.

a. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

b. A permit holder or applicant who uses a letter of credit to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund agreement shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

c. The letter of credit shall be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, name of issuing institution, and date, and providing the following information:

- i. agency interest number;
- ii. solid waste identification number;
- iii. site name;
- iv. facility name;

v. facility permit number; and

vi. the amount of funds assured for liability coverage of the facility by the letter of credit.

d. The letter of credit must be irrevocable and issued for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days shall begin on the date when both the permit holder and the Office of Environmental Services, Waste Permits Division, receive the notice, as evidenced by the return receipts.

e. The wording of the letter of credit shall be identical to the wording in LAC 33:VII.1399.Appendix C, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. Financial Test

a. To meet this test, the applicant, the permit holder, or the parent corporation (corporate guarantor) of the applicant or permit holder must submit to the Office of Environmental Services, Waste Permits Division, the documents required by LAC 33:VII.1303 demonstrating that the requirements of that Section have been met. Use of the financial test may be disallowed on the basis of the accessibility of the assets of the permit holder, applicant, or parent corporation (corporate guarantor). If the applicant, permit holder, or parent corporation is using the financial test to demonstrate liability coverage and closure and post-closure care, only one letter from the chief financial officer is required.

b. The assets of the parent corporation of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as authorized in Paragraph B.4 of this Section.

c. The wording of the financial test shall be as specified in LAC 33:VII.1399.Appendix I; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

4. Corporate Guarantee. A permit holder or applicant may meet the requirements of this Section for liability coverage by obtaining a written guarantee, hereafter referred to as a "corporate guarantee."

a. The guarantor must demonstrate to the administrative authority that the guarantor meets the requirements in LAC 33:VII.1303.H and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in LAC 33:VII.1303.H.2 and 4. The terms of the corporate guarantee must be in an authentic act signed and sworn to by an authorized officer of the corporation before a notary public and must provide that:

i. the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in LAC 33:VII.1303.H;

ii. the guarantor is the parent corporation of the permit holder or applicant of the solid waste facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

iii. if the permit holder or applicant fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences (or both as the case may be), arising from the operation of facilities covered by the corporate guarantee, or fails to pay an amount agreed to in settlement of the claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage;

iv. the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days, by certified mail, notice to the Office of Environmental Services, Waste Permits Division, and to the permit holder or applicant, that he intends to provide alternative financial assurance as specified in this Section, in the name of the permit holder or applicant, and that within 120 days after the end of said fiscal year the guarantor shall establish such financial assurance, unless the permit holder or applicant has done so;

v. the guarantor agrees to notify the Office of Environmental Services, Waste Permits Division, by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

vi. the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that he or she is disallowed from continuing as a guarantor of closure or post-closure care, he or she shall establish alternate financial assurance as specified in this Section in the name of the permit holder or applicant unless the permit holder or applicant has done so;

vii. the guarantor agrees to remain bound under the guarantee notwithstanding any or all of the following: amendment or modification of the permit, or any other modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;

viii. the guarantor agrees to remain bound under the guarantee for as long as the permit holder or applicant must comply with the applicable financial assurance requirements of LAC 33:VII.1303, except that the guarantor may cancel this guarantee by sending notice by certified mail to the administrative authority and the permit holder or applicant. Such cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder, as evidenced by the return receipts;

ix. the guarantor agrees that if the permit holder or applicant fails to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the permit holder or applicant; and

x. the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder or applicant; the guarantor also expressly waives notice of amendments or modifications of the facility permit.

b. A corporate guarantee may be used to satisfy the requirements of this Section only if the attorney general(s) or insurance commissioner(s) of the state in which the guarantor is incorporated, and the state in which the facility covered by the guarantee is located, has submitted a written statement to the Office of Environmental Services, Waste Permits Division, that a corporate guarantee is a legally valid and enforceable obligation in that state.

c. The wording of the corporate guarantee shall be as specified in LAC 33:VII.1399.Appendix J; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

C. The use of a particular financial responsibility mechanism is subject to the approval of the administrative authority.

D. Permit holders of existing facilities must submit, on or before February 20, 1995, financial responsibility documentation that complies with the requirements of this Section. Applicants for permits for new facilities must submit evidence of financial assurance in accordance with this Chapter at least 60 days before the date on which solid waste is first received for processing or disposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2521 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1303. Financial Responsibility for Closure and Post-Closure Care [Formerly §727.A.2]

NOTE: Former §1303 has moved to §1403.

A. Financial Responsibility for Type I, I-A, II, II-A, and III Facilities. Permit holders or applicants of Type I, I-A, II, II-A, and III facilities have the following financial responsibilities for closure and post-closure care.

1. Permit holders or applicants for processing or disposal facilities shall establish and maintain financial assurance for closure and post-closure care.

2. The applicant or permit holder shall submit to the Office of Environmental Services, Waste Permits Division, the estimated closure date and the estimated cost of closure and post-closure care in accordance with the following procedures.

a. The applicant or permit holder must have a written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in these regulations. The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by the closure plan, and shall be based on the cost of hiring a third party to close the facility in accordance with the closure plan.

b. The applicant or permit holder of a facility subject to post-closure monitoring or maintenance requirements must have a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the provisions of these regulations. The estimate of post-closure costs is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required and shall be based on the cost of hiring a third party to conduct post-closure activities in accordance with the closure plan.

c. The cost estimates must be adjusted within 30 days after each anniversary of the date on which the first cost estimate was prepared on the basis of either the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business* or a reestimation of the closure and post-closure costs in accordance with Subparagraphs A.2.a and b of this Section. The permit holder or applicant must revise the cost estimate whenever a change in the closure/post-closure plans increases or decreases the cost of the closure/post-closure plans. The permit holder or applicant must submit a written notice of any such adjustment to the Office of Environmental Services, Waste Permits Division, within 15 days following such adjustment.

d. For trust funds, the first payment must be at least equal to the current closure and post-closure cost estimate, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each annual anniversary of the date of the first payment. The amount of each subsequent payment must be determined by subtracting the current value of the trust fund from the current closure and post-closure cost estimates and dividing the result by the number of years remaining in the pay-in period. The initial pay-in period is based on the estimated life of the facility.

B. Financial Assurance Mechanisms. The financial assurance mechanism must be one or a combination of the following: a trust fund, a surety bond, a performance bond, a letter of credit, an insurance policy, or a financial test and/or corporate guarantee. The financial assurance mechanism is subject to the approval of the administrative authority and must fulfill the following criteria.

1. Except when a financial test, trust fund, or certificate of insurance is used as the financial assurance mechanism, a standby trust fund naming the administrative authority as beneficiary must be established at the time of the creation of the financial assurance mechanism, into which the proceeds of such mechanism could be transferred should such funds be necessary for either closure or post-closure of the facility, and a signed copy must be furnished to the administrative authority with the mechanism.

2. A permit holder or applicant may use a financial assurance mechanism specified in this Section for more than one facility, if all such facilities are located within Louisiana and are specifically identified in the mechanism.

3. The amount covered by the financial assurance mechanism must equal the total of the current closure and post-closure estimates for each facility covered.

4. When all closure and post-closure requirements have been satisfactorily completed, the administrative authority shall execute an approval to terminate the financial assurance mechanism.

C. Trust Funds. A permit holder or applicant may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the following requirements and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services, Waste Permits Division.

1. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2. Trusts must be accomplished in accordance with and subject to the laws of Louisiana. The beneficiary of the trust shall be the administrative authority.

3. Trust-fund earnings may be used to offset required payments into the fund, to pay the fund trustee, or to pay other expenses of the funds, or may be reclaimed by the permit holder or applicant upon approval of the administrative authority.

4. The trust agreement must be accompanied by an affidavit certifying the authority of the individual signing the trust on behalf of the permit holder or applicant.

5. The permit holder or applicant may accelerate payments into the trust fund or deposit the full amount of the current closure cost estimate at the time the fund is established. The permit holder or applicant must, however, maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in Subparagraph A.2.d of this Section.

6. If the permit holder or applicant establishes a trust fund after having used one or more of the alternate mechanisms specified in this Section, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this Subsection.

7. After the pay-in period is completed, whenever the current cost estimate changes, the permit holder must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the permit holder or applicant, within 60 days after the change in the cost estimate, must either deposit an amount into the fund that will make its value at least equal to the amount of the closure/post-closure cost estimate or it must estimate or obtain other financial assurance as specified in this Chapter to cover the difference.

8. After beginning final closure, a permit holder, or any other person authorized by the permit holder to perform closure and/or post-closure, may request reimbursement for closure and/or post-closure expenditures by submitting itemized bills to the Office of Environmental Services, Waste Permits Division. Within 60 days after receiving bills for such activities, the administrative authority will determine whether the closure and/or post-closure expenditures are in accordance with the closure plan or otherwise justified, and, if so, he or she shall instruct the trustee to make reimbursement in such amounts as the administrative authority specifies in writing. If the administrative authority has reason to believe that the cost of closure and/or post-closure will be significantly greater than the value of the trust fund, he may withhold reimbursement for such amounts as he deems prudent until he determines that the permit holder is no longer required to maintain financial assurance.

9. The wording of the trust agreement shall be identical to the wording in LAC 33:VII.1399.Appendix D, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The trust agreement shall be accompanied by a formal certification of acknowledgement.

D. Surety Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and

submitting the bond to the Office of Environmental Services, Waste Permits Division.

1. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and approved by the administrative authority.

2. The permit holder or applicant who uses a surety bond to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. The bond must guarantee that the operator will:

a. fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

b. fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure or post-closure is issued; or

c. provide alternate financial assurance as specified in this Section, and obtain the administrative authority's written approval of the assurance provided, within 90 days after receipt by both the permit holder and the administrative authority of a notice of cancellation of the bond from the surety.

4. Under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond.

5. The penal sum of the bond must be at least equal to the current closure and post-closure cost estimates.

6. Whenever the current cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure estimate and submit evidence of such increase to the Office of Environmental Services, Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the administrative authority.

7. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the administrative authority. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

8. The wording of the surety bond guaranteeing payment into a standby trust fund shall be identical to the wording in LAC 33:VII.1399.Appendix E, except that the instructions in brackets are to be replaced with the relevant information and the brackets delete.

E. Performance Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and

submitting the bond to the Office of Environmental Services, Waste Permits Division.

1. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and approved by the administrative authority.

2. The permit holder or applicant who uses a surety bond to satisfy the requirements of this Section must also provide to the administrative authority evidence of establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. The bond must guarantee that the permit holder or applicant will:

a. perform final closure and post-closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or

b. provide alternate financial assurance as specified in this Section and obtain the administrative authority's written approval of the assurance provided within 90 days after the date both the permit holder and the administrative authority receive notice of cancellation of the bond from the surety.

4. Under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond. Following a determination by the administrative authority that the permit holder has failed to perform final closure and post-closure in accordance with the closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure and post-closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

5. The penal sum of the bond must be at least equal to the current closure and post-closure cost estimates.

6. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Waste Permits Division, or obtain other financial assurance as specified in this Section. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate after written approval of the administrative authority.

7. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the Office of Environmental Services, Waste Permits Division. Cancellation may not occur before 120 days have elapsed beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

8. The wording of the performance bond shall be identical to the wording in LAC 33:VII.1399.Appendix F,

except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

F. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Environmental Services, Waste Permits Division.

1. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

2. A permit holder or applicant who uses a letter of credit to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. The letter of credit must be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, issuing institution, and date, and providing the following information:

- a. agency interest number;
- b. solid waste identification number;
- c. site name;
- d. facility name;
- e. facility permit number; and
- f. the amount of funds assured for liability coverage

of the facility by the letter of credit.

4. The letter of credit must be irrevocable and issued for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the Office of Environmental Services, Waste Permits Division, by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts.

5. The letter of credit must be issued in an amount at least equal to the current closure and post-closure cost estimates.

6. Whenever the current cost estimates increase to an amount greater than the amount of the credit, the permit holder, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure and post-closure cost estimates upon written approval of the administrative authority.

7. Following a determination by the administrative authority that the permit holder has failed to perform final closure or post-closure in accordance with the closure plan

and other permit requirements when required to do so, the administrative authority may draw on the letter of credit.

8. The wording of the letter of credit shall be identical to the wording in LAC 33:VII.1399.Appendix G, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

G. Insurance. A permit holder or applicant may satisfy the requirements of this Section by obtaining insurance that conforms to the following requirements and submitting a certificate of such insurance to the Office of Environmental Services, Waste Permits Division.

1. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess-lines or surplus-lines insurer in one or more states, and authorized to transact insurance business in Louisiana.

2. The insurance policy must be issued for a face amount at least equal to the current closure and post-closure cost estimates.

3. The term *face amount* means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

4. The insurance policy must guarantee that funds will be available to close the facility and provide post-closure care once final closure occurs. The policy must also guarantee that, once final closure begins, the insurer will be responsible for paying out funds up to an amount equal to the face amount of the policy, upon the direction of the administrative authority, to such party or parties as the administrative authority specifies.

5. After beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure or post-closure may request reimbursement for closure or post-closure expenditures by submitting itemized bills to the Office of Environmental Services, Waste Permits Division. Within 60 days after receiving such bills, the administrative authority will determine whether the expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she shall instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing.

6. The permit holder must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the permit holder.

7. Each policy must contain a provision allowing assignment of the policy to a successor permit holder. Such assignment may be conditional upon consent of the insurer, provided consent is not unreasonably refused.

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the permit holder and the Office of Environmental Services, Waste Permits Division. Cancellation, termination, or failure to renew may not occur, however, before 120 days have elapsed, beginning on the date that both the administrative authority and the permit

holder receive notice of cancellation, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration:

- a. the administrative authority deems the facility to be abandoned;
- b. the permit is terminated or revoked or a new permit is denied;
- c. closure and/or post-closure is ordered;
- d. the permit holder is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or
- e. the premium due is paid.

9. Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the permit holder, within 60 days after the increase, must either increase the face amount to at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure and post-closure cost estimates following written approval by the administrative authority.

10. The wording of the certificate of insurance shall be identical to the wording in LAC 33:VII.1399.Appendix H, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

H. Financial Test. A permit holder, applicant, or parent corporation of the permit holder or applicant, which will be responsible for the financial obligations, may satisfy the requirements of this Section by demonstrating that he or she passes a financial test as specified in this Subsection. The assets of the parent corporation of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as outlined in LAC 33:VII.1301.B.6.

1. To pass this test, the permit holder, applicant, or parent corporation of the permit holder or applicant, must meet the criteria of either of the following provisions.

- a. The permit holder, applicant, or parent corporation of the permit holder or applicant must have:
 - i. tangible net worth of at least six times the sum of the current closure and post-closure cost estimates to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test;
 - ii. tangible net worth of at least \$10 million; and
 - iii. assets in the United States amounting to either at least 90 percent of his or her total assets, or at least six times the sum of the current closure and post-closure cost estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test.

- b. The permit holder, applicant, or parent corporation of the permit holder or applicant must have:
 - i. a current rating for his or her most recent bond issuance of AAA, AA, A, or BBB, as issued by *Standard and Poor's*, or Aaa, Aa, or Baa, as issued by *Moody's*;
 - ii. tangible net worth of at least \$10 million; and
 - iii. assets in the United States amounting to either 90 percent of his or her total assets or at least six times the

sum of the current closure and post-closure cost estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test.

2. To demonstrate that he or she meets this test, the permit holder, applicant, or parent corporation of the permit holder or applicant must submit the following three items to the Office of Environmental Services, Waste Permits Division:

- a. a letter signed by the chief financial officer of the permit holder, applicant, or parent corporation demonstrating and certifying satisfaction of the criteria in Paragraph H.1 of this Section and including the information required by Paragraph H.4 of this Section. If the financial test is provided to demonstrate both assurance for closure and/or post-closure care and liability coverage, a single letter to cover both forms of financial responsibility is required;

- b. a copy of the independent certified public accountant's report on the financial statements of the permit holder, applicant, or parent corporation of the permit holder or applicant for the latest completed fiscal year; and

- c. a special report from the independent CPA to the permit holder, applicant, or parent corporation of the permit holder or applicant. The special report shall contain the following certification.

"I have computed the data specified by the chief financial officer as having been derived from the independently audited, year-end financial statements with the amounts for the latest fiscal year in such financial statements, and in connection with that procedure, no matters came to my attention that caused me to believe that the specified data should be adjusted."

3. The administrative authority may disallow use of this test on the basis of the opinion expressed by the independent CPA in his report on qualifications based on the financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The administrative authority will evaluate other qualifications on an individual basis. The administrative authority may disallow the use of this test on the basis of the accessibility of the assets of the parent corporation (corporate guarantor), permit holder, or applicant. The permit holder, applicant, or parent corporation must provide evidence of insurance for the entire amount of required liability coverage, as specified in this Section, within 30 days after notification of disallowance.

4. The permit holder, applicant, or parent corporation (if a corporate guarantor) of the permit holder or applicant shall provide to the Office of Environmental Services, Waste Permits Division, a letter from the chief financial officer, the wording of which shall be identical to the wording in LAC 33:VII.1399.Appendix I, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The letter shall certify the following information:

- a. a list of facilities, whether in Louisiana or not, owned or operated by the permit holder, applicant for a standard permit, or parent corporation of the permit holder or applicant, for which financial assurance for liability coverage is demonstrated through the use of financial tests, including the amount of liability coverage;

- b. a list of facilities, whether in Louisiana or not, owned or operated by the permit holder, applicant for a standard permit, or parent corporation of the permit holder or applicant, for which financial assurance for the closure or

post-closure care is demonstrated through the use of a financial test or self-insurance by the permit holder or applicant, including the cost estimates for the closure and post-closure care of each facility;

c. a list of facilities, whether in Louisiana or not, owned or operated by the parent corporation and any subsidiaries of the parent corporation for which financial assurance for liability coverage or closure and/or post-closure care is demonstrated through the financial test and/or corporate guarantee or through use of self-insurance, including the current cost estimate for the closure or post-closure care for each facility and the amount of annual aggregate liability coverage for each facility; and

d. a list of facilities, whether in Louisiana or not, for which financial assurance for closure or post-closure care is not demonstrated through the financial test, self-insurance, or other substantially equivalent state mechanisms, including the estimated cost of closure and post-closure of such facilities.

5. For the purposes of this Section, the phrase *tangible net worth* shall mean the tangible assets that remain after liabilities have been deducted; such assets would not include intangibles such as good will and rights to patents or royalties.

6. The phrase *current closure and post-closure cost estimates*, as used in Paragraph H.1 of this Section, includes the cost estimates required to be shown in Clause H.1.a.i of this Section.

7. After initial submission of the items specified in Paragraph H.2 of this Section, the permit holder, applicant, or parent corporation of the permit holder or applicant must send updated information to the Office of Environmental Services, Waste Permits Division, within 90 days after the close of each succeeding fiscal year. This information must include all three items specified in Paragraph H.2 and the adjusted item specified in Subparagraph A.2.c of this Section.

8. The administrative authority may, on the basis of a reasonable belief that the permit holder, applicant, or parent corporation of the permit holder or applicant may no longer meet the requirements of this Subsection, require reports of financial condition at any time in addition to those specified in Paragraph H.2 of this Section. If the administrative authority finds, on the basis of such reports or other information, that the permit holder, applicant, or parent corporation of the permit holder or applicant no longer meets the requirements of Paragraph H.2 of this Section, the permit holder or applicant, or parent corporation of the permit holder or applicant must provide alternate financial assurance as specified in this Section within 30 days after notification of such a finding.

9. A permit holder or applicant may meet the requirements of this Subsection for closure and/or post-closure by obtaining a written guarantee, hereafter referred to as a "corporate guarantee." The guarantor must be the parent corporation of the permit holder or applicant. The guarantor must meet the requirements and submit all information required for permit holders or applicants in Paragraphs H.1-8 of this Section and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in Paragraphs H.2 and 4 of this Section.

The wording of the corporate guarantee must be identical to the wording in LAC 33:VII.1399.Appendix J, except that instructions in brackets are to be replaced with the relevant information and the brackets removed. The terms of the corporate guarantee must be in an authentic act signed and sworn by an authorized officer of the corporation before a notary public and must provide that:

a. the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in this Section;

b. the guarantor is the parent corporation of the permit holder or applicant of the solid waste management facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

c. *closure plans*, as used in the guarantee, refers to the plans maintained as required by the Louisiana solid waste rules and regulations for the closure and post-closure care of facilities, as identified in the guarantee;

d. for value received from the permit holder or applicant, the guarantor guarantees to the Louisiana Department of Environmental Quality that the permit holder or applicant will perform closure, post-closure care, or closure and post-closure care of the facility or facilities listed in the guarantee, in accordance with the closure plan and other permit or regulatory requirements whenever required to do so. In the event that the permit holder or applicant fails to perform as specified in the closure plan, the guarantor shall do so or establish a trust fund as specified in Subparagraph A.2.d of this Section, in the name of the permit holder or applicant, in the amount of the current closure or post-closure cost estimates or as specified in Paragraph A.2 of this Section;

e. the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the Office of Environmental Services, Waste Permits Division, and to the permit holder or applicant, that he intends to provide alternative financial assurance as specified in this Section, in the name of the permit holder or applicant, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the permit holder or applicant has done so;

f. the guarantor agrees to notify the Office of Environmental Services, Waste Permits Division, by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

g. the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in this Section in the name of the permit holder or applicant, unless the permit holder or applicant has done so;

h. the guarantor agrees to remain bound under the guarantee, notwithstanding any or all of the following: amendment or modification of the closure plan, amendment or modification of the permit, extension or reduction of the

time of performance of closure or post-closure, or any other modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;

i. the guarantor agrees to remain bound under the guarantee for as long as the permit holder must comply with the applicable financial assurance requirements of this Section, except that the guarantor may cancel this guarantee by sending notice by certified mail to the Office of Environmental Services, Waste Permits Division, and the permit holder or applicant. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder or applicant, as evidenced by the return receipts;

j. the guarantor agrees that if the permit holder or applicant fails to provide alternative financial assurance as specified in this Section, and to obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the owner or operator; and

k. the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder. The guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the facility permit.

1. Local Government Financial Test. An owner or operator that satisfies the requirements of Paragraphs I.1-3 of this Section may demonstrate financial assurance up to the amount specified in Paragraph I.4 of this Section.

1. Financial Component

a. The owner or operator must satisfy the following conditions, as applicable.

i. If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by *Moody's*, or AAA, AA, A, or BBB, as issued by *Standard and Poor's*, on all such general obligation bonds.

ii. The owner or operator must satisfy the ratio of cash plus marketable securities to total expenditures being greater than or equal to 0.05 and the ratio of annual debt service to total expenditures less than or equal to 0.20 based on the owner or operator's most recent audited annual financial statement.

b. The owner or operator must prepare its financial statements in conformity with *Generally Accepted Accounting Principles* for governments and have its financial statements audited by an independent certified public accountant (or appropriate state agency).

c. A local government is not eligible to assure its obligations under this Subsection if it:

i. is currently in default on any outstanding general obligation bonds;

ii. has any outstanding general obligation bonds rated lower than Baa as issued by *Moody's* or BBB as issued by *Standard and Poor's*;

iii. operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; or

iv. receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent

certified public accountant (or appropriate state agency) auditing its financial statement as required under Subparagraph I.1.b of this Section. The administrative authority may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the administrative authority deems the qualification insufficient to warrant disallowance of use of the test.

d. The following terms used in this Subsection are defined as follows:

i. *Deficit*—total annual revenues minus total annual expenditures.

ii. *Total Revenues*—revenues from all taxes and fees, not including the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

iii. *Total Expenditures*—all expenditures, excluding capital outlays and debt repayment.

iv. *Cash Plus Marketable Securities*—all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

v. *Debt Service*—the amount of principal and interest due on a loan in a given time period, typically the current year.

2. Public Notice Component. The local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR) after the effective date of this Section or prior to the initial receipt of waste at the facility, whichever is later. Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years. A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F. For the first year the financial test is used to assure costs at a particular facility, the reference may be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget. For closure and post-closure costs, conformance with *Governmental Accounting Standards Board Statement 18* assures compliance with this public notice component.

3. Recordkeeping and Reporting Requirements

a. The local government owner or operator must place the following items in the facility's operating record:

i. a letter signed by the local government's chief financial officer that lists all the current cost estimates covered by a financial test, as described in Paragraph I.4 of this Section. It must provide evidence that the local government meets the conditions of Subparagraphs I.1.a, b, and c of this Section, and certify that the local government meets the conditions of Subparagraphs I.1.a, b, and c and Paragraphs I.2 and 4 of this Section;

ii. the local government's independently audited year-end financial statements for the latest fiscal year (except for local governments where audits are required

every two years, unaudited statements, which may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant or an appropriate state agency that conducts equivalent comprehensive audits;

iii. a report to the local government from the local government's independent certified public accountant or the appropriate state agency based on performing an agreed upon procedures engagement relative to the financial ratios required by Clause I.1.a.ii of this Section, if applicable, and the requirements of Subparagraph I.1.b and Clauses I.1.c.iii and iv of this Section. The certified public accountant or state agency's report shall state the procedures performed and the certified public accountant or state agency's findings; and

iv. a copy of the comprehensive annual financial report (CAFR) used to comply with Paragraph I.2 of this Section (certification that the requirements of *Governmental Accounting Standards Board Statement 18* have been met).

b. The items required in Subparagraph I.3.a of this Section must be placed in the facility operating record as follows:

i. in the case of closure and post-closure care, either before the effective date of this Section, which is April 9, 1997, or prior to the initial receipt of waste at the facility, whichever is later; or

ii. in the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of LAC 33:VII.805.F.

c. After the initial placement of the items in the facility's operating record, the local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.

d. The local government owner or operator is no longer required to meet the requirements of Paragraph I.3 of this Section when:

i. the owner or operator substitutes alternate financial assurance, as specified in this Section; or

ii. the owner or operator is released from the requirements of this Chapter in accordance with LAC 33:VII.1301.A or Subsection A of this Section.

e. A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the Office of Environmental Services, Waste Permits Division, that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

f. The administrative authority, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the administrative authority finds, on the basis of such reports or other information, that the owner or operator no longer meets the local government financial test, the local

government must provide alternate financial assurance in accordance with this Section.

4. Calculation of Costs to be Assured. The portion of the closure, post-closure, and corrective action costs for which an owner or operator can assure under this Subsection is determined as follows.

a. If the local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the local government's total annual revenue.

b. If the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR Part 280, PCB storage facilities under 40 CFR Part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, or corresponding state programs, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure under this Subsection. The total that may be assured must not exceed 43 percent of the local government's total annual revenue.

c. The owner or operator must obtain an alternate financial assurance instrument for those costs that exceed the limits set in Subparagraphs I.4.a and b of this Section.

J. Local Government Guarantee. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by LAC 33:VII.1301 and this Section, by obtaining a written guarantee provided by a local government. The guarantor must meet the requirements of the local government financial test in Subsection I of this Section, and must comply with the terms of a written guarantee.

1. Terms of the Written Guarantee. The guarantee must be effective before the initial receipt of waste or before the effective date of this Section, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F. The guarantee must provide that:

a. if the owner or operator fails to perform closure, post-closure care, and/or corrective action of a facility covered by the guarantee, the guarantor will:

i. perform, or pay a third party to perform closure, post-closure care, and/or corrective action as required; or

ii. establish a fully funded trust fund as specified in Subsection C of this Section in the name of the owner or operator;

b. the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services, Waste Permits Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

c. if a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the administrative authority, obtain alternate financial assurance, place

evidence of that alternate financial assurance in the facility operating record, and notify the Office of Environmental Services, Waste Permits Division. If the owner or operator fails to provide alternate financial assurance within the 90-day period, then the owner or operator must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services, Waste Permits Division.

2. Recordkeeping and Reporting

a. The owner or operator must place a certified copy of the guarantee, along with the items required under Paragraph I.3 of this Section, into the facility's operating record before the initial receipt of waste or before the effective date of this Section, whichever is later, in the case of closure or post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F.

b. The owner or operator is no longer required to maintain the items specified in Paragraph J.2 of this Section when:

i. the owner or operator substitutes alternate financial assurance as specified in this Section; or

ii. the owner or operator is released from the requirements of this Section in accordance with this Chapter.

c. If a local government guarantor no longer meets the requirements of Subsection I of this Section, the owner or operator must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services, Waste Permits Division. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

K. Use of Multiple Mechanisms. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, in accordance with this Chapter, by establishing more than one financial mechanism per facility, except that mechanisms guaranteeing performance, rather than payment, may not be combined with other instruments. The mechanisms must be as specified in Subsections C-H of this Section, except that financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care, and/or corrective action may be provided by a combination of mechanisms, rather than a single mechanism.

L. Discounting. The administrative authority may allow discounting of closure and post-closure cost estimates in Subsection A of this Section, and/or corrective action costs in LAC 33:VII.1301.A, up to the rate of return for essentially risk-free investments, net of inflation, under the following conditions:

1. the administrative authority determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a professional engineer to the Office of Environmental Services, Waste Permits Division, so stating;

2. the state finds the facility in compliance with applicable and appropriate permit conditions;

3. the administrative authority determines that the closure date is certain and the owner or operator certifies

that there are no foreseeable factors that will change the estimate of site life; and

4. discounted cost estimates are adjusted annually to reflect inflation and years of remaining life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2522 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1305. Financial Responsibility for Corrective Action for Type II Landfills
[Formerly §727.B]

NOTE: Former §1305 has moved to §1405.

A. A permit holder of a Type II landfill required to undertake a corrective action program under LAC 33:VII.805 must provide to the Office of Environmental Services, Waste Permits Division, a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under LAC 33:VII.805. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period.

1. The permit holder must provide an annual adjustment of the estimate for inflation to the Office of Environmental Services, Waste Permits Division, until the corrective action program is completed in accordance with LAC 33:VII.805.

2. The permit holder must provide an increased corrective action cost estimate to the Office of Environmental Services, Waste Permits Division, and the amount of financial assurance provided under Subsection B of this Section if changes in the corrective action program or landfill conditions increase the maximum costs of corrective action.

3. Subject to approval of the administrative authority, the permit holder shall provide a reduced corrective action cost estimate to the Office of Environmental Services, Waste Permits Division, and the amount of financial assurance provided under Subsection B of this Section if the cost estimate exceeds the maximum remaining costs of corrective action. The permit holder must provide the Office of Environmental Services, Waste Permits Division, justification for the reduction of the corrective action cost estimate and the revised amount of financial assurance.

B. The permit holder of each Type II landfill required to undertake a corrective action program under LAC 33:VII.805 must establish, in a manner in accordance with LAC 33:VII.1303, financial assurance for the most recent corrective action program. The financial assurance must be provided within 120 days after the selection of the corrective action remedy in LAC 33:VII.805.F. The permit holder must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with LAC 33:VII.805.G.8-10. For the purpose of corrective action financial assurance only the words "corrective action" shall be substituted for the words "closure" or "post-closure" throughout this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2524 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§1399. Financial Documents—Appendices A, B, C, D, E, F, G, H, I, and J
[Formerly within §727]

A. Appendix A

SOLID WASTE FACILITY
LIABILITY ENDORSEMENT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services,
Waste Permits Division

RE: [Facility name, agency interest number, and permit number]

Dear Sir:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering bodily injury and property damage in connection with [name of the insured, which must be the permit holder, the applicant, or the operator. (Note: The operator will provide the liability-insurance documentation only when the permit holder/applicant is a public governing body and the public governing body is not the operator.)] The insured's obligation to demonstrate financial responsibility is required in accordance with LAC 33:VII.1301. The coverage applies at [list the facility name, site name, agency interest number, site identification number, facility permit number, and facility address] for sudden and accidental occurrences. The limits of liability are [insert amount of coverage] per each occurrence and [insert amount of coverage] annual aggregate, per site, exclusive of legal-defense costs.

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with Subclauses (a) through (e) below are hereby amended to conform with Subclauses (a) through (e) below:

(a). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this endorsement is attached.

(b). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in LAC 33:VII.1301.B.2, 3, or 4.

(c). Whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements.

(d). Cancellation of this endorsement, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(e). Any other termination of this endorsement will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

3. Attached is the endorsement, which forms part of the policy [policy number] issued by [name of insurer], herein called the insurer, of [address of the insurer] to [name of the insured] of [address of the insured], this [date]. The effective date of said policy is [date].

4. I hereby certify that the wording of this endorsement is identical to the wording specified in LAC 33:VII.1399.Appendix A, effective on the date first written above and that insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or

surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

B. Appendix B

SOLID WASTE FACILITY
CERTIFICATE OF LIABILITY INSURANCE

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services,
Waste Permits Division

RE: [Facility name, agency interest number, and permit number]

Dear Sir:

1. [Name of insurer], the "insurer," of [address of insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name of insured, which must be either the permit holder or applicant of the facility], the "insured," of [address of insured] in connection with the insured's obligation to demonstrate financial responsibility under LAC 33:VII.1301. The coverage applies at [list facility name, site name, agency interest number, site identification number, facility permit number, and facility address] for sudden and accidental occurrences. The limits of liability are [insert amount of coverage] per each occurrence and [insert amount of coverage] annual aggregate, per site, exclusive of legal-defense costs. The coverage is provided under policy number [policy number], issued on [date]. The effective date of said policy is [date].

2. The insurer further certifies the following with respect to the insurance described in Paragraph 1:

(a). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy.

(b). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated, as specified in LAC 33:VII.1301.B.4, 5, or 6.

(c). Whenever requested by the administrative authority, the insurer agrees to furnish to him a signed duplicate original of the policy and all endorsements.

(d). Cancellation of the insurance, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(e). Any other termination of the insurance will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

3. I hereby certify that the wording of this certificate is identical to the wording specified in LAC 33:VII.1399.Appendix B as such regulations were constituted on the date first written above, and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

C. Appendix C

SOLID WASTE FACILITY
IRREVOCABLE LETTER OF CREDIT
(For Liability Coverage During Operation)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services,
Waste Permits Division

RE: [Facility name, agency interest number, and permit
number]

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. [number] at the request and for the account of [permit holder's or applicant's name and address] for its [list facility name, site name, agency interest number, site identification number, and facility permit number] at [location], Louisiana, in favor of any governmental body, person, or other entity for any sum or sums up to the aggregate amount of U.S. dollars \$[amount] upon presentation of:

1. A final judgment issued by a competent court of law in favor of a governmental body, person, or other entity and against [permit holder's or applicant's name] for sudden and accidental occurrences for claims arising out of injury to persons or property due to the operation of the solid waste site at the [name of permit holder or applicant] at [site location] as set forth in LAC 33:VII.1301.

2. A sight draft bearing reference to the Letter of Credit No. [number] drawn by the governmental body, person, or other entity, in whose favor the judgment has been rendered as evidenced by documentary requirement in Paragraph 1.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least 1 year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"], shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.1399.Appendix C, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]

[date]

D. Appendix D

SOLID WASTE FACILITY
TRUST AGREEMENT/STANDBY TRUST AGREEMENT

[Facility name, agency interest number, and permit number]

This Trust Agreement, the "Agreement," is entered into as of [date] by and between [name of permit holder or applicant], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of" or "a national bank" or "a state bank"], the "Trustee."

WHEREAS, the Department of Environmental Quality of the State of Louisiana, an agency of the state of Louisiana, has established certain regulations applicable to the Grantor, requiring that a permit holder or applicant for a permit of a solid waste processing or disposal facility shall provide assurance that funds will be available when needed for [closure and/or post-closure] care of the facility;

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility identified herein;

WHEREAS, the Grantor, acting through its duly authorized officers, has selected [the Trustee] to be the trustee under this Agreement, and [the Trustee] is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement:

(a) The term Grantor means the permit holder or applicant who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term Trustee means the Trustee who enters into this Agreement and any successor trustee.

(c) The term Secretary means the Secretary of the Louisiana Department of Environmental Quality.

(d) The term Administrative Authority means the Secretary or his designee or the appropriate assistant secretary or his designee.

SECTION 2. IDENTIFICATION OF FACILITIES
AND COST ESTIMATES

This Agreement pertains to the facilities and cost estimates identified on attached Schedule A. [On Schedule A, list the site identification number, site name, facility name, facility permit number, and the annual aggregate amount of liability coverage or current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement.]

SECTION 3. ESTABLISHMENT OF FUND

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Louisiana Department of Environmental Quality. The Grantor and the Trustee intend that no third party shall have access to the Fund, except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. [Note: Standby Trust Agreements need not be funded at the time of execution. In the case of Standby Trust Agreements, Schedule B should be blank except for a statement that the Agreement is not presently funded, but shall be funded by the financial assurance document used by the Grantor in accordance with the terms of that document.] Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, in trust, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the administrative authority.

SECTION 4. PAYMENT FOR CLOSURE AND/OR POST-CLOSURE CARE OR LIABILITY COVERAGE

The Trustee shall make payments from the Fund as the administrative authority shall direct, in writing, to provide for the payment of the costs of [liability claims, closure and/or post-closure] care of the facility covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the administrative authority from the Fund for [liability claims, closure and/or post-closure] expenditures in such amounts as the administrative authority shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the administrative authority specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

SECTION 5. PAYMENTS COMPRISED BY THE FUND

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

SECTION 6. TRUSTEE MANAGEMENT

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines, which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing that persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims, except that:

- (a). Securities or other obligations of the Grantor, or any owner of the [facility or facilities] or any of their affiliates, as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;
- (b). The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and
- (c). The Trustee is authorized to hold cash awaiting investment or distribution, uninvested for a reasonable time and without liability for the payment of interest thereon.

SECTION 7. COMMINGLING AND INVESTMENT

The Trustee is expressly authorized, at its discretion:

- (a). To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all provisions thereof, to be commingled with the assets of other trusts participating therein; and
- (b). To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1, et seq., including one which may be created, managed, or underwritten, or one to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares at its discretion.

SECTION 8. EXPRESS POWERS OF TRUSTEE

Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

- (a). To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;
- (b). To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (c). To register any securities held in the Fund in its own name or in the name of a nominee and to hold any

security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all securities are part of the Fund;

- (d). To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and
- (e). To compromise or otherwise adjust all claims in favor of, or against, the Fund.

SECTION 9. TAXES AND EXPENSES

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and other proper charges and disbursements of the Trustee, shall be paid from the Fund.

SECTION 10. ANNUAL VALUATION

The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the administrative authority a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee, within 90 days after the statement has been furnished to the Grantor and the administrative authority, shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

SECTION 11. ADVICE OF COUNSEL

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

SECTION 12. TRUSTEE COMPENSATION

The Trustee shall be entitled to reasonable compensation for its services, as agreed upon in writing from time to time with the Grantor.

SECTION 13. SUCCESSOR TRUSTEE

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall, in writing, specify to the Grantor, the administrative authority, and the present Trustee, by certified mail 10 days before such change becomes effective, the date on which it assumes administration of the trust. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

SECTION 14. INSTRUCTIONS TO THE TRUSTEE

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by the persons designated in the attached Exhibit A or such other persons as the Grantor

may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the administrative authority to the Trustee shall be in writing and signed by the administrative authority. The Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or termination of the authority of any person to act on behalf of the Grantor or administrative authority hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or administrative authority, except as provided for herein.

SECTION 15. NOTICE OF NONPAYMENT

The Trustee shall notify the Grantor and the administrative authority, by certified mail, within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

SECTION 16. AMENDMENT OF AGREEMENT

This Agreement may be amended by an instrument, in writing, executed by the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist.

SECTION 17. IRREVOCABILITY AND TERMINATION

Subject to the right of the parties to amend this Agreement, as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

SECTION 18. IMMUNITY AND INDEMNIFICATION

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any direction by the Grantor or the administrative authority issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all reasonable expenses incurred in its defense in the event that the Grantor fails to provide such defense.

SECTION 19. CHOICE OF LAW

This Agreement shall be administered, construed, and enforced according to the laws of the state of Louisiana.

SECTION 20. INTERPRETATION

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers duly authorized [and their corporate seals to be hereunto affixed] and attested to as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in LAC 33:VII.1399.Appendix D, on the date first written above.

WITNESSES: GRANTOR:
_____ By: _____

Its: _____
[Seal]

TRUSTEE:

By: _____

Its: _____
[Seal]

THUS DONE AND PASSED in my office in _____,
on the _____ day of _____, 20 _____, in the
presence of _____ and _____,
competent witnesses, who hereunto sign their names with the
said appearers and me, Notary, after reading the whole.

Notary Public

[Example of Formal Certification of Acknowledgement]

STATE OF LOUISIANA
PARISH OF _____

BE IT KNOWN, that on this _____ day of
_____, 20____, before me, the undersigned Notary Public,
duly commissioned and qualified within the State and Parish
aforesaid, and in the presence of the witnesses hereinafter
named and undersigned, personally came and appeared
_____, to me well known, who declared and
acknowledged that he had signed and executed the foregoing
instrument as his act and deed, and as the act and deed of the
_____, a corporation, for the consideration,
uses, and purposes and on terms and conditions therein set
forth.

And the said appearer, being by me first duly sworn, did
depose and say that he is the _____ of said corporation
and that he signed and executed said instrument in his said
capacity, and under authority of the Board of Directors of said
corporation.

Thus done and passed in the State and Parish aforesaid,
on the day and date first hereinabove written, and in the
presence of _____ and _____,
competent witnesses, who have hereunto subscribed their
names as such, together with said appearer and me, said
authority, after due reading of the whole.

WITNESSES:

NOTARY PUBLIC:

E. Appendix E

SOLID WASTE FACILITY
FINANCIAL GUARANTEE BOND

[Facility name, agency interest number, and permit number]

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit
holder or applicant]

Type of organization: [insert "individual," "joint venture,"
"partnership," or "corporation"]

State of incorporation: _____

Surety: [name and business address]
[facility name, site name, agency interest number,
site identification number, facility permit number,
and current closure and/or post-closure amount(s)
for each facility guaranteed by this bond]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the
Principal and Surety hereto, are firmly bound to the Louisiana
Department of Environmental Quality in the above penal sum
for the payment of which we bind ourselves, our heirs,
executors, administrators, successors, and assigns jointly and
severally; provided that, where Sureties are corporations
acting as co sureties, we the sureties bind ourselves in such
sum "jointly and severally" only for the purpose of allowing a

joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the solid waste facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the Louisiana Administrative Code, Title 33, Part VII, when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of the facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

OR, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to close is issued by the administrative authority or a court of competent jurisdiction,

OR, if the Principal shall provide alternate financial assurance as specified in LAC 33:VII.1303 and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification or amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:VII.1303, and the conditions of the solid waste facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state

of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:VII.1399.Appendix E, effective on the date this bond was executed.

PRINCIPAL
[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate Seal]

CORPORATE SURETIES
[Name and Address]
State of incorporation: _____

Liability limit: _____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[This information must be provided for each cosurety]
Bond Premium: \$ _____

F. Appendix F

SOLID WASTE FACILITY
PERFORMANCE BOND

[Facility name, agency interest number, and permit number]

Date bond was executed: _____
Effective date: _____
Principal: [legal name and business address of permit holder or applicant]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____
Surety: [name(s) and business address(es)]
[facility name, site name, agency interest number, site identification number, facility permit number, facility address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond (indicate closure and/or post-closure costs separately)]

Total penal sum of bond: \$ _____
Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the solid waste facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the Louisiana Administrative Code, Title 33, Part VII, when a surety bond is used to provide such financial assurance;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules,

and regulations, as such laws, statutes, rules, and regulations may be amended;

AND, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33:VII.1303 and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of LAC 33:Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has been found in violation of the post-closure requirements of LAC 33:Part VII, or of its permit for the facility for which this bond guarantees performance of post-closure, the Surety shall either perform post-closure in accordance with the closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33:VII.1303 and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permit, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:VII.1303 and the conditions of the solid waste facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in LAC 33:VII.1399.Appendix F, effective on the date this bond was executed.

PRINCIPAL
[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETY
[Name and address]
State of incorporation: _____
Liability limit: \$ _____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]
Bond premium: \$ _____

G. Appendix G

SOLID WASTE FACILITY IRREVOCABLE LETTER OF CREDIT (For Closure and/or Post-Closure Care)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services,
Waste Permits Division

RE: [Facility name, agency interest number, and permit number]

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. [number] in favor of the Department of Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the [closure and/or post-closure] fund for its [list facility name, site name, agency interest number, site identification number, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars \$[amount] upon presentation of:

1. A sight draft, bearing reference to the Letter of Credit No. [number] drawn by the administrative authority, together with;

2. A statement, signed by the administrative authority, declaring that the amount of the draft is payable into the standby trust fund pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001, et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of

[name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"], shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.1399. Appendix G, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[date]

H. Appendix H

SOLID WASTE FACILITY CERTIFICATE OF INSURANCE FOR CLOSURE AND/OR POST-CLOSURE CARE

[Facility name, agency interest number, and permit number]

Name and Address of Insurer: _____
(hereinafter called the "Insurer")

Name and Address of Insured: _____
(hereinafter called the "Insured") (Note: Insured must be the permit holder or applicant)

Facilities covered: [list the facility name, site name, agency interest number, site identification number, facility permit number, facility address, and amount of insurance for closure and/or post-closure care] (These amounts for all facilities must total the face amount shown below.)

Face Amount: _____

Policy Number: _____

Effective Date: _____

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for [insert "closure and/or post-closure care"] for the facilities identified above. The Insurer further warrants that such policy conforms in all respects to the requirements of LAC 33:VII.1303, as applicable, and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the administrative authority, the Insurer agrees to furnish to the administrative authority a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the Insurer is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana and that the wording of this certificate is identical to the wording specified in LAC 33:VII.1399. Appendix H, effective on the date shown immediately below.

[Authorized signature of Insurer]

[Name of person signing]

[Title of person signing]

Signature of witness or notary: _____

[Date]

I. Appendix I

SOLID WASTE FACILITY LETTER FROM THE CHIEF FINANCIAL OFFICER (Liability Coverage, Closure, and/or Post-Closure)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services,
Waste Permits Division

RE: [Facility name, agency interest number, and permit number]

Dear Sir:

I am the chief financial officer of [name and address of firm, which may be the permit holder, applicant, or parent corporation of the permit holder or applicant]. This letter is in support of this firm's use of the financial test to demonstrate financial responsibility for [insert "liability coverage," "closure," and/or "post-closure," as applicable] as specified in [insert "LAC 33:VII.1301," "LAC 33:VII.1303," or "LAC 33:VII.1301 and 1303"].

[Fill out the following four paragraphs regarding facilities and associated liability coverage, and closure and post-closure cost estimates. If your firm does not have facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, list the facility name, site name, agency interest number, site identification number, and facility permit number.]

1. The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following facilities, whether in Louisiana or not, for which liability coverage is guaranteed and demonstrated through a financial test similar to that specified in LAC 33:VII.1301. The amount of annual aggregate liability coverage covered by the test is shown for each facility:

2. The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following facilities, whether in Louisiana or not, for which financial assurance for [insert "closure," "post-closure," or "closure and post-closure"] is guaranteed and demonstrated through a financial test similar to that specified in LAC 33:VII.1303 or other forms of self-insurance. The current [insert "closure," "post-closure," or "closure and post-closure"] cost estimates covered by the test are shown for each facility:

3. This firm guarantees through a corporate guarantee similar to that specified in [insert "LAC 33:VII.1303," or "LAC 33:VII.1301 and 1303"], for [insert "liability coverage," "closure care," "post-closure care," or "closure and post-closure care"] of the following facilities, whether in Louisiana or not, of which [insert the name of the permit holder or applicant] are/is a subsidiary of this firm. The amount of annual aggregate liability coverage covered by the guarantee for each facility and/or the current cost estimates for the closure and/or post-closure care so guaranteed is shown for each facility:

4. This firm is the owner or operator of the following facilities, whether in Louisiana or not, for which financial assurance for liability coverage, closure and/or post-closure care is not demonstrated either to the U.S. Environmental Protection Agency or to a state through a financial test or any other financial assurance mechanism similar to those specified in LAC 33:VII.1301 and/or 1303. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

Part A. Liability Coverage for Accidental Occurrences

[Fill in Alternative I if the criteria of LAC 33:VII.1301.H.1.a are used.]

Alternative I		
1. Amount of annual aggregate liability coverage to be demonstrated	\$	
*2. Current assets	\$	
*3. Current liabilities	\$	
*4. Tangible net worth	\$	
*5. If less than 90 percent of assets are located in the U.S., give total U.S. assets	\$	
	YES	NO
6. Is line 4 at least \$10 million?		
7. Is line 4 at least 6 times line 1?		
*8. Are at least 90 percent of assets located in the U.S.? If not, complete line 9.		
9. Is line 4 at least 6 times line 1?		

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

Alternative II		
1. Amount of annual aggregate liability coverage to be demonstrated	\$	
2. Current bond rating of most recent issuance of this firm and name of rating service		
3. Date of issuance of bond		
4. Date of maturity of bond		
*5. Tangible net worth	\$	
*6. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.)	\$	
	YES	NO
7. Is line 5 at least \$10 million?		
8. Is line 5 at least 6 times line 1?		
*9. Are at least 90 percent of assets located in the U.S.? If not, complete line 10.		
10. Is line 6 at least 6 times line 1?		

[Fill in Part B if you are using the financial test to demonstrate assurance only for closure and/or post-closure care.]

Part B. Closure and/or Post-Closure

[Fill in Alternative I if the criteria of LAC 33:VII.1301.H.1.a are used.]

Alternative I		
1. Sum of current closure and/or post-closure estimate (total all cost estimates shown above)	\$	
*2. Tangible net worth	\$	
*3. Net worth	\$	
*4. Current Assets	\$	
*5. Current liabilities	\$	
*6. The sum of net income plus depreciation, depletion, and amortization	\$	
*7. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.)	\$	
	YES	NO
8. Is line 2 at least \$10 million?		
9. Is line 2 at least 6 times line 1?		
*10. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 11.		
11. Is line 7 at least 6 times line 1?		

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

Alternative II		
1. Sum of current closure and post-closure cost estimates (total of all cost estimates shown above)	\$	
2. Current bond rating of most recent issuance of this firm and name of rating service		
3. Date of issuance of bond		
4. Date of maturity of bond		
*5. Tangible net worth (If any portion of the closure and/or post-closure cost estimate is included in "total liabilities" on your firm's financial statement, you may add the amount of that portion to this line.)	\$	
*6. Total assets in U.S. (required only if less than 90 percent of the firm's assets are located in the U.S.)	\$	
	YES	NO
7. Is line 5 at least \$10 million?		
8. Is line 5 at least 6 times line 1?		
9. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 10.		
10. Is line 6 at least 6 times line 1?		

[Fill in Part C if you are using the financial test to demonstrate assurance for liability coverage, closure, and/or post-closure care.]

Part C. Liability Coverage, Closure, and/or Post-Closure

[Fill in Alternative I if the criteria of LAC 33:VII.1301.H.1.a are used.]

Alternative I		
1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above)	\$	
2. Amount of annual aggregate liability coverage to be demonstrated	\$	
3. Sum of lines 1 and 2	\$	
*4. Total liabilities (If any portion of your closure and/or post-closure cost estimates is included in your "total liabilities" in your firm's financial statements, you may deduct that portion from this line and add that amount to lines 5 and 6.)	\$	
*5. Tangible net worth	\$	
*6. Net worth	\$	
*7. Current assets	\$	
*8. Current liabilities	\$	
*9. The sum of net income plus depreciation, depletion, and amortization	\$	
*10. Total assets in the U.S. (required only if less than 90 percent of assets are located in the U.S.)	\$	
	YES	NO
11. Is line 5 at least \$10 million?		
12. Is line 5 at least 6 times line 3?		
*13. Are at least 90 percent of assets located in the U.S.? If not, complete line 14.		
14. Is line 10 at least 6 times line 3?		

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

Alternative II		
1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above)	\$	
2. Amount of annual aggregate liability coverage to be demonstrated	\$	
3. Sum of lines 1 and 2	\$	
4. Current bond rating of most recent issuance of this firm and name of rating service		
5. Date of issuance of bond		

Alternative II		
6. Date of maturity of bond		
*7. Tangible net worth (If any portion of the closure and/or post-closure cost estimates is included in the "total liabilities" in your firm's financial statements, you may add that portion to this line.)	\$ _____	
*8. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.)	\$ _____	
	YES	NO
9. Is line 7 at least \$10 million?	_____	_____
10. Is line 7 at least 6 times line 3?	_____	_____
*11. Are at least 90 percent of assets located in the U.S.? If not, complete line 12.	_____	_____
12. Is line 8 at least 6 times line 3?	_____	_____

¹Indicate total amount of annual aggregate liability coverage for all covered facilities.

(The following is to be completed by all firms providing the financial test)

I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:VII.1399.Appendix I.

[Signature of Chief Financial Officer for the Firm]
 [Typed Name of Chief Financial Officer]
 [Title]
 [Date]

J. Appendix J

**SOLID WASTE FACILITY
 CORPORATE GUARANTEE FOR
 LIABILITY COVERAGE, CLOSURE,
 AND/OR POST-CLOSURE CARE**

[Facility name, agency interest number, and permit number]

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the state of [insert name of state], hereinafter referred to as guarantor, to the Louisiana Department of Environmental Quality, obligee, on behalf of our subsidiary [insert the name of the permit holder or applicant] of [business address].

Recitals

1. The guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in LAC 33:VII.1303.H.9.

2. [Subsidiary] is the [insert "permit holder," or "applicant for a permit"] hereinafter referred to as [insert "permit holder" or "applicant"] for the following facility covered by this guarantee: [List the facility name, site name, agency interest number, site identification number, and facility permit number. Indicate for each facility whether guarantee is for liability coverage, closure, and/or post-closure and the amount of annual aggregate liability coverage, closure, and/or post-closure costs covered by the guarantee.]

[Fill in Paragraphs 3 and 4 below if the guarantee is for closure and/or post-closure.]

3. "Closure plans" as used below refers to the plans maintained as required by LAC 33:Part VII, for the closure and/or post-closure care of the facility identified in Paragraph 2 above.

4. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to the Louisiana Department of Environmental Quality that in the event that [insert "permit holder" or "applicant"] fails to perform [insert "closure," "post-closure care," or "closure and post-closure care"] of the above facility in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor shall do so or shall establish a trust fund as specified in LAC 33:VII.1303.C, as applicable, in the name of [insert "permit holder" or "applicant"] in the amount of the current closure and/or post-closure estimates, as specified in LAC 33:VII.1303.

[Fill in Paragraph 5 below if the guarantee is for liability coverage.]

5. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to any and all third parties who have sustained or may sustain bodily injury or property damage caused by sudden and accidental occurrences arising from operations of the facility covered by this guarantee that in the event that [insert "permit holder" or "applicant"] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences arising from the operation of the above-named facilities, or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor will satisfy such judgment(s), award(s), or settlement agreement(s) up to the coverage limits identified above.

6. The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the administrative authority and to [insert "permit holder" or "applicant"] that he intends to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"], as applicable, in the name of the [insert "permit holder" or "applicant"], within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [insert "permit holder" or "applicant"] has done so.

7. The guarantor agrees to notify the administrative authority, by certified mail, of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

8. The guarantor agrees that within 30 days after being notified by the administrative authority of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of [insert "liability coverage" or "closure and/or post-closure care"] he shall establish alternate financial assurance as specified in [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"], as applicable, in the name of [insert "permit holder" or "applicant"], unless [insert "permit holder" or "applicant"] has done so.

9. The guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: [if the guarantee is for closure and post-closure insert "amendment or modification of the closure and/or post-closure care, the extension or reduction of the time of performance of closure and/or post-closure"] or any other modification or alteration of an obligation of the [insert "permit holder" or "applicant"] pursuant to LAC 33:Part VII.

10. The guarantor agrees to remain bound under this guarantee for as long as the [insert "permit holder" or "applicant"] must comply with the applicable financial assurance requirements of [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"] for the above-listed facility, except that guarantor may cancel this guarantee by sending notice by certified mail, to the administrative authority and to the [insert "permit holder" or "applicant"], such cancellation to become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the [insert "permit holder" or "applicant"], as evidenced by the return receipts.

11. The guarantor agrees that if the [insert "permit holder" or "applicant"] fails to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"], as applicable, and obtain written approval of such assurance from the administrative authority within 60 days after a notice of cancellation by the guarantor is received by the administrative authority from guarantor, guarantor shall provide such alternate financial assurance in the name of the [insert "permit holder" or "applicant"].

12. The guarantor expressly waives notice of acceptance of this guarantee by the administrative authority or by the [insert "permit holder" or "applicant"]. Guarantor expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in LAC 33:VII.1399.Appendix J, effective on the date first above written.

Effective date: _____
[Name of Guarantor]
[Authorized signature for guarantor]
[Typed name and title of person signing]
Thus sworn and signed before me this [date].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

Chapter 14. Statewide Beautification [Formerly Chapter 13]

NOTE: The name of the Litter and Waste Reduction Section has been updated to the Recycling and Litter Abatement Section.

§1401. Purpose [Formerly §1301]

A. It is declared to be the purpose of these rules and regulations to:

1. control and reduce litter; and
2. create a statewide beautification program to enhance the tourist, recreational, and economic development of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2521 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

§1403. Definitions [Formerly §1303]

A. The following words, terms, and phrases, when used in conjunction with LAC 33:VII.Subpart 1, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning.

Commission—the Louisiana Litter Reduction and Public Action Commission.

Dump—to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

Litter—all waste material, except as provided and defined in R.S. 30:2173(2), including but not limited to, disposable packages, containers, sand, gravel, rubbish, cans, bottles, refuse, garbage, trash, debris, dead animals, furniture or appliances, automotive parts including, but not limited to, tires and engines, trailers, boats and boating accessories, tools and equipment, and building materials, or other discarded materials of any kind and description. *Litter* shall not include agricultural products that are being transported from the harvest or collection site to a processing or market site if reasonable measures are taken to prevent the agricultural product from leaving the transporting vehicle. *Litter* shall also not include recyclable cardboard being transported in compressed bundles to processing facilities. *Agricultural product*, as used in this definition, means all crops, livestock, poultry, and forestry; and all aquacultural, floracultural, horticultural, silvicultural, and viticultural products.

Local Governing Authority—the governing authority of the parish or the governing authority of the municipality in which the littering offense was committed.

Public or Private Property—the right-of-way of any road or highway, levee, any body of water or watercourse or the shores or beaches thereof, any park, playground, building, refuge, or conservation or recreation area, and residential or farm properties, timberland, or forests.

Section—the Recycling and Litter Abatement Section located within and acting through the Office of Environmental Services of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2522 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), repromulgated LR 33:

§1405. Louisiana Litter Abatement Program [Formerly §1305]

A. The purpose of the Louisiana Litter Abatement Program shall be to support the community-based litter abatement programs.

B. Program Award

1. Program awards shall be made available to local governments and nonprofit organizations.

2. Funding through the program shall be subject to the availability of funds.

3. All requests for awards shall be made in writing on a form provided by the department to the Recycling and Litter Abatement Section of the Office of Environmental Services.

4. The monies awarded through the award shall be used to further the administration and execution of the Keep Louisiana Beautiful Program. Allowable uses of award funding shall include, but not be limited to:

- a. Keep America Beautiful fees;
- b. Keep America Beautiful precertification training, education curriculums, and workshops;
- c. law enforcement seminars;
- d. litter surveys;
- e. projects, services, activities, and operational costs of litter abatement programs;
- f. materials and services for program development and training;
- g. direct expenditures for materials that can facilitate litter reduction, recycling, waste reduction, reuse, and general solid waste management programs;
- h. minimal advertising, public relations, and promotional materials necessary for publicity and promotion of program activities; and
- i. the salary of the program coordinator.

5. Each successful applicant shall supplement award funds with a 25 percent match from other sources. All matching funds must be available to the program after the date of the program award, and funds spent prior to the program award shall not be considered eligible in fulfilling the match requirement.

6. Awards shall be awarded based on a comparative basis as determined by the Recycling and Litter Abatement Section of the Office of Environmental Services.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2524 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), repromulgated LR 33:

Chapter 15. Solid Waste Fees

[Formerly Chapter 5.Subchapter D]

§1501. Standard Permit Application Review Fee

[Formerly §525]

A. Applicants for Type I, I-A, II, and II-A standard permits shall pay a \$3,300 permit application review fee for each facility. The fee shall accompany each permit application submitted.

B. Applicants for Type III standard permits or beneficial-use permits shall pay a permit application review fee of \$660 for each facility. The fee shall accompany each permit application submitted.

C. Permit holders providing permit modifications for Type I, I-A, II, and II-A facilities shall pay a \$1,320 permit-modification review fee. The fee shall accompany each modification submitted. Permit holders providing mandatory modifications in response to these regulations shall pay a \$660 permit-modification fee. The fee shall accompany each mandatory modification submitted. Permit modifications required by LAC 33:VII.805.A will not be subject to a permit modification fee.

D. Permit holders providing permit modifications for Type III facilities or beneficial use facilities shall pay a \$330 permit-modification review fee. The fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

§1503. Closure Plan Review Fee

[Formerly §527]

A. Applicants for Type I, I-A, II, and II-A closures shall pay a \$1,320 closure-plan review fee. The fee shall accompany each closure plan submitted.

B. Applicants for Type III or beneficial-use facilities closures shall pay a \$330 closure-plan review fee. The fee shall accompany each closure plan submitted.

C. Permit holders providing closure-plan modifications for Type I, I-A, II, and II-A facilities shall pay a \$660 closure-plan modification review fee. The fee shall accompany each modification submitted.

D. Permit holders providing closure-plan modifications for Type III or beneficial-use facilities shall pay a \$165 closure-plan modification review fee. The fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

§1505. Annual Monitoring and Maintenance Fee

[Formerly §529]

A. An initial fee is charged for the processing of transporter notifications.

1. The fee shall be calculated by the following formula.

$$\text{Initial fee per notification} + \text{Fee based on each vehicle owned by the transporter} = \text{Notification fee}$$

2. No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing.

Initial fee	\$132
Fee Per Vehicle	\$33

B. All holders of permits for solid waste processing and/or disposal facilities that have not completed closure, including post-closure activities, in accordance with an approved plan, shall be charged an annual monitoring and maintenance fee for each permit. This annual monitoring and maintenance fee shall be calculated by the following formula.

$$\text{Base fee per permit} + \text{Fee based on tonnage} = \text{Annual monitoring and maintenance fee}$$

1. Base fees are as follows:

- a. \$7,920 for Type I facilities (including facilities that handle both industrial and non-industrial waste);
- b. \$1,980 for Type II facilities; and
- c. \$660 for Type I-A, II-A, III, and beneficial-use facilities.

2. Tonnage fees will be based on the wet-weight tonnage, as reported in the previous year's disposer annual report, and are calculated as follows:

- a. for industrial wastes (Type I facilities, except surface impoundments), \$0.79/ton;
- b. for non-industrial wastes (Type II facilities, except surface impoundments), \$0.20/ton for amounts exceeding 75,000 tons;
- c. for construction or demolition debris deposited at permitted construction or demolition debris facilities (Type III facilities), \$0.20/ton; and the fee is only applicable to construction or demolition debris that is subject to a fee imposed by the facility;
- d. for surface impoundments, no tonnage fee;
- e. for publicly operated facilities that treat domestic sewage sludge, no tonnage fee; and
- f. for Type I-A, II-A, III (except construction or demolition debris disposal facilities), and beneficial-use facilities, no tonnage fee.

3. The maximum annual monitoring and maintenance fee per facility for Type I facilities (including facilities that handle both industrial and non-industrial solid wastes) is \$105,600. The maximum fee per facility for Type II facilities

is \$26,400. Surface impoundments, as noted above, are assessed only the base fee.

C. The annual monitoring and maintenance period shall be from July 1 through June 30, commencing upon promulgation of these regulations and terminating upon completion of closure or post-closure activities for the facility in accordance with the permit of the administrative authority. The annual monitoring and maintenance fee for facilities during post-closure shall be 25 percent of the applicable base fee in Paragraph B.1 of this Section.

D. Fee payment shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice.

E. Late Payment Fee. Payments not received within 15 days of the due date will be charged a late payment fee. Any late payment fee shall be calculated from the due date indicated on the invoice.

1. Payments not received by the department by the fifteenth day from the due date will be assessed a five percent late payment fee on the original assessed fee.

2. Payments not received by the department by the thirtieth day from the due date will be assessed an additional five percent late payment fee on the original assessed fee.

3. Payments not received by the department by the sixtieth day from the due date will be assessed an additional five percent late payment fee on the original assessed fee.

F. Failure to pay the prescribed application fee or annual fee as provided herein, within 90 days after the due date, will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

G. The annual fees prescribed herein shall be effective retroactive for the state fiscal year in which these fee regulations are published in the *Louisiana Register* as adopted and each state fiscal year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:2249 (December 2006), re promulgated LR 33:

Chapter 30. Appendices

§3001. Public Notice Example—Appendix A

A. The following is an example of a public notice to be placed in the local newspaper for intention to submit a permit application to the Office of Environmental Services, Waste Permits Division, for existing/proposed solid waste facilities.

PUBLIC NOTICE
OF
INTENT TO SUBMIT PERMIT APPLICATION

[NAME OF APPLICANT/FACILITY]
FACILITY [location], PARISH [location], LOUISIANA

Notice is hereby given that [name of applicant] does intend to submit to the Department of Environmental Quality,

Office of Environmental Services, Waste Permits Division, an application for a permit to operate a [type of solid waste facility] in [parish name], Range __, Township __, Section __, which is approximately [identify the physical location of the site by direction and distance from the nearest town].

Comments concerning the facility may be filed with the secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality
Office of Environmental Services
Waste Permits Division
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), amended LR 33:

§3003. Appendix B

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:

§3005. Groundwater Sampling and Analysis Plan—Appendix C

Groundwater Sampling and Analysis Plan

A. All wells must be measured for total depth and depth to water on the same day and immediately prior to purging. Measurements must be to the nearest 0.01 foot, and the values must be recorded in the field notebook. If 10 percent of the screened interval is blocked by sediments, the well must be redeveloped prior to the next required sampling event. Wells with dedicated sampling devices that preclude total-depth measurement must be measured annually.

B. Each well must be purged by evacuation to dryness or by removing a minimum of three casing volumes. The well must be sampled immediately upon purging and/or when sufficient water for sampling has recharged the well. Purging and sampling methods must be consistent throughout the life of the facility. Samples shall not be field filtered prior to laboratory analysis.

C. Samples must be withdrawn using dedicated or adequately cleaned equipment for each well. No equipment or method may be used that will chemically alter or influence the sample. Sampling devices, other than bailers, must be approved by the administrative authority prior to use in monitoring programs. Care must be taken to avoid placing clean sampling equipment on the ground or on any contaminated surface. Sampling methods and equipment must be compatible throughout the life of the facility.

D. Sample preservation, handling, and analysis shall meet the specifications of SW-846, or an equivalent substitute as approved by the administrative authority. Parameters, containers, preservation methods, and analytical limits are listed in Tables 1 and 2.

E. Analytical methods with the equivalency to SW-846, or analytical methods for parameters not listed in SW-846, shall be approved by the administrative authority prior to implementation.

F. A chain of custody shall be employed that will allow for the possession and handling of samples to be traced from the time of collection through laboratory analysis. All sample containers shall be labeled to prevent misidentification, have proper seals, and indicate the test parameters required.

G. At the site, an up-to-date field logbook shall be kept, which documents for each sample the well identification number, total well depth, elevation of top of casing, water level, water color, well-evacuation procedures and equipment, date, time, sample identification numbers, field measurements (pH, specific conductance, etc.) and methods, name of

collector, field observations, calculations of the standing-water volume in the well, and the total volume evacuated.

Table 1		
Detection Monitoring Parameters ¹		
Common Name ²	CAS RN ³	
(1)	Antimony	(Total)
(2)	Arsenic	(Total)
(3)	Barium	(Total)
(4)	Beryllium	(Total)
(5)	Cadmium	(Total)
(6)	Chromium	(Total)
(7)	Cobalt	(Total)
(8)	Copper	(Total)
(9)	Lead	(Total)
(10)	Nickel	(Total)
(11)	Selenium	(Total)
(12)	Silver	(Total)
(13)	Thallium	(Total)
(14)	Vanadium	(Total)
(15)	Zinc	(Total)
Organic Constituents:		
(16)	Acetone	67-64-1
(17)	Acrylonitrile	107-13-1
(18)	Benzene	71-43-2
(19)	Bromochloromethane	74-97-5
(20)	Bromodichloromethane	75-27-4
(21)	Bromoform; Tribromomethane	75-25-2
(22)	Carbon disulfide	75-15-0
(23)	Carbon tetrachloride	56-23-5
(24)	Chlorobenzene	108-90-7
(25)	Chloroethane; Ethyl chloride	75-00-3
(26)	Chloroform; Trichloromethane	67-66-3
(27)	Dibromochloromethane; Chlorodibromomethane	124-48-1
(28)	1,2-Dibromo-3-chloropropane; DBCP	96-12-8
(29)	1,2-Dibromoethane; Ethylene dibromide; EDB	106-93-4
(30)	o-Dichlorobenzene; 1,2-Dichlorobenzene	95-50-1
(31)	p-Dichlorobenzene; 1,4-Dichlorobenzene	106-46-7
(32)	trans-1,4-Dichloro-2-butene	110-57-6
(33)	1,1-Dichloroethane; Ethylidene chloride	75-34-3
(34)	1,2-Dichloroethane; Ethylene dichloride	107-06-2
(35)	1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride	75-35-4

Table 1		
Detection Monitoring Parameters ¹		
Common Name ²	CAS RN ³	
(36)	cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2
(37)	trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene	156-60-5
(38)	1,2-Dichloropropane; Propylene dichloride	78-87-5
(39)	cis-1,3-Dichloropropene	10061-01-5
(40)	trans-1,3-Dichloropropene	10061-02-6
(41)	Ethylbenzene	100-41-4
(42)	2-Hexanone; Methyl butyl ketone	591-78-6
(43)	Methyl bromide; Bromomethane	74-83-9
(44)	Methyl chloride; Chloromethane	74-87-3
(45)	Methylene bromide; Dibromomethane	74-95-3
(46)	Methylene chloride; Dichloromethane	75-09-2
(47)	Methyl ethyl ketone; MEK; 2-Butanone	78-93-3
(48)	Methyl iodide; Iodomethane	74-88-4
(49)	4-Methyl-2-pentanone; Methyl isobutyl ketone	108-10-1
(50)	Styrene	100-42-5
(51)	1,1,1,2-Tetrachloroethane	630-20-6
(52)	1,1,2,2-Tetrachloroethane	79-34-5
(53)	Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	127-18-4
(54)	Toluene	108-88-3
(55)	1,1,1-Trichloroethane; Methylchloroform	71-55-6
(56)	1,1,2-Trichloroethane	79-00-5
(57)	Trichloroethylene; Trichloroethene	79-01-6
(58)	Trichlorofluoromethane; CFC-11	75-69-4
(59)	1,2,3-Trichloropropane	96-18-4
(60)	Vinyl acetate	108-05-4
(61)	Vinyl chloride	75-01-4
(62)	Xylenes	1330-20-7

NOTES:

¹ This list contains 47 volatile organics for which possible analytical procedures provided in EPA Publication SW-846, *Test Methods for Evaluating Solid Wastes*, include Method 8260; and 15 metals for which SW-846 provides either Method 6010 or a method from the 7000 series of methods.

² Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

³ Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
Acenaphthene	83-32-9	Acenaphthylene, 1,2-dihydro-	8100 8270	200 10
Acenaphthylene	208-96-8	Acenaphthylene	8100 8270	200 10
Acetone	67-64-1	2-Propanone	8260	100
Acetonitrile; Methyl cyanide	75-05-8	Acetonitrile	8015	100
Acetophenone	98-86-2	Ethanone, 1-phenyl-	8270	10
2-Acetylamino fluorene; 2-AAF	53-96-3	Acetamide, N-9H-fluorene-2-yl-	8270	20
Acrolein	107-02-8	2-Propenal	8030 8260	5 100
Acrylonitrile	107-13-1	2-Propenenitrile	8030 8260	5 200
Aldrin	309-00-2	1,4:5,8-Dimethanonaphthalene; 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a,-hexahydro-(1α,4α,4aβ,5α,8α,8aβ)	8080 8270	0.05 10
Allyl chloride	107-05-1	1-Propene, 3-chloro-	8010 8260	5 10
4-Amino-biphenyl	92-67-1	[1,1'-Biphenyl]-4-amine	8270	20
Anthracene	120-12-7	Anthracene	8100 8270	200 10

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
Antimony	(Total)	Antimony	6010 7040 7041	300 2,000 30
Arsenic	(Total)	Arsenic	6010 7060 7061	500 10 20
Barium	(Total)	Barium	6010 7080	20 1,000
Benzene	71-43-2	Benzene	8020 8021 8260	2 0.1 5
Benzo[a]anthracene; 1,2-Benzanthracene	56-55-3	Benzo[a]anthracene	8100 8270	200 10
Benzo[b]fluoranthene	205-99-2	Benzo[e]acephenanthrylene	8100 8270	200 10
Benzo[k]fluoranthene	207-08-9	Benzo[k]fluoranthene	8100 8270	200 10
Benzo[ghi]perylene	191-24-2	Benzo[ghi]perylene	8100 8270	200 10
Benzo[a]pyrene	50-32-8	Benzo[a]pyrene	8100 8270	200 10
Benzyl alcohol	100-51-6	Benzenemethanol	8270	20
Beryllium	(Total)	Beryllium	6010 7090 7091	3 50 2
alpha-BHC	319-84-6	Cyclohexane, 1,2,3,4,5,6-hexachloro-(1 α ,2 α ,3 β ,4 α ,5 β ,6 β)-	8080 8270	0.05 10
beta-BHC	319-85-7	Cyclohexane, 1,2,3,4,5,6-hexachloro-(1 α ,2 β ,3 α ,4 β ,5 α ,6 β)-	8080 8270	0.05 20
delta-BHC	319-86-8	Cyclohexane, 1,2,3,4,5,6-hexachloro-(1 α ,2 α ,3 α ,4 β ,5 α ,6 β)-	8080 8270	0.1 20
gamma-BHC; Lindane	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-(1 α ,2 α ,3 β ,4 α ,5 α ,6 β)-	8080 8270	0.05 20
Bis(2-chloroethoxy)methane	111-91-1	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-	8110 8270	5 10
Bis(2-chloroethyl)ether	111-44-4	Ethane, 1,1'-oxybis[2-chloro-	8110 8270	3 10
Bis(2-chloro-1-methylethyl) ether; 2,2'-Dichlorodiisopropyl ether	108-60-1 See Note 7	Propane, 2,2'-oxybis[1-chloro-	8110 8270	10 10
Bis(2-ethylhexyl) phthalate	117-81-7	1,2-Benzene-dicarboxylic acid; bis(2-ethylhexyl) ester	8060	20
Bromochloromethane; Chlorobromomethane	74-97-5	Methane, bromochloro-	8021 8260	0.1 5
Bromodichloromethane	75-27-4	Methane, bromodichloro-	8010 8021 8260	1 0.2 5
Bromoform; Tribromomethane	75-25-2	Methane, tribromo-	8010 8021 8260	2 15 5
4-Bromophenyl phenyl ether	101-55-3	Benzene, 1-bromo-4-phenoxy-	8110 8270	25 10
Butyl benzyl phthalate; Benzyl butyl phthalate	85-68-7	1,2-Benzenedicarboxylic acid; butyl phenylmethyl ester	8060 8270	5 10
Cadmium	(Total)	Cadmium	6010 7130 7131	40 50 1
Carbon disulfide	75-15-0	Carbon disulfide	8260	100
Carbon tetrachloride	56-23-5	Methane, tetrachloro-	8010 8021 8260	1 0.1 10
Chlordane	57-74-9 See Note 8	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a- hexahydro-	8080 8270	0.1 50
p-Chloroaniline	106-47-8	Benzenamine, 4-chloro-	8270	20
Chlorobenzene	108-90-7	Benzene, chloro-	8010 8020 8021 8260	2 2 0.1 5
Chlorobenzilate	510-15-6	Benzenoacetic acid, 4-chloro- α -(4-chlorophenyl)- α -hydroxy-, ethyl ester	8270	10

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
p-Chloro-m-cresol	59-50-7	Phenol, 4-chloro-3-methyl-	8040 8270	5 20
Chloroethane; Ethyl chloride	75-00-3	Ethane, chloro-	8010 8021 8260	5 1 10
Chloroform	67-66-3	Methane, trichloro-	8010 8021 8260	0.5 0.2 5
2-Chloronaphthalene	91-58-7	Naphthalene, 2-chloro-	8120 8270	10 10
2-Chlorophenol	95-57-8	Phenol, 2-chloro-	8040 8270	5 10
4-Chlorophenyl phenyl ether	7005-72-3	Benzene, 1-chloro-4-phenoxy-	8110 8270	40 10
Chloroprene	126-99-8	1,3-Butadiene, 2-chloro-	8010 8260	50 20
Chromium	(Total)	Chromium	6010 7190 7191	70 500 10
Chrysene	218-01-9	Chrysene	8100 8270	200 10
Cobalt	(Total)	Cobalt	6010 7200 7201	70 500 10
Copper	(Total)	Copper	6010 7210	60 200
m-Cresol	108-39-4	Phenol, 3-methyl-	8270	10
o-Cresol	95-48-7	Phenol, 2-methyl-	8270	10
p-Cresol	106-44-5	Phenol, 4-methyl-	8270	10
Cyanide	57-12-5	Cyanide	9010	200
2,4-D; 2,4-Dichlorophenoxyacetic acid	94-75-7	Acetic acid, (2,4-dichlorophenoxy)-	8150	10
4,4'-DDD	72-54-8	Benzene 1,1'-(2,2-dichloroethylidene) bis[4-chloro-	8080 8270	0.1 10
4,4'-DDE	72-55-9	Benzene, 1,1'-(dichloroethenylidene) bis[4-chloro-	8080 8270	0.05 10
4,4'-DDT	50-29-3	Benzene, 1,1'-(2,2,2-trichloroethylidene) bis[4-chloro-	8080 8270	0.1 10
Diallate	2303-16-4	Carbamothioic acid, bis(1-methyl- ethyl)-, S-(2,3-dichloro-2-propenyl) ester	8270	10
Dibenz[a,h]- anthracene	53-70-3	Dibenz[a,h] anthracene	8100 8270	200 10
Dibenzofuran	132-64-9	Dibenzofuran	8270	10
Dibromochloromethane; Chlorodibromomethane	124-48-1	Methane, dibromochloro-	8010 8021 8260	1 0.3 5
1,2-Dibromo-3-chloropropane; DBCP	96-12-8	Propane, 1,2-dibromo-3-chloro-	8011 8021 8260	0.1 30 25
1,2-Dibromoethane; Ethylene dibromide	106-93-4	Ethane, 1,2-dibromo-	8011 8021 8260	0.1 10 5
Di-n-butyl phthalate	84-74-2	1,2-Benzene dicarboxylic acid, dibutyl ester	8060 8270	5 10
o-Dichlorobenzene	95-50-1	Benzene, 1,2-dichloro-	8010 8020 8021 8120 8260 8270	2 5 0.5 10 5 10
m-Dichlorobenzene	541-73-1	Benzene, 1,3-dichloro-	8010 8020 8021 8120 8260 8270	5 5 0.2 10 5 10

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
p-Dichlorobenzene	106-46-7	Benzene, 1,4-dichloro-	8010 8020 8021 8120 8260 8270	2 5 0.1 15 5 10
3,3'-Dichlorobenzidine	91-94-1	[1,1'-Biphenyl]-4,4'-diamine, 3,3'- dichloro-	8270	20
trans-1,4-Dichloro-2-butene	110-57-6	2-Butene, 1,4-dichloro-, (E)-	8260	100
Dichlorodifluoromethane	75-71-8	Methane, dichlorodifluoro-	8021 8260	0.5 5
1,1-Dichloroethane	75-34-3	Ethane, 1,1-dichloro-	8010 8021 8260	1 0.5 5
1,2-Dichloroethane; Ethylene dichloride	107-06-2	Ethane, 1,2-dichloro-	8010 8021 8260	0.5 0.3 5
1,1-Dichloroethylene; Vinylidene chloride	75-35-4	Ethene, 1,1-dichloro	8010 8021 8260	1 0.5 5
cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2	Ethene, 1,2-dichloro-, (Z)-	8021 8260	0.2 5
trans-1,2-Dichloroethylene	156-60-5	Ethene, 1,2-dichloro-(E)-	8010 8021 8260	1 0.5 5
2,4-Dichlorophenol	120-83-2	Phenol, 2,4-dichloro-	8040 8270	5 10
2,6-Dichlorophenol	87-65-0	Phenol, 2,6-dichloro-	8270	10
1,2-Dichloropropane	78-87-5	Propane, 1,2-dichloro-	8010 8021 8260	0.5 0.05 5
1,3-Dichloropropane; Trimethylene dichloride	142-28-9	Propane, 1,3-dichloro-	8021 8260	0.3 5
2,2-Dichloropropane; Isopropylidene chloride	594-20-7	Propane, 2,2-dichloro-	8021 8260	0.5 15
1,1-Dichloropropene	563-58-6	1-Propene, 1,1-dichloro-	8021 8260	0.2 5
cis-1,3-Dichloropropene	10061-01-5	1-Propene, 1,3-dichloro-, (Z)-	8010 8260	20 10
trans-1,3-Dichloropropene	10061-02-6	1-Propene, 1,3-dichloro-, (E)-	8010 8240	5 5
Dieldrin	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro- 1a,2,2a,3,6,6a,7,7a-octahydro-, (1α,2β,2αα,3β,6β,6αα, 7β,7αα)-	8080 8270	0.05 10
Diethyl phthalate	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester	8060 8270	5 10
O,O-Diethyl O-2-pyrazinyl phosphorothioate; Thionazin	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester	8141 8270	5 20
Dimethoate	60-51-5	Phosphorodithioic acid, O,O-dimethyl-S-[2-(methylamino)-2-oxoethyl] ester	8141 8270	3 20
p-(Dimethylamino)azobenzene	60-11-7	Benzenamine, N,N-dimethyl-4- (phenylazo)-	8270	10
7,12-Dimethylbenz[a] anthracene	57-97-6	Benz[a]anthracene, 7,12-dimethyl-	8270	10
3,3'-Dimethylbenzidine	119-93-7	[1,1'-Biphenyl]-4,4'-diamine, 3,3'- dimethyl-	8270	10
2,4-Dimethylphenol	105-67-9	Phenol, 2,4-dimethyl-	8040	5
Dimethyl phthalate	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester	8060 8270	5 10
m-Dinitrobenzene	99-65-0	Benzene, 1,3-dinitro-	8270	20
4,6-Dinitro-o-cresol	534-52-1	Phenol, 2-methyl-4,6-dinitro-	8040 8270	150 50
2,4-Dinitrophenol	51-28-5	Phenol, 2,4-dinitro-	8040 8270	150 50
2,4-Dinitrotoluene	121-14-2	Benzene, 1-methyl-2,4-dinitro-	8090 8270	0.2 10
2,6-Dinitrotoluene	606-20-2	Benzene, 2-methyl-1,3-dinitro-	8090 8270	0.1 10
Dinoseb; DNBP; 2-sec-Butyl-4,6-dinitrophenol	88-85-7	Phenol, 2-(1-methyl- propyl)-4,6-dinitro-	8150 8270	1 20
Di-n-octyl phthalate	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester	8060 8270	30 10
Diphenylamine	122-39-4	Benzenamine, N-phenyl-	8270	10

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
Disulfoton	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio) ethyl]ester	8140	2
			8141	0.5
			8270	10
Endosulfan I	959-98-8	6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro -1,5,5a,6,9,9a-hexahydro-,3-oxide, (3α,5aβ,6α,9α,9aβ)-	8080	0.1
			8270	20
Endosulfan II	33213-65-9	6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro -1,5,5a,6,9,9a-hexahydro-,3-oxide, (3α,5aα,6β,9β,9aα)-	8080	0.05
			8270	20
Endosulfan sulfate	1031-07-8	6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexa-chloro -1,5,5a,6,9,9a-hexahydro-,3,3-dioxide	8080	0.5
			8270	10
Endrin	72-20-8	2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro- 1a,2,2a,3,6,6a,7,7a-octahydro-, (1α,2β,2aβ,3α,6α,6aβ, 7β,7aα)-	8080	0.1
			8270	20
Endrin aldehyde	7421-93-4	1,2,4-Methenocyclopenta[cd]-pentalene-5-carboxaldehyde, 2,2a,3,3,4,7-hexachlorodecahydro- (1α,2β,2aβ,4β,4aβ,5β,6aβ,6bβ,7R*)	8080	0.2
			8270	10
Ethylbenzene	100-41-4	Benzene, ethyl-	8020	2
			8221	0.05
			8260	5
Ethyl methacrylate	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester	8015	5
			8260	10
			8270	10
Ethyl methanesulfonate	62-50-0	Methanesulfonic acid, ethyl ester	8270	20
Famphur	52-85-7	Phosphorothioic acid, O-[4-[(dimethyl- amino)-sulfonyl] phenyl]-O,O-dimethyl ester	8270	20
Fluoranthene	206-44-0	Fluoranthene	8100	200
			8270	10
Fluorene	86-73-7	9H-Fluorene	8100	200
			8270	10
Heptachlor	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a- tetrahydro-	8080	0.05
			8270	10
Heptachlor epoxide	1024-57-3	2,5-Methano-2H-indeno [1,2-b]oxirene, 2,3,4,5,6,7,7-heptachloro- 1a,1b,5,5a,6,6a-hexahydro-, (1α,1bβ,2α,5α,5aβ,6β,6aα)	8080	1
			8270	10
Hexachlorobenzene	118-74-1	Benzene, hexachloro-	8120	0.5
			8270	10
Hexachlorobutadiene	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	8021	0.5
			8120	5
			8260	10
			8270	10
Hexachlorocyclopentadiene	77-47-4	1,3-Cyclopentadiene	8120	5
			8270	10
Hexachloroethane	67-72-1	Ethane, hexachloro-	8120	0.5
			8260	10
			8270	10
Hexachloropropene	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-	8270	10
2-Hexanone	591-78-6	2-Hexanone	8260	50
Indeno(1,2,3-cd) pyrene	193-39-5	Indeno[1,2,3-cd] pyrene	8100	200
			8270	10
Isobutyl alcohol	78-83-1	1-Propanol, 2-methyl-	8015	50
			8240	100
Isodrin	465-73-6	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a- hexahydro-(1α,4α,4aβ,5β,8β,8aβ)-	8270	20
			8260	10
Isophorone	78-59-1	2-Cyclohexen-1-one, 3,5,5-tri-methyl-	8090	60
			8270	10
Isosafrole	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-	8270	10
Kepone	143-50-0	1,3,4-Metheno-2H- cyclobuta-[cd] pentalen-2-one, 1,1a,3,3a,4,5,5a,5b,6- decachlorooctahydro-	8270	20
Lead	(Total)	Lead	6010	400
			7420	1,000
			7421	10
Mercury	(Total)	Mercury	7470	2
Methacrylonitrile	126-98-7	2-Propene, nitrile 2-methyl-	8015	5
			8260	100

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
Methapyrilene	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-	8270	100
Methoxychlor	72-43-5	Benzene, 1,1'-(2,2,2, trichloroethylidene) bis[4-methoxy-	8080 8270	2 10
Methyl bromide; Bromomethane	74-83-9	Methane, bromo-	8010 8021	20 10
Methyl chloride; Chloromethane	74-87-3	Methane, chloro-	8010 8021	1 0.3
3-Methylcholanthrene	56-49-5	Benz[j]aceanthrylene, 1,2-dihydro- 3-methyl-	8270	10
Methyl ethyl ketone; MEK	78-93-3	2-Butanone	8015 8260	10 100
Methyl iodide; Iodomethane	74-88-4	Methane, iodo-	8010 8260	40 10
Methyl methacrylate	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester	8015 8260	2 30
Methyl methanesulfonate	66-27-3	methanesulfonic acid, methyl ester	8270	10
2-Methylnaphthalene	91-57-6	Naphthalene, 2-methyl-	8270	10
Methyl parathion; Parathion methyl	298-00-0	Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester	8140 8141 8270	0.5 1 10
4-Methyl-2-pentanone; Methyl isobutyl ketone	108-10-1	2-Pentanone, 4-methyl	8015 8260	5 100
Methylene bromide; Dibromomethane	74-95-3	Methane, dibromo-	8010 8021 8260	15 20 10
Methylene chloride; Dichloromethane	75-09-2	Methane, dichloro-	8010 8021 8060	5 0.2 10
Naphthalene	91-20-3	Naphthalene	8021 8100 8260 8270	0.5 200 5 10
1,4-Naphthoquinone	130-15-4	1,4-Naphthalenedione	8270	10
1-Naphthylamine	134-32-7	1-Naphthalenamine	8270	10
2-Naphthylamine	91-59-8	2-Naphthalenamine	8270	10
Nickel	(Total)	Nickel	6010 7520	50 400
o-Nitroaniline	88-74-4	Benzenamine, 2-nitro-	8270	50
m-Nitroaniline	99-09-2	Benzenamine, 3-nitro-	8270	50
p-Nitroaniline	100-01-6	Benzenamine, 4-nitro-	8270	50
Nitrobenzene	98-95-3	Benzene, nitro-	8090 8270	40 10
o-Nitrophenol	88-75-5	Phenol, 2-nitro-	8040 8270	5 10
p-Nitrophenol	100-02-7	Phenol, 4-nitro	8040 8270	10 50
N-Nitrosodi-n-butylamine	924-16-3	1-Butanamine, N-butyl-N-nitroso-	8270	10
N-Nitrosodiethylamine	55-18-5	Ethanamine, N-ethyl-N-nitroso-	8270	20
N-Nitrosodimethylamine	62-75-9	Methanamine, N-methyl-N-nitroso-	8070	2
N-Nitrosodiphenylamine	86-30-6	Benzenamine, N-nitroso-N-phenyl-	8070	5
N-Nitrosodipropylamine; Di-n-propylnitrosamine	621-64-7	1-Propanamine, N-nitroso-N-propyl-	8070	10
N-Nitrosomethylethylamine	10595-95-6	Ethanamine, N-methyl-N-nitroso-	8270	10
N-Nitrosopiperidine	100-75-4	Piperidine, 1-nitroso-	8270	20
N-Nitrosopyrrolidine	930-55-2	Pyrrolidine, 1-nitroso-	8270	40
5-Nitro-o-toluidine	99-55-8	Benzenamine, 2- methyl-5-nitro-	8270	10
Parathion	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester	8141 8270	0.5 10
Pentachlorobenzene	608-93-5	Benzene, pentachloro-	8270	10
Pentachloronitrobenzene	82-68-8	Benzene, pentachloronitro-	8270	20
Pentachlorophenol	87-86-5	Phenol, pentachloro-	8040 8270	5 50
Phenacetin	62-44-2	Acetamide, N-(4-ethoxyphenyl)	8270	20
Phenanthrene	85-01-8	Phenanthrene	8100 8270	200 10
Phenol	108-95-2	Phenol	8040 8270	1 10
p-Phenylenediamine	106-50-3	1,4-Benzenediamine	8270	10

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
Phorate	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester	8140	2
			8141	0.5
			8270	10
Polychlorinated biphenyls; PCBs	See Note 9	1,1'-Biphenyl, chloro derivatives	8080	50
			8270	200
Pronamide	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-	8270	10
Propionitrile; Ethyl cyanide	107-12-0	Propanenitrile	8015	60
			8260	150
Pyrene	129-00-0	Pyrene	8100	200
			8270	10
Safrole	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-	8270	10
Selenium	(Total)	Selenium	6010	750
			7740	20
			7741	20
Silver	(Total)	Silver	6010	70
			7760	100
Silvex; 2,4,5-TP	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-	8150	2
Styrene	100-42-5	Benzene, ethenyl-	8020	1
			8021	0.1
			8260	10
Sulfide	18496-25-8	Sulfide	9030	4,000
			2,4,5-T; 2,4,5-Trichlorophenoxyacetic acid	93-76-5
1,2,4,5-Tetrachlorobenzene	95-94-3	Benzene, 1,2,4,5-tetrachloro-	8270	10
1,1,1,2-Tetrachloroethane	630-20-6	Ethane, 1,1,1,2-tetrachloro-	8010	5
			8021	0.05
			8260	5
1,1,2,2-Tetrachloroethane	79-34-5	Ethane, 1,1,2,2-tetrachloro-	8010	0.5
			8021	0.1
			8260	5
Tetrachloroethylene; Perchloroethylene; Tetrachloroethene	127-18-4	Ethene, tetrachloro-	8010	0.5
			8021	0.5
			8260	5
2,3,4,6-Tetrachlorophenol	58-90-2	Phenol, 2,3,4,6-tetrachloro-	8270	10
Thallium	(Total)	Thallium	6010	400
			7840	1,000
			7841	10
Tin	(Total)	Tin	6010	40
Toluene	108-88-3	Benzene, methyl-	8020	2
			8021	0.1
			8260	5
o-Toluidine	95-53-4	Benzenamine, 2-methyl-	8270	10
Toxaphene	8001-35-2 See note 10	Toxaphene	8080	2
			1,2,4-Trichlorobenzene	120-82-1
			8120	0.5
			8260	10
			8270	10
			1,1,1-Trichloroethane; Methylchloroform	71-55-6
			8021	0.3
			8260	5
			1,1,2-Trichloroethane	79-00-5
			8260	5
			Trichloroethylene; Trichloroethene	79-01-6
			8021	0.2
			8260	5
			Trichlorofluoromethane	75-69-4
			8021	0.3
			8260	5
2,4,5-Trichlorophenol	95-95-4	Phenol, 2,4,5-trichloro-	8270	10
2,4,6-Trichlorophenol	88-06-2	Phenol, 2,4,6-trichloro-	8040	5
			8270	10
1,2,3-Trichloropropane	96-18-4	Propane, 1,2,3-trichloro-	8010	10
			8021	5
			8260	15
O,O,O-Triethyl phosphorothioate	126-68-1	Phosphorothioic acid, O,O,O-triethyl ester	8270	10
sym-Trinitrobenzene	99-35-4	Benzene, 1,3,5-trinitro	8270	10

Table 2				
Assessment Monitoring Parameters ¹				
Common Name ²	CAS RN ³	Chemical Abstracts Service Index Name ⁴	Suggested Methods ⁵	PQL ⁶ (µg/L)
Vanadium	(Total)	Vanadium	6010 7910 7911	80 2,000 40
Vinyl acetate	108-05-4	Acetic acid, ethenyl ester	8260	50
Vinyl chloride	75-01-4	Ethene, chloro-	8010 8021 8260	2 0.4 10
Xylene (total)	1330-20-7 See Note 11	Benzene, dimethyl-	8020 8021 8260	5 0.2 5
Zinc	(Total)	Zinc	6010 7950 7951	20 50 0.5

Notes:

¹ The regulatory requirements pertain only to the list of substances; the right-hand columns (Methods and PQL) are given for informational purposes only. See also Footnotes 5 and 6.

² Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

³ Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

⁴ CAS index numbers are those used in the 9th Collective Index.

⁵ *Suggested Methods* refer to analytical procedure numbers used in EPA Publication SW-846. Analytical details can be found in SW-846 and in documentation on file at the agency.

Caution: The methods listed are representative of SW-846 procedures and may not always be the most suitable methods for monitoring an analyte under the regulations.

⁶ *Practical Quantitation Limits* (PQLs) are the lowest concentrations of analytes in groundwaters that can be reliably determined within specified limits of precision and accuracy by the indicated methods under routine laboratory operating conditions. The PQLs listed are generally stated to one significant figure. PQLs are based on 5-ml samples for volatile organics and 1-L samples for semivolatile organics.

Caution: The PQL values in many cases are based only on a general estimate for the method and not on a determination for individual compounds; PQLs are not a part of the regulation.

⁷ This substance is often called Bis(2-chloroisopropyl) ether, the name that Chemical Abstracts Service applies to its noncommercial isomer, Propane, 2,2"-oxybis[2-chloro- (CAS RN 39638-32-9).

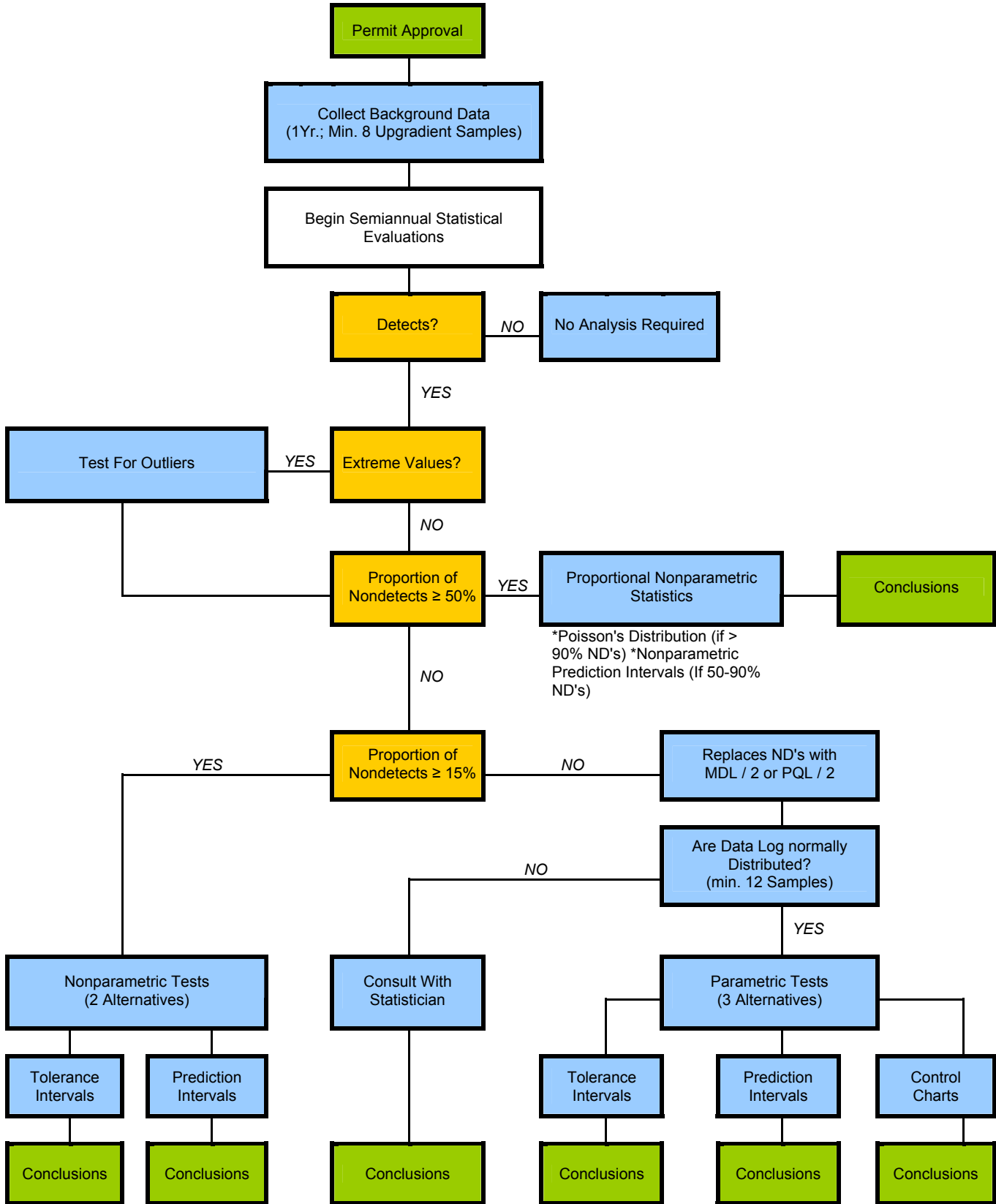
⁸ Chlordane: This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12789-03-6). PQL shown is for technical chlordane. PQLs of specific isomers are about 20 ug/L by method 8270.

⁹ Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Aroclor 1260 (CAS RN 11096-82-5). The PQL shown is an average value for PCB congeners.

¹⁰ Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-20), i.e., chlorinated camphene.

¹¹ Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7). PQLs for method 8021 are 0.2 for o-xylene and 0.1 for m- or p-xylene. The PQL for m-xylene is 2.0 ug/L by method 8020 or 8260.

DECISION TREE DIAGRAM
(for Groundwater Data Statistical Procedure Selection)



AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§3007. Processes to Reduce Pathogens—Appendix D.1 and D.2
[Formerly §3009.Appendix E]

Appendix D.1	
Processes to Significantly Reduce Pathogens	
Aerobic Digestion	A process conducted by agitating solid waste with air or oxygen to maintain aerobic conditions at residence times ranging from 60 days at 15°C to 40 days at 20°C, with a volatile-solids reduction of at least 38 percent.
Air Drying	A process that allows liquid waste to drain and/or dry on under-drained sand beds or on paved or unpaved basins in which the depth of the waste is 9 inches. A minimum of three months is needed for this process; during two of these months daily temperatures must average above 0° C.
Anaerobic Digestion	A process conducted in the absence of air during a residence time ranging from 60 days at 20°C to 15 days at 35-55°C, with a volatile-solids reduction of at least 38 percent.
Composting	A process conducted by the within-vessel, static-aerated-pile, or windrow method whereby the solid waste is maintained at minimum operating conditions of 40°C for five days. For four hours during this period, the temperature must exceed 55°C.
Lime Stabilization	A process in which sufficient lime is added to produce a pH of 12 after two hours of contact.
Other Methods	Other methods or operating conditions for significantly reducing pathogens may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.

Appendix D.2	
Processes to Further Reduce Pathogens	
Composting	A process conducted by the within-vessel, static-aerated-pile, or windrow method. If the within-vessel or static-aerated-pile method is used, the solid waste is maintained at operating conditions of 55°C or greater for three days. If the windrow method is used, the solid waste attains a temperature of 55°C or greater for at least 15 days during the composting period, and the windrow is turned at least five times during this high-temperature period.
Heat Drying	A process in which dewatered solid waste cake is dried by direct or indirect contact with hot gases and moisture content is reduced to 10 percent or less. Solid waste particles reach temperatures well in excess of 80° C or the wet-bulb temperature of the gas stream, in contact with the solid waste at the point where it leaves the dryer, is in excess of 80° C.
Heat Treatment	A process in which liquid waste is heated to temperatures of 180° C for 30 minutes.
Thermophilic Aerobic Digestion	A process in which liquid waste is agitated with air or oxygen to maintain aerobic conditions at residence times of 10 days at 55-60° C, with a volatile-solids reduction of at least 38 percent.
Other Methods	Other methods or operating conditions for further reducing pathogens may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.
Any of the processes listed below, used in conjunction with the processes described above, will further reduce pathogens. The processes listed below will not, however, reduce the attraction of disease vectors if they are not used in conjunction with one of the above processes, and therefore are not sufficient alone.	
Beta-Ray Irradiation	A process in which solid waste is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (ca. 20° C).
Gamma-Ray Irradiation	A process in which solid waste is irradiated with gamma rays from certain isotopes, such as ⁶⁰ Cobalt and ¹³⁷ Cesium, at dosages of at least 1.0 megarad at room temperature (ca. 20° C).

Appendix D.2	
Processes to Further Reduce Pathogens	
Pasteurization	A process in which solid waste is maintained for at least 30 minutes at a minimum temperature of 70° C.
Other Methods	Other methods or operating conditions may be acceptable if pathogens are reduced to an extent equivalent to the reduction achieved by any of the above add-on methods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§3009. Vector Attraction Reduction—Appendix E

NOTE: Former §3009.Appendix E has moved to §3007.Appendix D.2.

Vector Attraction Reduction

A. When final compost is applied to a lawn or home garden, follow one of the requirements from Paragraphs C.1-3 listed below.

B. When final compost is applied to agricultural land, forest, a public contact site, or a reclamation site, follow one of the requirements from Paragraphs C.1-4 listed below.

C. Vector Attraction Reduction Requirements

1. The specific oxygen uptake rate (SOUR) for final compost treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20°C.

2. Final compost shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the composting material shall be higher than 40°C and the average temperature of the composting material shall be higher than 45°C.

3. The pH of composting material shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours.

4. Final compost applied to the land surface shall be incorporated into the soil within six hours after application to the land, unless otherwise specified by the permitting authority. When final compost incorporated into the soil meets the conditions described in LAC 33:VII.3009.Appendix E.1, the final compost shall be applied to the land within eight hours after being discharged from the pathogen treatment process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

§3011. Document to be Filed in the Parish Records Upon Final Closure of a Solid Waste Disposal Facility—Appendix F

Document to be Filed in the Parish Records Upon Final Closure of a Solid Waste Disposal Facility

[Name of permit holder] hereby notifies the public that the following described property was used for the disposal of solid waste. This site was closed on [date facility was closed] in accordance with the *Louisiana Administrative Code*, Title 33, Part VII. Inquiries regarding the contents of [the facility] may be directed to [name of person with knowledge of the contents of the facility] at [address of person with knowledge of the contents of the facility].

Property Description
 [Provide the specific description of the location of the facility]

Signature of Person Filing Parish Record

Typed Name and Title of Person Filing Parish Record

Date

(A true copy of the document must be certified by the parish clerk of court.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:

§3013. Appendix G

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:

§3015. Examples of Agricultural Wastes that May be Managed under Approved Best Management Practice Plans—Appendix H

Examples of Agricultural Wastes That May be Managed Under Approved Best Management Practice Plans

1. Sugar mill bagasse ash
2. Bagasse
3. Filter press mud from sugar mills
4. Chicken litter
5. Dead poultry carcasses
6. Rice hulls
7. Rice hull ash
8. Shells from crawfish and shellfish processing
9. Vegetable peels and waste from packing and processing
10. Cotton gin trash
11. Livestock and poultry litter, bedding, and composted livestock and poultry carcasses
12. Waste and wastewater from livestock, poultry, and fisheries packing and processing

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§3017. LPPA-LDEQ Work Group Agreement—Appendix I

LPPA-LDEQ Work Group Agreement

The Louisiana Pulp and Paper Association-Louisiana Department of Environmental Quality Solid Waste Beneficial Use Work Group (LPPA-LDEQ Work Group) established an agreement in May 1997 regarding the applicability of the Louisiana Solid Waste Regulations (LSWR) to a variety of materials produced by the pulp and paper industry. During these meetings, a number of preliminary agreements regarding the regulatory applicability of the LSWR to certain categories of materials were reached.

1. Group 1 materials are those that are to be used or reused as either:

- a. ingredients, raw materials, or feedstocks in industrial processes to make products; or

b. effective substitutes for commercial products, provided that such uses do not involve application to the land.

The LPPA-LDEQ Work Group agreed that the Group 1 materials, when employed for these uses, are not being discarded and, thus, are not subject to the generator, transporter, or permitting requirements of the LSWR. A listing of the Group 1 materials and their uses are provided in Table 1 of this Appendix.

2. Group 2 materials are those that are to be applied to the land subject to the general approval of the LDEQ in accordance with this Appendix, and:

a. the specific approval of the Louisiana Department of Agriculture and Forestry (LDAF) for use as either a potting soil amendment, soil liming agent, soil nutritional supplement, or cover for timber land;

b. the Louisiana Department of Transportation and Development (LDOTD) standards of criteria for soil cement, road base material, or an aggregate for road surfaces; or

c. the specific approval of the LDEQ for use as ingredients for landfill or surface impoundment closure caps.

The LPPA-LDEQ Work Group agreed that the Group 2 materials, when employed for these uses, are not being discarded and, thus, are not subject to the generator, transporter, or permitting requirements of the LSWR. A listing of the Group 2 materials and their uses are provided in Table 2 of this Appendix.

3. Group 3 materials are those materials listed in Table 1 or Table 2 that are either presently located in a regulated solid waste landfill or surface impoundment or that will be temporarily stockpiled in a regulated solid waste landfill or surface impoundment prior to one of the uses specified in Table 1 or Table 2. The LPPA-LDEQ Work Group agreed that these Group 3 materials, when proposed to be removed for one of the corresponding uses indicated for the Group 1 or Group 2 materials would be subjected to a one-time, facility-specific Solid Waste Permit Minor Modification that would not require public notice. See the example in this Appendix for the agreed upon language for the permit condition to be added pursuant to the one-time, facility-specific Solid Waste Permit Minor Modification. The LPPA-LDEQ Work Group also agreed that these Group 3 materials, when removed from a regulated solid waste landfill or surface impoundment pursuant to the above noted permit condition and employed for the Group 1 or Group 2 uses, are not being discarded and, thus, are not subject to the generator, transporter, or permitting requirements of the LSWR upon such removal.

Only Group 2 materials, i.e., those materials destined for off-site applications to the land for such uses as soil amendments, supplements, or ingredients, are allowed to be stored on-site in a location outside of any regulated solid waste unit. Such storage shall only occur in those on-site areas where runoff is fully captured and treated by the mill's wastewater treatment system. Such materials destined for approved off-site applications shall only be held in temporary storage for a period not to exceed 24 months. No Group 3 materials, i.e., those that had been placed in, and subsequently removed from, regulated solid waste units, shall be stored on-site at any location outside of a regulated solid waste unit at any time.

Reporting Requirements. Group 1, 2, or 3 materials, when utilized or removed for one of the uses specified in Table 1 or 2, shall be reported on the Disposer Annual Report filed by the mill.

Table 1	
Group 1 Materials	
(Materials Not Applied to Land)	
Material Description	Uses
Wood-fired boiler ash	<ol style="list-style-type: none"> 1. Feedstock to produce activated carbon. 2. Feedstock to produce charcoal. 3. Waste solidification or stabilization agent. 4. Feedstock to produce portland cement. 5. Any other feedstock use or substitute for a commercial product (no land application).

Table 1 Group 1 Materials (Materials Not Applied to Land)	
Material Description	Uses
Coal-fired boiler ash	1. Waste solidification or stabilization agent. 2. Feed stock to produce portland cement. 3. Any other feedstock use or substitute for a commercial product (no land application).
Lime and lime mud	1. Feedstock to produce lime. 2. Feedstock to produce portland cement. 3. Any other feedstock use or substitute for a commercial product (no land application).
Slaker grit	1. Feedstock to produce portland cement.
Wood fiber (primary clarifier sludge)	1. Feedstock to produce absorbents. 2. Feedstock to produce tar paper or roofing felt. 3. Feedstock to produce filter paper. 4. Feedstock to produce insulation. 5. Use as ingredient or core material in structural and nonstructural concrete products. 6. Any other feed stock use or substitute for a commercial product (no land application).
Recycled fiber (recycled fiber residues)	1. Feed stock to produce absorbents. 2. Feedstock to produce tar paper or roofing felt. 3. Feedstock to produce filter paper. 4. Feedstock to produce insulation. 5. Use as ingredient or core material in structural and nonstructural concrete products. 6. Any other feedstock use or substitute for a commercial product (no land application).

Table 2 Group 2 Materials (Materials Applied to Land)		
Material Description	Uses	Specifications* That Shall Be Met for Such Use
Wood-fired boiler ash (produced by the pulp and paper industry in Louisiana)	Potting soil amendment	Those required by the LDAF and LDEQ for approval.
	Soil liming agent	Those required by the LDAF and LDEQ for approval.
	Soil nutritional supplement	Those required by the LDAF and LDEQ for approval.
	Ingredient for landfill or surface impoundment closure caps	Those required by the LDEQ for approval.
	Any other use approved by the LDAF or LDOTD and LDEQ	Those required by the LDAF or LDOTD and LDEQ for approval.
Coal-fired boiler ash (produced by the pulp and paper industry in Louisiana)	Potting soil amendment	Those required by the LDAF and LDEQ for approval.
	Soil liming agent	Those required by the LDAF and LDEQ for approval.
	Soil nutritional supplement	Those required by the LDAF and LDEQ for approval.
	Ingredient for landfill or surface impoundment closure caps	Those required by the LDEQ for approval.
	Any other use approved by the LDAF or LDOTD and LDEQ	Those required by the LDAF or LDOTD and LDEQ for approval.

Table 2 Group 2 Materials (Materials Applied to Land)		
Material Description	Uses	Specifications* That Shall Be Met for Such Use
Lime, lime mud, lime residues and slaker grit (produced by the pulp and paper industry in Louisiana)	Potting soil amendment	Those required by the LDAF and LDEQ for approval.
	Soil cement	Those required or adopted by the LDOTD.
	Soil liming agent	Those required by the LDAF for approval.
	Ingredient for landfill or surface impoundment closure caps	Those required by the LDEQ for approval.
	Any other use approved by the LDOTD, LDAF, and LDEQ	Those required by the LDAF and LDEQ for approval or required or adopted by the LDOTD.
Boiler gravel (that which becomes trapped in the bark on logs prior to debarking by the pulp and paper industry in Louisiana)	Road base material	None if used on-site; if used off-site, those required or adopted by the LDOTD.
	Aggregate for road surfaces	None if used on-site; if used off-site, those required or adopted by the LDOTD.
	Asphalt amendments	None if used on-site; if used off-site, those required or adopted by the LDOTD.
	Any other off-site use satisfying the criteria or standards of the LDOTD	If used off-site, those required or adopted by the LDOTD.
Wood fiber and recycled fiber (such as primary clarifier sludge produced by the pulp and paper industry in Louisiana)	Potting soil amendment	Those required by the LDAF and LDEQ for approval.
	Soil nutritional supplement	Those required by the LDAF and LDEQ for approval.
	Ingredient for landfill/surface impoundment closure caps	Those required by the LDEQ for approval.
	Cover for timber land	Those required by the LDAF and LDEQ for approval.
	Any other use approved by the LDAF or LDOTD and LDEQ	Those required by the LDAF or LDOTD and LDEQ for approval.
Mixtures containing boiler ash, boiler gravel, wood fiber, recycled fiber, lime residues, and slaker grit (produced by the pulp and paper industry in Louisiana)	Potting soil amendment	Those required by the LDAF and LDEQ for approval.
	Soil Liming Agent	Those required by the LDAF and LDEQ for approval.

Table 2		
Group 2 Materials (Materials Applied to Land)		
Material Description	Uses	Specifications* That Shall Be Met for Such Use
	Ingredient for landfill / surface impoundment closure caps	Those required by the LDEQ for approval.
	Road base material	None if used on-site; if used off-site, those required or adopted by the LDOTD.
	Aggregate for road surfaces	None if used on-site; if used off-site, those required or adopted by the LDOTD.
	Asphalt amendments	None if used on-site; if used off-site, those required or adopted by the LDOTD.
	Any other on-site or off-site use approved by the LDAF or LDOTD and LDEQ	Those required by the LDAF or LDOTD and LDEQ, or LDEQ only, as appropriate, for approval.
*The specifications and approval from LDEQ consist of those that are set forth in the LDEQ letter received in response to this LPPA request for reclassification dated June 18, 1999.		

**Example For
Permit Condition Language For The One-Time, Facility-Specific Minor Permit Modification Addressing Materials Removed From LSWR Regulated Surface Impoundments Or Landfills In Louisiana's Pulp And Paper Industry**

In accordance with LAC 33:VII.303.A.11, when the [description of material], which has not been commingled or contaminated with dissimilar solid wastes, is removed from the [name of facility-specific surface impoundment or landfill], and subsequently used as:

1. Louisiana Department of Agriculture and Forestry (LDAF) approved potting soil amendments, soil liming agents, soil nutritional supplements, or cover for timber land;
2. soil cement, road base materials, or aggregate for road surfaces that satisfy the standards or criteria approved by the Louisiana Department of Transportation and Development (LDOTD); or
3. Louisiana Department of Environmental Quality (LDEQ) approved ingredients for landfill or surface impoundment closure caps; such material, when managed in accordance with all other applicable laws, regulations, and conditions, is no longer considered to be discarded and, thus, is not subject to the generator, transporter, or permitting requirements of the Louisiana Solid Waste Regulations (LSWR).

However, while such material is present in the [name of facility-specific surface impoundment or landfill], it remains subject to all applicable requirements of the LSWR until such removal occurs.

The total tonnage of this material removed from the regulated unit for any such use shall be reported on the facility's Annual Disposer's Solid Waste Report. Any proposed new use for the material must have the approval of the LDAF or LDOTD and LDEQ, or the LDEQ only, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:

A public hearing will be held on January 24, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802.

Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW037. Such comments must be received no later than February 28, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW037. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Solid Waste Regulations Reorganization**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule change may, initially, increase paperwork for the department to incorporate changes in forms and the overall review format of a permit. Some new standards were established that may cause local governmental units to hire additional personnel. The cost to perform these changes will be managed from funds that are currently in place.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no increase or decrease in revenues for state and local governments from implementing this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be a direct effect on permittees, consulting firms, and other environmental service providers as a result of the proposed rule. Consulting firms and environmental service providers, initially, may experience a small economic benefit from formatting permit applications in accordance with the new regulations. Eventually, permittees with small facilities may be able to construct their own permits as a consequence of the easier-to-use regulations, thus lowering the cost for permit preparation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be a small effect on competition as a result of the proposed rule affecting consulting firms and other environmental service providers. Local government staffing

could rise due to the new standards for collection facilities and non-processing transfer stations.

Herman Robinson
Executive Counsel
0612#023

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Water Quality Standards Triennial Revision
(LAC 33:IX.1101, 1105, 1109, 1111, 1113,
1115, 1119, 1121, and 1123)(WQ054)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1101, 1105, 1109, 1111, 1113, 1115, 1119, 1121, and 1123 (Log #WQ054).

This proposed rule will fulfill the department's obligation to review and revise, as necessary, and at least once every three years, the state's water quality standards, pursuant to 40 CFR 131.20. This proposed revision of LAC 33:IX.Chapter 11 includes: addition, removal, and revision of definitions; minor revisions of the designated use descriptions; reformatting of the toxics criteria table; revision of human health toxics criteria, as necessary, according to an in-depth review of the most recent research, calculations, and methods; revision of water body subsegment descriptions; addition and removal of water body subsegments based on a recent review of the Louisiana coastline; addition of "Drinking Water Source" as a designated use for all water body subsegments with public water supply intakes; and grammar and spelling corrections. A notice for the corresponding revision of Volume 3 of the Water Quality Management Plan is published in the Potpourri section of this edition of the *Louisiana Register*. The basis and rationale for this proposed rule are to carry out the purpose of the Clean Water Act and maintain water quality standards for the protection of surface water quality.

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

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 11. Surface Water Quality Standards

§1101. Introduction

A. - B.3. . . .

C. The water quality standards described in this Chapter are applicable to surface waters of the state and are utilized through the wasteload allocation and permit processes, to develop effluent limitations for point source discharges to surface waters of the state. They can also form the basis for

implementing the best management practices for control of nonpoint sources of water pollution.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1105. Definitions

Acute Toxicity—any lethal or deleterious effect on representative sensitive organisms that results from a single dose or exposure of a chemical or mixture of chemicals within a short period of time, usually less than 96 hours.

Artificial Heat—heat derived from unnatural sources, such as power plants and other industrial cooling processes.

Assimilation Capacity—Repealed.

Background Condition—a concentration of a substance in a particular environment that is indicative of minimal influence by human (anthropogenic) sources.

Biological Succession—Repealed.

Brackish Water—surface water (creeks, bayous, rivers, lakes, estuaries) having an average salinity of 2 parts per thousand or greater and less than 10 parts per thousand; does not apply to wetland interstitial salinity regime.

Chronic Toxicity—toxicity that, after long-term exposure, exerts sublethal negative effects on, or is lethal to, representative, sensitive organisms.

Clean Techniques—an integrated system of sample collection and laboratory analytical procedures designed to detect concentrations of trace metals below criteria levels and eliminate or minimize inadvertent sample contamination that can occur during traditional sampling practices.

Estuary—an area where freshwater systems and saltwater systems interact. Such areas can extend from coastal areas into inland rivers and streams as far as the limit of tidal influence or as far as the saltwater wedge reaches. Estuarine salinities are variable and influenced by physical (i.e., tide, sedimentation, precipitation), chemical (i.e., variable salinities), and biological (i.e., vegetation, faunal populations) factors.

Excepted Use—a water body classification reflecting natural conditions and/or physical limitations that preclude the water body from meeting its designated use(s). Such classifications include, but are not limited to, man-made waters, naturally dystrophic waters, and intermittent streams.

Fresh Water—surface water (creeks, bayous, rivers, lakes) having an average salinity of less than 2 parts per thousand; does not apply to wetland interstitial salinity regime.

Fresh Warmwater Biota—aquatic life species whose populations typically inhabit waters with warm temperatures (seasonal averages above 20°C, 68°F) and low salinities (less than 2 parts per thousand), including, but not limited to, black basses and freshwater sunfish and catfish and characteristic freshwater aquatic invertebrates and wildlife.

Freshwater Swamps and Marshes—Repealed.

g/L—grams per liter.

Harmonic Mean Flow—a statistical value used to calculate permit limits where 7Q10 flow is not appropriate. This calculation is intended for positive numbers and non-zero values, thereby, precluding the use of negative flow values. The formula is as follows:

$$\frac{1}{H} \equiv \frac{1}{n} \cdot \sum_n \frac{1}{x_i}$$

where:

H = harmonic mean

n = number of samples

x = actual samples

Intermediate Marshes—Repealed.

Intermittent Stream—Repealed.

Intermittent Streams—streams that provide water flow continuously during some seasons of the year but little or no flow during the drier times of the year.

Man-Made Watercourse—Repealed.

Man-Made Water Body—a body of water that has been anthropogenically created or altered and is used primarily for drainage, conveyance, or retention of water for purposes of irrigation, transportation, sanitation, flood relief, water diversion, or natural resource extraction. The physical and hydrological characteristics of man-made water bodies are not conducive to the establishment of a balanced population of aquatic biota or to the full support of recreational activities.

Marine Water—of, relating to, or found in surface waters with average salinities greater than or equal to 10 parts per thousand; does not apply to wetland interstitial salinity regime.

Marine Water Biota—Repealed.

µg/L—micrograms per liter.

mg/L—milligrams per liter.

ng/L—nanograms per liter.

Nonpoint Source—a diffuse source of water pollution that does not discharge through a point source, but instead, flows freely across exposed natural or man-made surfaces such as agricultural or urban runoff and runoff from construction, mining, or silviculture activities that are not regulated as point sources.

Person—any individual, municipality, public or private corporation, partnership, firm, the United States Government and any agent or subdivision thereof, or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, the State of Louisiana, political subdivisions of the state, commissions, and interstate bodies.

Process Heat—Repealed.

Receiving Waters—Repealed.

Saline Marshes—Repealed.

ug/L—Repealed.

Ultra-Clean Techniques—Repealed.

Use Attainability Analysis (UAA)—a structured scientific assessment of the factors (chemical, physical, biological, and economic) affecting the attainment of designated water uses

in a water body. Recommendations for the revision of the water quality standards may be based upon a *use attainability analysis*.

Water Body Exception Classification—a water body classification indicating natural conditions and/or physical limitations that preclude the water body from meeting water quality criteria. Classifications include, but are not limited to, man-made water bodies, naturally dystrophic waters, and intermittent streams.

Water Pollution—the introduction into the waters of the state by any means, including dredge-and-fill operations, of any substance in a concentration that tends to degrade the chemical, physical, biological, or radiological integrity of such waters, including, but not limited to, the discharge of brine from salt domes that are located on the coastline of Louisiana and the Gulf of Mexico into any waters off said coastline and extending there from three miles into the Gulf of Mexico.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 26:2545 (November 2000), LR 29:557 (April 2003), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1109. Policy

Water quality standards policies concerned with the protection and enhancement of water quality in the state are discussed in this Section. Policy statements on antidegradation, water use, water body exception categories, compliance schedules and variances, short-term activity authorization, errors, severability, revisions to standards, and sample collection and analytical procedures are described.

A. - B.3.f. ...

C. Water Body Exception Classification. Some water bodies may qualify for a water body exception classification. Whenever data indicate that a water body exception classification is warranted, the department will recommend the exception to the administrative authority for approval. In all cases where exceptions are proposed, the concurrence of the Water Quality Protection Division Director of the EPA must be obtained and the opportunity for public participation must be provided during the exceptions review process. The general criteria of these standards shall apply to all water bodies classified as a water body exception except where a particular water body is specifically exempted. A use attainability analysis may be conducted to gather data necessary to justify a water body exception classification. If such a classification is justified, applicable water uses and water quality criteria will be established. Exceptions are allowed for the following three categories of water bodies.

C.1. - I.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:746 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:966 (October 1991), LR 20:883 (August

1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2546 (November 2000), LR 29:557 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1111. Water Use Designations

A. There are seven water uses designated for surface waters in Louisiana: agriculture, drinking water supply, drinking water supply, fish and wildlife propagation, outstanding natural resource waters, oyster propagation, primary contact recreation, and secondary contact recreation. Designated uses assigned to a subsegment apply to all water bodies (listed water body and tributaries/distributaries of the listed water body) contained in that subsegment unless unique chemical, physical, and/or biological conditions preclude such uses. However, the designated uses of drinking water supply, outstanding natural resource waters, and/or oyster propagation apply only to the water bodies specifically so designated in LAC 33:IX.1123, Table 3, and not to any tributaries or distributaries to such water bodies, which are typically contained in separate subsegments. The water use designations are defined as follows.

Agriculture—the use of water for crop spraying, irrigation, livestock watering, poultry operations, and other farm purposes not related to human consumption.

Drinking Water Supply—the use of water for human consumption and general household use. Surface waters designated as drinking water supplies are specifically so designated in LAC 33: IX.1123, Table 3; this designation does not apply to their tributaries or distributaries unless so specified.

Fish and Wildlife Propagation—the use of water for aquatic habitat, food, resting, reproduction, cover, and/or travel corridors for any indigenous wildlife and aquatic life species associated with the aquatic environment. This use also includes the maintenance of water quality at a level that prevents damage to indigenous wildlife and aquatic life species associated with the aquatic environment and contamination of aquatic biota consumed by humans. The use subcategory of *limited aquatic life and wildlife* recognizes the natural variability of aquatic habitats, community requirements, and local environmental conditions. *Limited aquatic life and wildlife* use may be designated for water bodies having habitat that is uniform in structure and morphology, with most of the regionally expected aquatic species absent, low species diversity and richness, and/or a severely imbalanced trophic structure. Aquatic life able to survive and/or propagate in such water bodies includes species tolerant of severe or variable environmental conditions. Water bodies that might qualify for the *limited aquatic life and wildlife* use subcategory include intermittent streams, and naturally dystrophic and man-made water bodies with characteristics including, but not limited to, irreversible hydrologic modification, anthropogenically and irreversibly degraded water quality, uniform channel morphology, lack of channel structure, uniform substrate, lack of riparian structure, and similar characteristics making the available habitat for aquatic life and wildlife suboptimal.

Outstanding Natural Resource Waters—water bodies designated for preservation, protection, reclamation, or enhancement of wilderness, aesthetic qualities, and ecological regimes, such as those designated under the

Louisiana Natural and Scenic Rivers System or those designated by the department as waters of ecological significance. Characteristics of *outstanding natural resource waters* include, but are not limited to, highly diverse or unique instream and/or riparian habitat, high species diversity, balanced trophic structure, unique species, or similar qualities. This use designation shall apply only to those water bodies specifically so designated in LAC 33:IX.1123, Table 3 and not to their tributaries or distributaries unless so specified.

Oyster Propagation—the use of water to maintain biological systems that support economically important species of oysters, clams, mussels, or other mollusks so that their productivity is preserved and the health of human consumers of these species is protected. This use designation shall apply only to those water bodies specifically so designated in LAC 33:IX.1123, Table 3 and not to their tributaries or distributaries unless so specified.

Primary Contact Recreation—any recreational or other water contact activity involving prolonged or regular full-body contact with the water and in which the probability of ingesting appreciable amounts of water is considerable. Examples of this type of water use include swimming, skiing, and diving.

Secondary Contact Recreation—any recreational or other water contact activity in which prolonged or regular full-body contact with the water is either incidental or accidental, and the probability of ingesting appreciable amounts of water is minimal. Examples of this type of water use include fishing, wading, and boating.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 26:2546 (November 2000), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1113. Criteria

A. - C.6.a. ...

b. The criteria for protection of aquatic life are based on acute and chronic concentrations in fresh and marine waters (see LAC 33:IX.1105) as specified in the EPA criteria documents and are developed primarily for attainment of the fish and wildlife propagation use. Where a specific numerical criterion is not derived in EPA criteria documents, a criterion is developed by applying an appropriate application factor for acute and chronic effects to the lowest LC50 value for a representative Louisiana species. The application of either freshwater toxics criteria or marine toxics criteria in brackish waters will be determined by the average salinity of the water body (see LAC 33:IX.1105). In cases where the average salinity is 2 parts per thousand or greater and less than 10 parts per thousand, the more stringent criteria will be used unless an alternative site-specific criterion is developed (as described in EPA-822-R-02-047, November 2002).

c. ...

d. Metals criteria are based on dissolved metals concentrations in ambient waters. Hardness values are averaged from two-year data compilations contained in the

latest Louisiana Water Quality Data Summary or other comparable data compilations or reports. Metals criteria have been developed for both fresh and marine waters, but not brackish waters. The application of either freshwater metals criteria or marine metals criteria in brackish waters will be determined by the average salinity of the water body (see LAC 33:IX.1105). In cases where the average salinity is 2 parts per thousand or greater and less than 10 parts per thousand, the more stringent criteria will be used unless an

alternative site-specific criterion is developed (as described in EPA-822-R-02-047, November 2002).

e. ...

f. The use of clean techniques may be required to definitively assess ambient levels of some pollutants (e.g., EPA Method 1669 for metals) or to assess such pollutants when numeric or narrative water quality standards are not being attained. *Clean techniques* are defined in LAC 33:IX.1105.

Toxic Substance	Aquatic Life Protection						Human Health Protection	
	Freshwater		Marine Water		Brackish Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic	Acute	Chronic		
Aldrin	3.00	--	1.300	--	1.300	--	4x10 ⁻⁵	4x10 ⁻⁵
Benzene	2,249	1,125	2,700	1,350	2,249	1,125	0.58	6.59
Benidine	250	125	--	--	250	125	8x10 ⁻⁵	1.7x10 ⁻⁴
Bromodichloromethane	--	--	--	--	--	--	0.52	6.884
Bromoform (Tribromomethane)	2,930	1,465	1,790	895	1790	895	3.9	34.7
Carbon Tetrachloride (Tetrachloromethane)	2,730	1,365	15,000	7,500	2,730	1,365	0.22	1.2
Chlordane	2.40	0.0043	0.090	0.0040	.090	0.0040	1.9x10 ⁻⁴	1.9x10 ⁻⁴
Chloroform (Trichloromethane)	2,890	1,445	8,150	4,075	2,890	1,445	5.3	70
2-Chlorophenol	258	129	--	--	258	129	0.10	126.4
3-Chlorophenol	--	--	--	--	--	--	0.10	--
4-Chlorophenol	383	192	535	268	383	192	0.10	--
Cyanide	45.9	5.4	1.0	--	1.0	--	663.8	12,844
DDE	52.5	10.5000	0.700	0.1400	0.700	0.1400	1.9x10 ⁻⁴	1.9x10 ⁻⁴
DDT	1.10	0.0010	0.130	0.0010	0.130	0.0010	1.9x10 ⁻⁴	1.9x10 ⁻⁴
Dibromochloromethane	--	--	--	--	--	--	0.39	5.08
1,2-Dichloroethane (EDC)	11,800	5,900	11,300	5,650	11,300	5,650	0.36	6.8
1,1-Dichloroethylene	1,160	580	22,400	11,200	1,160	580	0.05	0.58
2,4-Dichlorophenoxyacetic acid (2,4-D)	--	--	--	--	--	--	100.00	--
2,3-Dichlorophenol	--	--	--	--	--	--	0.04	--
2,4-Dichlorophenol	202	101	--	--	202	101	0.30	232.6
2,5-Dichlorophenol	--	--	--	--	--	--	0.50	--
2,6-Dichlorophenol	--	--	--	--	--	--	0.20	--
3,4-Dichlorophenol	--	--	--	--	--	--	0.30	--
1,-3-Dichloropropene	606	303	79	39.5	79	39.5	0.33	5.51
Dieldrin	0.2374	0.0557	0.710	0.0019	0.2374	0.0019	5x10 ⁻⁵	5x10 ⁻⁵
Endosulfan	0.22	0.0560	0.034	0.0087	0.034	0.0087	0.47	0.64
Endrin	0.0864	0.0375	0.037	0.0023	0.037	0.0023	0.26	0.26
Ethylbenzene	3,200	1,600	8,760	4,380	3,200	1,600	2,390	8,100
Heptachlor	0.52	0.0038	0.053	0.0036	0.053	0.0036	7x10 ⁻⁵	7x10 ⁻⁵
Hexachlorobenzene	--	--	--	--	--	--	2.5x10 ⁻⁴	2.5x10 ⁻⁴
Hexachlorobutadiene ³	5.1	1.02	1.6	0.32	1.6	0.32	0.09	0.11
Hexachlorocyclohexane (gamma BHC; Lindane)	5.30	0.21	0.160	--	0.160	--	0.11	0.20
Methyl chloride (Chloromethane)	55,000	27,500	27,000	13,500	27,000	13,500	--	--
Methylene chloride (Dichloromethane)	19,300	9,650	25,600	12,800	19,300	9,650	4.4	87
Phenol (Total) ⁴	700	350	580	290	580	290	5.00	50.0
Polychlorinated Biphenyls, Total (PCBs)	2.00	0.0140	10.000	0.0300	2.00	0.0140	5.59x10 ⁻⁵	5.61x10 ⁻⁵
TDE (DDD)	0.03	0.0060	1.250	0.2500	0.03	0.0060	2.7x10 ⁻⁴	2.7x10 ⁻⁴
2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) ⁵	--	--	--	--	--	--	0.71x10 ⁻⁷	0.72x10 ⁻⁷
1,1,2,2-Tetrachloroethane	932	466	902	451	902	451	0.16	1.8
Tetrachloroethylene	1,290	645	1,020	510	1020	510	0.65	2.5
Toluene	1,270	635	950	475	950	475	6,100	46,200
Toxaphene	0.73	0.0002	0.210	0.0002	0.210	0.0002	2.4x10 ⁻⁴	2.4x10 ⁻⁴
1,1,1-Trichloroethane	5,280	2,640	3,120	1,560	3,120	1,560	200.0	--
1,1,2-Trichloroethane	1,800	900	--	--	1,800	900	0.56	6.9
Trichloroethylene	3,900	1,950	200	100	200	100	2.8	21

Table 1 Numerical Criteria for Specific Toxic Substances (In micrograms per liter (µg/L))								
Toxic Substance	Aquatic Life Protection						Human Health Protection	
	Freshwater		Marine Water		Brackish Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic	Acute	Chronic		
2-(2,4,5-Trichlorophenoxy) propionic acid (2,4,5-TP; Silvex)	--	--	--	--	--	--	10.00	--
Vinyl Chloride (Chloroethylene)	--	--	--	--	--	--	2.37x10 ⁻²	0.45

¹ Applies to surface water bodies designated as a Drinking Water Supply and also protects for primary and secondary contact recreation and fish consumption.

² Applies to surface water bodies not designated as a Drinking Water Supply and protects for primary and secondary contact recreation and fish consumption.

³ Includes Hexachloro-1,3-butadiene.

⁴ Total phenol as measured by the 4-aminoantipyrine (4AAP) method.

⁵ Advances in scientific knowledge concerning the toxicity, cancer potency, metabolism, or exposure pathways of toxic pollutants that affect the assumptions on which existing criteria are based may necessitate a revision of dioxin numerical criteria at any time. Such revisions, however, will be accomplished only after proper consideration of designated water uses. Any proposed revision will be consistent with state and federal regulations.

Table 1A Numerical Criteria for Metals and Inorganics (In micrograms per liter (µg/L) or parts per billion (ppb))							
Toxic Substance	Aquatic Life Protection						Human Health Protection
	Freshwater		Marine Water		Brackish Water ^f		Drinking Water Supply ^a
	Acute	Chronic	Acute	Chronic	Acute	Chronic	
Arsenic ^c	339.8	150	69.00	36.00	69	36	10.0
Chromium III (Tri) ^{b,c}	Acute: $e^{(0.8190[\ln(\text{hardness})] + 3.6880)} \times 0.316$ Chronic: $e^{(0.8190[\ln(\text{hardness})] + 1.5610)} \times 0.86$		515.00	103.00	*	*	50.0
05	16	11	1,100	50.00	16	11	50.0
Zinc ^{b,c}	Acute: $e^{(0.8473[\ln(\text{hardness})] + 0.8604)} \times 0.978$ Chronic: $e^{(0.8473[\ln(\text{hardness})] + 0.7614)} \times 0.986$		90	81	*	*	5,000
Cadmium ^{b,c}	Acute: $e^{(1.1280[\ln(\text{hardness})] - 1.6774)} \times \frac{(1.136672 - [\ln(\text{hardness})(0.041838)])}{(1.101672 - [\ln(\text{hardness})(0.041838)])}$ Chronic: $e^{(0.7852[\ln(\text{hardness})] - 3.4900)} \times \frac{(1.136672 - [\ln(\text{hardness})(0.041838)])}{(1.101672 - [\ln(\text{hardness})(0.041838)])}$		45.35	10.00	*	*	10.0
Copper ^{b,c}	Acute: $e^{(0.9422[\ln(\text{hardness})] - 1.3844)} \times 0.960$ Chronic: $e^{(0.8545[\ln(\text{hardness})] - 1.3860)} \times 0.960$		3.63	3.63	*	*	1000
Lead ^{b,c}	Acute: $e^{(1.2730[\ln(\text{hardness})] - 1.4600)} \times \frac{(1.46203 - [\ln(\text{hardness})(0.145712)])}{(1.101672 - [\ln(\text{hardness})(0.145712)])}$ Chronic: $e^{(1.2730[\ln(\text{hardness})] - 4.7050)} \times \frac{(1.46203 - [\ln(\text{hardness})(0.145712)])}{(1.101672 - [\ln(\text{hardness})(0.145712)])}$		209	8.08	*	*	50.0
Mercury ^c	2.04 ^d	0.012 ^c	2 ^d	0.025 ^c	2 ^d	0.012 ^c	2.0
Nickel ^{b,c}	Acute: $e^{(0.8460[\ln(\text{hardness})] + 3.3612)} \times 0.998$ Chronic: $e^{(0.8460[\ln(\text{hardness})] + 1.1645)} \times 0.997$		74	8.2	*	*	--

* For hardness-dependent criteria, values are calculated using average hardness (mg/L CaCO₃) from two-year data compilations contained in the latest Louisiana Water Quality Data Summary or other comparable data compilations or reports, as described in LAC 33:IX.1113.C.6.

^a Applies to surface water bodies designated as Drinking Water Supply and also protects for primary and secondary contact recreation and fish consumption.

^b Hardness-dependent criteria for freshwater are based on the natural logarithm formulas multiplied by conversion factors (CF) for acute and chronic protection. The minimum and maximum hardness values used for criteria calculation are 25 mg/L and 400 mg/L CaCO₃, as specified in 40 CFR 131.36.

^c Freshwater and saltwater metals criteria are expressed in terms of the dissolved metal in the water column. The standard was calculated by multiplying the previous water quality criteria by a conversion factor (CF). The CF represents the EPA-recommended conversion factors found in EPA-822-R-02-047, November 2002.

^d Conversion factor is from: Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria, October 1, 1993. Factors were expressed to two decimal places.

^e It is not appropriate to apply CF to chronic value for mercury because it is based on mercury residues in aquatic organisms rather than toxicity.

^f According to LAC 33:IX.1113.C.6.d, the most stringent criteria (freshwater or marine) will be used.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2402 (December 1999), LR 26:2547 (November 2000), LR 27:289 (March 2001), LR 30: 1474 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1115. Application of Standards

A. - A.1. . . .

2. An established water quality value (criterion) represents the general or numerical concentration limit or characteristic of a constituent in a water body segment that is allowed by the state. For some toxic substances, however, criteria provide both acute and chronic limits for the protection of aquatic life in fresh and marine waters, and separate limits for the protection of human health. Criteria apply at all times, except where natural conditions cause them to be exceeded or where specific exemptions in the standards apply. Water uses, pollution sources, natural conditions, and the water quality criteria are all considered in the department's determination of appropriate permit limits for each wastewater discharge to a water body.

A.3. - C.7.c. ...

8. For chloride, sulfate, and total dissolved solids, criteria are to be met below the point of discharge after complete mixing. Because criteria are developed over a long-term period, harmonic mean flow will be applied for mixing.

9. - Table 2b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2403 (December 1999), LR 26:2548 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1119. Implementation Plan for Antidegradation Policy

A. - A.2. ...

B. Implementation of Louisiana's Water Quality Management Process

1. Procedures and methods by which the Antidegradation Policy is implemented are described in several documents produced under the Water Quality Management (WQM) Process ("The Water Quality Standards (WQS)," "The Water Quality Integrated Report," and "The Continuing Planning Process"). These documents are available from the department.

2. ...

a. The state establishes the water quality standards specified in this Chapter to reflect the goals for individual water bodies and provide the legal basis for antidegradation and for water pollution control. This Chapter also defines and designates water uses and criteria to protect them.

b. ...

c. Water quality monitoring data and water body conditions are continually assessed to identify problem areas and assist in the development of water quality management plans and standards. The biennial Louisiana Water Quality Integrated Report is the state's principal tool in water quality assessment and identifies areas of water quality degradation.

B.2.d. - C.2. ...

3. If the public has not been informed of the possible lowering of water quality and has had no opportunity to comment on it, then the state shall ensure that the public is provided that opportunity. In the case of state or federal wastewater discharge permits, this may be accomplished by including notice of the possible lowering of water quality in the public notice of the permit. If the location and load proposed in the discharge permit has been previously reviewed by the public as part of the water quality management plan, additional public notice is not required. When public notice of the permit is required, the following language will be included.

"During the preparation of this permit, it has been determined that this discharge will have no adverse impact on the existing uses of the receiving water body. As with any discharge, however, some change in existing water quality may occur."

4. If a wastewater discharge or activity is proposed for an outstanding natural resource water body, as defined by

this Chapter, the administrative authority shall not approve that activity if it will cause degradation of these waters. For these purposes, *degradation* is defined as a statistically significant difference at the 90 percent confidence interval from existing physical, chemical, and biological conditions. Existing discharges of treated sanitary wastewater may be allowed if no reasonable alternative discharge location is available or if the discharge existed before the designation as an outstanding natural resource water body.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2548 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:

§1121. Regulation of Toxic Substances Based on the General Criteria

A. - A.2. ...

B. Effluent Characterization/Toxicity Testing and/or Instream Assessment

1. When determining the need for limits based on water quality, the Office of Environmental Services, Water Permits Division, may identify data needs and request that the permittee submit additional data along with the application. Permits may be placed into three categories:

1.a. - 3.b.iii.(c). ...

4. For water bodies whose designated use is as a drinking water supply, the department will calculate the in-stream concentration for all discharged pollutants for which EPA has promulgated a maximum contaminant level (MCL). The permittee will be required to submit to the Office of Environmental Services, Water Permits Division, sufficient effluent characterization data to make these calculations. Where dilution calculations indicate that in-stream concentrations may exceed the MCL requirements at appropriate flow conditions, the permittee may be required to conduct in-stream chemical monitoring or monitoring at the water supply.

5. To protect human health by eliminating chronic exposure to potentially toxic amounts of pollutants from aquatic species consumed by humans, the department will calculate the in-stream concentrations of all applicable pollutants for which EPA has published human health criteria in the Quality Criteria for Water, 1986, EPA 440/5-86-001, or subsequent revisions. The permittee will be required to submit to the Office of Environmental Services, Water Permits Division, sufficient effluent characterization data to make these calculations. For operational considerations, if dilution calculations show that after mixing, a suspected carcinogen would be present in the receiving water body at a concentration associated with a 10^{-6} risk level, in-stream chemical monitoring may be required of the appropriate dischargers. The department will list the water body as a priority water body and develop a wasteload allocation or make other consideration for it.

C. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:883

(August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2404 (December 1999), LR 26:2548 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31: 2507 (October 2005), LR 33:

§1123. Numerical Criteria and Designated Uses

A. Designated Water Quality Management Basins

Basin Name	Basin Number
Atchafalaya River Basin	01
Barataria Basin	02
Calcasieu River Basin	03
Lake Pontchartrain Basin	04
Mermentau River Basin	05
Vermilion-Teche River Basin	06
Mississippi River Basin	07
Ouachita River Basin	08
Pearl River Basin	09
Red River Basin	10
Sabine River Basin	11
Terrebonne Basin	12

B. Explanation of Water Body Code Number. The water body subsegment number and unique water body identification code are designated as follows:

AABBCC-XXX

where:

AA = Water Quality Management Basin Number

BB = Segment Number

CC = Subsegment Number

XXX = A minimum of three digits Unique Water Body Identification Code (If a Unique Water Body Identification Code is not identified for a particular Subsegment, then all water bodies within that Subsegment have the same designated uses and numerical criteria.)

Example:

090207-5112 = Water Body Subsegment and Identification Code for Morgan Bayou

where:

09 = Pearl River Management Basin

0902 = Segment 0902 of the Pearl River Management Basin

090207 = Subsegment 090207 of Pearl River Management Basin Segment 02

5112 = Four-digit Unique Water Body Identification Code for Morgan Bayou

C. Numerical Criteria Unit Definitions

1. Parameter Abbreviations. The following abbreviations of water quality parameters are used in Table 3 under the subheading "Criteria."

Abbreviation	Parameter
CL	Chlorides in mg/L
SO ₄	Sulfates in mg/L
DO	Dissolved Oxygen in mg/L
pH	Range of pH Units
BAC	Bacterial Criteria (See Below)
°C	Temperature in Degrees Centigrade (°C)
TDS	Total Dissolved Solids in mg/L
N/A	Not Available at Present

2. Bacterial Criteria (BAC)

a. The code numbers associated with the following designated uses are used in Table 3 under the Numerical Criteria subheading "BAC."

Code	Designated Use
1	Primary Contact Recreation
2	Secondary Contact Recreation
3	Drinking Water Supply
4	Oyster Propagation

b. The code number identified under the Numerical Criteria subheading "BAC" in Table 3 represents the most stringent bacterial criteria that apply to each individual subsegment. Where applicable, additional less stringent bacterial criteria also apply, depending on the designated uses of the subsegment. The specified numeric bacterial criteria for each designated use listed in this Paragraph can be found in LAC 33:IX.1113.C.

D. Designated Uses. The following notations for water use designations are used in Table 3 under the subheading "Designated Uses."

Notation	Designated Use
A	Primary Contact Recreation
B	Secondary Contact Recreation
C	Fish and Wildlife Propagation
L	Limited Aquatic Life and Wildlife Use
D	Drinking Water Supply
E	Oyster Propagation
F	Agriculture
G	Outstanding Natural Resource Waters

E. Endnotes. Numbers in brackets, e.g. [1], in Table 3 refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
Atchafalaya River Basin (01)									
010101	Atchafalaya River Headwaters and Floodplain-From Old River Control Structure to Simmesport; includes Old River Diversion Channel, Lower Red River, Lower Old River	A B C	65	70	5.0	6.5-8.5	1	33	440
010201	Atchafalaya River Mainstem-From Simmesport to Whiskey Bay Pilot Channel at mile 54	A B C D	65	70	5.0	6.5-8.5	1	33	440
010301	West Atchafalaya Basin Floodway-From Simmesport to Butte LaRose Bay and Henderson Lake	A B C	65	70	5.0	6.5-8.5	1	33	440
010401	East Atchafalaya Basin and Morganza Floodway South to I-10 Canal	A B C	65	70	5.0	6.5-8.5	1	33	440
010501	Lower Atchafalaya Basin Floodway-From Whiskey Bay Pilot Channel at mile 54 to US-90 bridge in Morgan City; includes	A B C D	65	70	5.0	6.5-8.5	1	33	440

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
	Grand Lake and Six-Mile Lake								
010502	Intracoastal Waterway (ICWW)–Morgan City-Port Allen Route from Bayou Sorrel Lock to Morgan City	A B C D	65	70	5.0	6.5-8.5	1	33	440
010601	Crow Bayou, Bayou Blue, and Tributaries	A B C	80	50	5.0	6.0-8.5	1	32	350
010701	Bayou Teche–From Berwick to Wax Lake Outlet	A B C D	80	50	5.0	6.0-8.5	1	32	350
010801	Atchafalaya River–From ICWW south of Morgan City to Atchafalaya Bay; includes Sweetwater Lake and Bayou Shaffer	A B C	500	150	5.0	6.5-9.0	1	35	1,000
010802	Wax Lake Outlet–From US-90 bridge to Atchafalaya Bay; includes Wax Lake	A B C	500	150	5.0	6.5-9.0	1	35	1,000
010803	Intracoastal Waterway–From Bayou Boeuf Lock to Bayou Sale; includes Wax Lake Outlet to US-90	A B C	65	70	5.0	6.0-8.5	1	32	440
010901	Atchafalaya Bay and Delta and Gulf Waters to the State three-mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
Barataria Basin (02)									
020101	Bayou Verret, Bayou Chevreuil, Bayou Citamon, and Grand Bayou	A B C F	65	50	5.0	6.0-8.5	1	32	430
020102	Bayou Boeuf, Halpin Canal, and Theriot Canal	A B C F	500	150	5.0	6.0-8.5	1	32	1,000
020103	Lake Boeuf	A B C	500	150	5.0	6.0-8.5	1	32	1,000
020201	Bayou Des Allemands–From Lac Des Allemands to old US-90 (Scenic)	A B C G	600	100	5.0	6.0-8.5	1	32	1,320
020202	Lac Des Allemands	A B C	600	100	5.0	6.0-8.5	1	32	1,320
020301	Bayou Des Allemands–From US-90 to Lake Salvador (Scenic)	A B C G	600	100	5.0	6.0-8.5	1	32	1,320
020302	Bayou Gauche	A B C	600	100	5.0	6.0-8.5	1	32	1,320
020303	Lake Cataouatche and Tributaries	A B C	500	150	5.0	6.0-8.5	1	32	1,000
020303001	Luling Wetland–Forested wetland located 1.8 miles south of US-90 at Luling, east of the Luling wastewater treatment pond, bordered by Cousin Canal to the west and Louisiana Cypress Lumber Canal to the south	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
020304	Lake Salvador	A B C	600	100	5.0	6.0-8.5	1	32	1,320
020401	Bayou Lafourche–From Donaldsonville to ICWW at Larose	A B C D	70	55	5.0	6.0-8.5	1	32	500
020402	Bayou Lafourche–From ICWW at Larose to Yankee Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	32	N/A
020403	Bayou Lafourche–From Yankee Canal and saltwater barrier to Gulf of Mexico (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	32	N/A
020501	Sauls, Avondale, and Main Canals	A B C	65	50	5.0	6.0-8.5	1	32	430
020601	Intracoastal Waterway–From Bayou Villars to Mississippi River (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
020701	Bayou Segnette–From headwaters to Bayou Villars	A B C	600	100	5.0	6.0-8.5	1	32	1,320
020801	Intracoastal Waterway–From Larose to Bayou Villars and Bayou Barataria (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
020802	Bayou Barataria and Barataria Waterway–From ICWW to Bayou Rigolettes (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
020901	Bayou Rigolettes and Bayou Perot to Little Lake (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
020902	Little Lake (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
020903	Barataria Waterway (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
020904	Wilkinson Canal and Wilkinson Bayou (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
020905	Bayou Moreau (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
020906	Bay Rambo (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
020907	Bay Sansbois, Lake Judge Perez, and Bay De La Cheniere (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
021001	Lake Washington, Bastian Bay, Adams Bay, Scofield Bay, Coquette Bay, Tambour Bay, Spanish Pass, and Bay Jacques (Estuarine)	A B C E	N/A	N/A	4.0	6.5-8.5	4	35	N/A
021101	Barataria Bay; includes Caminada Bay, Hackberry Bay, Bay Batiste, and Bay Long (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
021102	Barataria Basin Coastal Bays and Gulf Waters to the State three-mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
Calcasieu River Basin (03)									
030101	Calcasieu River–From headwaters to LA-8	A B C F	65	35	5.0	6.0-8.5	1	32	225
030102	Calcasieu River–From LA-8 to the Rapides-Allen Parish line (Scenic)	A B C F G	65	35	5.0	6.0-8.5	1	32	225
030103	Calcasieu River–From Rapides-Allen Parish line to Marsh Bayou (Scenic) [10]	A B C F G-[10]	65	35	5.0	6.0-8.5	1	32	225
030103-04075	Kinder Ditch–From headwaters of unnamed tributary to confluence with Calcasieu River	B C	65	35	3.0	6.0-8.5	1	32	225
030104	Mill Creek–From headwaters to Calcasieu River	A B C	60	60	5.0	6.0-8.5	1	32	250
030201	Calcasieu River–From Marsh Bayou to saltwater barrier (Scenic) [11]	A B C F G-[11]	350	40	[1]	6.0-8.5	1	32	500

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
030301	Calcasieu River and Ship Channel—From saltwater barrier to Moss Lake; includes Ship Channel, Coon Island Loop, and Clooney Island Loop (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
030302	Lake Charles	A B C	N/A	N/A	5.0	6.0-8.5	1	35	N/A
030303	Prien Lake	A B C	N/A	N/A	5.0	6.0-8.5	1	35	N/A
030304	Moss Lake (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
030305	Contraband Bayou (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
030306	Bayou Verdine (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
030401	Calcasieu River—From below Moss Lake to the Gulf of Mexico; includes Ship Channel and Monkey Island Loop (Estuarine)	A B C E	N/A	N/A	4.0	6.0-8.5	4	35	N/A
030402	Calcasieu Lake	A B C E	N/A	N/A	5.0	6.0-8.5	4	32	N/A
030403	Black Lake (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
030501	Whiskey Chitto Creek—From headwaters to southern boundary of Fort Polk Military Reservation	A B C	20	20	5.0	6.0-8.5	1	30	150
030502	Whiskey Chitto Creek—From the southern boundary of Fort Polk Military Reservation to the Calcasieu River (Scenic)	A B C G	20	20	5.0	6.0-8.5	1	30	150
030503	Six Mile Creek—East and West Forks from headwaters to the southern boundary of Fort Polk Military Reservation	A B C	20	20	5.0	6.0-8.5	1	30	150
030504	Six Mile Creek—East and West Forks from the southern boundary of Fort Polk Military Reservation to Whiskey Chitto Creek (Scenic)	A B C G	20	20	5.0	6.0-8.5	1	30	150
030505	Ten Mile Creek—From headwaters to Whiskey Chitto Creek (Scenic)	A B C G	20	20	5.0	6.0-8.5	1	30	150
030506	Bundicks Creek—From headwaters to Bundicks Lake	A B C	20	20	5.0	6.0-8.5	1	30	150
030507	Bundicks Lake	A B C	20	20	5.0	6.0-8.5	1	30	150
030508	Bundicks Creek—From Bundicks Lake to Whiskey Chitto Creek	A B C	20	20	5.0	6.0-8.5	1	30	150
030601	Barnes Creek—From headwaters to Little Barnes Creek	B C	60	60	[2]	6.0-8.5	2	30	150
030602	Barnes Creek—From Little Barnes Creek to Calcasieu River	A B C	60	60	5.0	6.0-8.5	1	32	250
030603	Marsh Bayou—From headwaters to Calcasieu River	A B C	60	60	5.0	6.0-8.5	1	32	250
030701	Bayou Serpent	A B C F	250	75	5.0	6.0-8.5	1	32	300
030702	English Bayou—From headwaters to Calcasieu River	A B C F	250	75	[3]	6.0-8.5	1	32	300
030801	West Fork Calcasieu River—From confluence with Beckwith Creek and Hickory Branch to mainstem of Calcasieu River	A B C F	250	75	[3]	6.0-8.5	1	34	500
030802	Hickory Branch—From headwaters to West Fork Calcasieu River	A B C F	250	75	5.0	6.0-8.5	1	32	500
030803	Beckwith Creek—From headwaters to West Fork Calcasieu River	A B C F	25	25	5.0	6.0-8.5	1	32	100
030804	Little River—From headwaters to West Fork Calcasieu River	A B C	250	75	[3]	6.0-8.5	1	34	500
030805	Indian Bayou—From headwaters to West Fork Calcasieu River	A B C F	250	75	[3]	6.0-8.5	1	34	500
030806	Houston River—From Bear Head Creek at LA-12 to West Fork Calcasieu River	A B C F	250	75	[3]	6.0-8.5	1	32	500
030806-554700	Houston River Canal—From one mile west of LA-388 to Houston River	A B C D F	250	75	[3]	6.0-8.5	1	32	500
030807	Bear Head Creek—From headwaters to Houston River at LA-12	A B C	250	75	5.0	6.0-8.5	1	32	500
030901	Bayou D'Inde—From headwaters to Calcasieu River (Estuarine)	A B C	N/A	N/A	4.0	6.5-8.5	1	35	N/A
031001	Bayou Choupique—From headwaters to ICWW (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
031002	Intracoastal Waterway—From West Calcasieu River Basin boundary to Calcasieu Lock (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
031101	Intracoastal Waterway—From Calcasieu Lock to East Calcasieu River Basin boundary	A B C	250	75	5.0	6.5-9.0	1	32	500
031201	Calcasieu River Basin Coastal Bays and Gulf Waters to the State three-mile limit	A B C E	N/A	N/A	5.0	6.0-9.0	4	32	N/A
Lake Pontchartrain Basin (04)									
040101	Comite River—From Little Comite Creek and Comite Creek at Mississippi state line to Wilson-Clinton Hwy.	A B C	25	10	5.0	6.0-8.5	1	32	150
040102	Comite River—From Wilson-Clinton Hwy. to White Bayou (Scenic)	A B C G	25	10	5.0	6.0-8.5	1	32	150
040103	Comite River—From White Bayou to Amite River	A B C	25	10	5.0	6.0-8.5	1	32	150
040201	Bayou Manchac—From headwaters to Amite River	A B C	25	10	5.0	6.0-8.5	1	32	150
040301	Amite River—From Mississippi state line to LA-37 (Scenic)	A B C G	25	10	5.0	6.0-8.5	1	32	150
040302	Amite River—From LA-37 to Amite River Diversion Canal	A B C	25	10	5.0	6.0-8.5	1	32	150
040303	Amite River—From Amite River Diversion Canal to Lake Maurepas	A B C	25	10	5.0	6.0-8.5	1	32	150
040304	Grays Creek—From headwaters to Amite River	A B C	25	10	5.0	6.0-8.5	1	32	150
040305	Colyell Creek; includes tributaries and Colyell Bay	A B C	25	10	5.0	6.0-8.5	1	32	150
040401	Blind River—From Amite River Diversion Canal to mouth at Lake Maurepas (Scenic)	A B C G	250	75	4.0 [9]	6.0-8.5	1	30	500
040402	Amite River Diversion Canal—From Amite River to Blind River	A B C	25	10	5.0	6.0-8.5	1	32	150

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
040403	Blind River—From headwaters to Amite River Diversion Canal (Scenic)	A B C G	250	75	3.0 [9]	6.0-8.5	1	30	500
040404	New River—From headwaters to New River Canal	A B C	250	75	5.0	6.0-8.5	1	30	500
040501	Tickfaw River—From Mississippi state line to LA-42 (Scenic)	A B C G	10	5	5.0	6.0-8.5	1	30	55
040502	Tickfaw River—From LA-42 to Lake Maurepas	A B C	10	5	5.0	6.0-8.5	1	30	55
040503	Natalbany River—From headwaters to Tickfaw River	A B C	30	20	5.0	6.0-8.5	1	30	150
040504	Yellow Water River—From headwaters to Ponchatoula Creek	A B C	30	20	5.0	6.0-8.5	1	30	150
040505	Ponchatoula Creek and Ponchatoula River	A B C	30	20	5.0	6.0-8.5	1	30	150
040601	Pass Manchac—From Lake Maurepas to Lake Pontchartrain	A B C	1,600	200	5.0	6.5-9.0	1	32	3,000
040602	Lake Maurepas	A B C	1,600	200	5.0	6.0-8.5	1	32	3,000
040603	Selsers Creek—From headwaters to South Slough	A B C	30	20	5.0	6.0-8.5	1	30	150
040604	South Slough; includes Anderson Canal to I-55 borrow pit	A B C	30	20	5.0	6.0-8.5	1	30	150
040604-001	South Slough Wetland—Forested freshwater and brackish marsh located 1.4 miles south of Ponchatoula, directly east of I-55, extending to North Pass to the south and Tangipahoa River to the east	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
040701	Tangipahoa River—From Mississippi state line to I-12 (Scenic)	A B C G	30	10	5.0	6.0-8.5	1	30	140
040702	Tangipahoa River—From I-12 to Lake Pontchartrain	A B C	30	10	5.0	6.0-8.5	1	30	140
040703	Big Creek—From headwaters to Tangipahoa River	A B C	20	20	5.0	6.0-8.5	1	30	140
040704	Chappeeela Creek—From LA-1062 to Tangipahoa River	A B C G	20	20	5.0	6.0-8.5	1	30	140
040801	Tchefuncte River—From headwaters to Bogue Falaya River; includes tributaries (Scenic)	A B C G	20	10	5.0	6.0-8.5	1	30	110
040802	Tchefuncte River—From Bogue Falaya River to LA-22 (Scenic)	A B C G	850	135	5.0	6.0-8.5	1	30	1,850
040803	Tchefuncte River—From LA-22 to Lake Pontchartrain (Estuarine)	A B C	850	135	4.0	6.0-8.5	1	30	1,850
040804	Bogue Falaya River—From headwaters to Tchefuncte River (Scenic) [12]	A B C G-[12]	20	10	5.0	6.0-8.5	1	30	110
040805	Chinchuba Swamp Wetland—Forested wetland located 0.87 miles southwest of Mandeville, southeast of Sanctuary Ridge, and north of Lake Pontchartrain	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
040806	East Tchefuncte Marsh Wetland—Freshwater and brackish marsh located just west of Mandeville, bounded on the south by Lake Pontchartrain, the west by Tchefuncte River, the north by LA-22, and the east by Sanctuary Ridge	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
040901	Bayou LaCombe—From headwaters to US-190 (Scenic)	A B C G	30	30	5.0	6.0-8.5	1	30	150
040902	Bayou LaCombe—From US-190 to Lake Pontchartrain (Scenic) (Estuarine)	A B C G	835	135	4.0	6.0-8.5	1	32	1,850
040903	Bayou Cane—From headwaters to US-190 (Scenic)	A B C G	30	30	5.0	6.0-8.5	1	30	150
040904	Bayou Cane—From US-190 to Lake Pontchartrain (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.0-8.5	1	32	N/A
040905	Bayou Liberty—From headwaters to LA-433	A B C	250	100	5.0	6.0-8.5	1	32	500
040906	Bayou Liberty—From LA-433 to Bayou Bonfouca (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
040907	Bayou Bonfouca—From headwaters to LA-433	A B C	250	100	5.0	6.0-8.5	1	32	500
040908	Bayou Bonfouca—From LA-433 to Lake Pontchartrain (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
040909	W-14 Main Diversion Canal—From headwaters to Salt Bayou	A B C [4]	N/A	N/A	[4]	6.0-8.5	1	32	N/A
040910	Salt Bayou—From headwaters to Lake Pontchartrain (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
040911	Grand Lagoon; includes associated canals (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
041001	Lake Pontchartrain—West of US-11 bridge (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	32	N/A
041002	Lake Pontchartrain—East of US-11 bridge (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	32	N/A
041101	Bonnet Carre Spillway	A B C	250	75	5.0	6.0-8.5	1	30	500
041201	Bayou Labranche—From headwaters to Lake Pontchartrain (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.0-8.5	1	32	N/A
041202	Bayou Trepagnier—From Norco to Bayou Labranche (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.0-8.5	1	32	N/A
041203	Duncan Canal—From headwaters to Lake Pontchartrain; also called Parish Line Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5-8.5	1	32	N/A
041301	Bayou St. John (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.0-8.5	1	32	N/A
041302	Lake Pontchartrain Drainage Canals in Jefferson and Orleans Parishes (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
041401	New Orleans East Leveed Water Bodies (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
041501	Inner Harbor Navigation Canal—From Mississippi River Lock to Lake Pontchartrain (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041601	Intracoastal Waterway—From Inner Harbor Navigation Canal to Chef Menteur Pass (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
041701	The Rigolets (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	32	N/A
041702	Bayou Sauvage—From New Orleans hurricane protection levee to Chef Menteur Pass; includes Chef Menteur Pass (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	32	N/A

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
041703	Intracoastal Waterway–From Chef Menteur Pass to Lake Borgne (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	32	N/A
041704	Lake St. Catherine	A B C	N/A	N/A	5.0	6.5-9.0	1	32	N/A
041801	Bayou Bienvenue–From headwaters to hurricane gate at MRGO (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041802	Bayou Chaperon (Scenic)(Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041803	Bashman Bayou–From headwaters to Bayou Dupre (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041804	Bayou Dupre–From Lake Borgne Canal to Terre Beau Bayou (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041805	Lake Borgne Canal–From Mississippi River siphon at Violet to Bayou Dupre; also called Violet Canal (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041806	Pirogue Bayou–From Bayou Dupre to New Canal (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041807	Terre Beau Bayou–From Bayou Dupre to New Canal (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041808	New Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041809	Poydras-Verret Marsh Wetland–Forested and marsh wetland located 1.5 miles north of St. Bernard, south of Violet Canal, and northeast of Forty Arpent Canal	B C	[17]	[17]	[17]	[17]	2	[17]	[17]
041901	Mississippi River Gulf Outlet (MRGO)–From ICWW to Breton Sound at MRGO mile 30	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042001	Lake Borgne	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042002	Bayou Bienvenue–From Bayou Villere to Lake Borgne (Scenic) (Estuarine)	A B C E G	N/A	N/A	4.0	6.5-9.0	4	35	N/A
042003	Bayou La Loutre–From MRGO to Eloi Bay (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
042004	Bayou Bienvenue–From MRGO to Bayou Villere (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
042101	Bayou Terre Aux Boeufs (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
042102	River Aux Chenes; also called Oak River (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
042103	Bayou Gentilly–From Bayou Terre Aux Boeufs to Petit Lake (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
042104	Petit Lake	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042105	Lake Lery	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042201	Chandeleur Sound	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042202	California Bay and Breton Sound	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042203	Bay Boudreau	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042204	Drum Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042205	Morgan Harbor	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042206	Eloi Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042207	Lake Fortuna	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042208	Bay Gardene, Black Bay, Lost Bayou, American Bay, and Bay Crabe	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042209	Lake Pontchartrain Basin Coastal Bays and Gulf Waters to the State three-mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
Mermentau River Basin (05)									
050101	Bayou Des Cannes–From headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260
050103	Bayou Mallet–From headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0-8.5	1	32	260
050201	Bayou Plaquemine Brule–From headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0-8.5	1	32	260
050301	Bayou Nezpique–From headwaters to Mermentau River; includes intermittent portion of Beaver Creek [2]	A B C F	90	30	[16]	6.0-8.5	1	32	260
050303	Castor Creek–From headwaters to Bayou Nezpique	A B C	90	30	[16]	6.0-8.5	1	32	260
050304	Bayou Blue–From headwaters to Bayou Nezpique	A B C	90	30	[16]	6.0-8.5	1	32	260
050401	Mermentau River–From headwaters to Lake Arthur	A B C F	90	30	[16]	6.0-8.5	1	32	260
050402	Lake Arthur and Lower Mermentau River to Grand Lake	A B C	90	30	5.0	6.0-8.5	1	32	260
050501	Bayou Queue de Tortue–From headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260
050601	Lacassine Bayou–From headwaters to Grand Lake	A B C F	90	10	[16]	6.0-8.5	1	32	400
050602	Intracoastal Waterway–From Calcasieu River Basin Boundary to Mermentau River	A B C F	250	75	5.0	6.5-9.0	1	32	500
050603	Bayou Chene–From headwaters to Lacassine Bayou; includes Bayou Grand Marais	A B C F	90	10	5.0	6.5-9.0	1	32	400
050701	Grand Lake	A B C F	250	75	5.0	6.5-9.0	1	32	500
050702	Intracoastal Waterway–From Mermentau River to Vermilion Locks	A B C F	250	75	5.0	6.0-9.0	1	32	500
050703	White Lake	A B C F	250	75	5.0	6.5-9.0	1	32	500
050801	Mermentau River–From Catfish Point Control Structure to Gulf of Mexico (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
050802	Big Constance Lake; includes associated water bodies	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
	(Estuarine)								
050901	Mermentau River Basin Coastal Bays and Gulf Waters to the State three-mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
Vermilion-Teche River Basin (06)									
060101	Spring Creek-From headwaters to Cocodrie Lake (Scenic)	A B C G	10	5	5.0	6.0-8.5	1	30	100
060102	Cocodrie Lake	A B C	10	5	[19]	6.0-8.5	1	32	100
060201	Bayou Cocodrie-From US-167 to Bayou Boeuf-Cocodrie Diversion Canal (Scenic)	A B C G	45	35	[19]	6.0-8.5	1	32	100
060202	Bayou Cocodrie-From Cocodrie Diversion Canal to Bayou Boeuf	A B C	45	35	5.0	6.0-8.5	1	32	100
060203	Chicot Lake	A B C	90	30	5.0	6.0-8.5	1	32	260
060204	Bayou Courtableau-From headwaters to West Atchafalaya Borrow Pit Canal	A B C	65	70	[22]	6.0-8.5	1	32	440
060206	Indian Creek and Indian Creek Reservoir	A B C D	10	5	5.0	6.0-8.5	1	32	100
060207	Bayou des Glaises Diversion Channel/West Atchafalaya Borrow Pit Canal-From Bayou des Glaises to Bayou Courtableau	A B C	100	75	5.0	6.0-8.5	1	32	500
060208	Bayou Boeuf-From headwaters to Bayou Courtableau	A B C	45	35	5.0	6.0-8.5	1	32	100
060209	Irish Ditch and Big Bayou-From unnamed ditch to Irish Ditch No. 1 to Big Bayou to Irish Ditch No. 2 to Bayou Rapides	B C	45	35	[2]	6.0-8.5	2	32	100
060210	Bayou Carron	A B C	40	30	5.0	6.0-8.5	1	32	220
060211	West Atchafalaya Borrow Pit Canal-From Bayou Courtableau to Henderson; includes Bayou Portage	A B C	65	70	5.0	6.0-8.5	1	32	440
060212	Chatlin Lake Canal and Bayou DuLac-From Alexandria to Bayou des Glaises Diversion Canal; includes a portion of Bayou DeGlaises	A B C	45	35	5.0	6.0-8.5	1	32	100
060301	Bayou Teche-From headwaters at Bayou Courtableau to Keystone Locks and Dam	A B C	65	70	5.0	6.0-8.5	1	32	440
060401	Bayou Teche-From Keystone Locks and Dam to Charenton Canal	A B C	80	50	5.0	6.0-8.5	1	32	350
060501	Bayou Teche-From Charenton Canal to Wax Lake Outlet	A B C D	80	50	5.0	6.0-8.5	1	32	350
060601	Charenton Canal-From Charenton Floodgate to ICWW; includes Bayou Teche from Charenton to Baldwin	A B C D	250	75	5.0	6.0-8.5	1	32	500
060701	Tete Bayou	A B C	80	50	5.0	6.0-8.5	1	32	350
060702	Lake Fausse Point and Dauterive Lake	A B C	80	50	5.0	6.0-8.5	1	32	350
060703	Bayou Du Portage	A B C	80	50	5.0	6.0-8.5	1	32	350
060801	Vermilion River-From headwaters to LA-3073 bridge	A B C F	230	70	5.0	6.0-8.5	1	32	440
060801-001	Cote Gelee Wetland-Forested wetland located in Lafayette Parish, two miles east of Broussard, two miles northeast of US-90, and west of Bayou Tortue	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
060802	Vermilion River-From LA-3073 bridge to ICWW	A B C F	230	70	[6]	6.0-8.5	1	32	440
060803	Vermilion River Cutoff-From ICWW to Vermilion Bay (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060804	Intracoastal Waterway-From Vermilion Lock to one-half mile west of Gum Island Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060805	Breaux Bridge Swamp-Forested wetland in St. Martin Parish, one-half mile southwest of Breaux Bridge, southeast of LA-94, west of Bayou Teche, east of Vermilion River, and north of Evangeline and Ruth Canals; also called Cyprière Perdue Swamp	B C	[5]	[5]	[5]	[5]	2	[5]	[5]
060806	Cypress Island Coulee Wetland-Forested wetland located in St. Martin Parish, two miles west of St. Martinville, one-half mile north of LA-96, west of Bayou Teche, and east of Vermilion River	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
060901	Bayou Petite Anse-From headwaters to Bayou Carlin (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060902	Bayou Carlin-From Lake Peigneur to Bayou Petite Anse; also called Delcambre Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060903	Bayou Tigre-From headwaters to Bayou Petite Anse (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060904	New Iberia Southern Drainage Canal-From headwaters to ICWW (Estuarine)	A B L [24]	N/A	N/A	[24]	6.5-9.0	[24]	35	N/A
060906	Intracoastal Waterway-From New Iberia Southern Drainage Canal to Bayou Sale (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060907	Franklin Canal	A B C	250	75	5.0	6.0-8.5	1	35	500
060908	Spanish Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
060909	Lake Peigneur	A B C	N/A	N/A	5.0	6.5-9.0	1	35	N/A
060910	Boston Canal; includes associated canals (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060911	Dugas Canal-By Tiger Lagoon Oil and Gas Field (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
061001	West Cote Blanche Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
061002	East Cote Blanche Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
061101	Bayou Petite Anse–From Bayou Carlin at its confluence with Bayou Tigre to ICWW (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
061102	Intracoastal Waterway–From one-half mile west of Gum Island Canal to New Iberia Southern Drainage Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
061103	Freshwater Bayou Canal–From one-half mile below ICWW to control structure (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
061104	Vermilion Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
061105	Marsh Island (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	4	35	N/A
061201	Vermilion-Teche River Basin Coastal Bays and Gulf Waters to the State three-mile limit	A B C E	N/A	N/A	5.0	6.0-9.0	4	32	N/A
Mississippi River Basin (07)									
070101	Mississippi River–From Arkansas state line to Old River Control Structure	A B C	75	120	5.0	6.0-9.0	1	32	400
070102	Gassoway Lake	A B C	75	120	5.0	6.0-8.5	1	32	400
070103	Marengo Bend–Portion within the Louisiana state line	A B C D	250	75	5.0	6.0-8.5	1	32	500
070201	Mississippi River–From Old River Control Structure to Monte Sano Bayou	A B C D	75	120	5.0	6.0-9.0	1	32	400
070202	Raccourci Old River	A B C	100	75	5.0	6.0-8.5	1	32	500
070203	Devil's Swamp Lake and Bayou Baton Rouge	A B C	75	120	5.0	6.0-8.5	1	32	400
070301	Mississippi River–From Monte Sano Bayou to Head of Passes	A B C D	75	120	5.0	6.0-9.0	1	32	400
070401	Mississippi River Passes–Head of Passes to Mouth of Passes; includes all passes in the birdfoot delta (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
070501	Bayou Sara–From Mississippi state line to Mississippi River	A B C	100	75	5.0	6.0-8.5	1	32	500
070502	Thompson Creek–From Mississippi state line to Mississippi River	A B C	100	75	5.0	6.0-8.5	1	32	500
070503	Capitol Lake	A B C	75	120	5.0	6.0-8.5	1	32	400
070504	Monte Sano Bayou–From US-61 to Mississippi River [7], [8]	B L	[7]	[7]	3.0	6.0-9.0	1	35 [8]	[7]
070505	Tunica Bayou–From headwaters to Mississippi River	A B C	100	75	5.0	6.0-8.5	1	32	500
070601	Mississippi River Basin Coastal Bays and Gulf Waters to the State three-mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
Ouachita River Basin (08)									
080101	Ouachita River–From Arkansas state line to Columbia Lock and Dam	A B C D	160	35	[15]	6.0-8.5	1	33	350
080102	Bayou Chauvin–From headwaters to Ouachita River	A B C	160	35	5.0	6.0-8.5	1	33	350
080201	Ouachita River–From Columbia Lock and Dam to Jonesville	A B C	160	50	5.0	6.0-8.5	1	33	400
080202	Bayou Louis–From headwaters to Ouachita River	A B C	250	75	5.0	6.0-8.5	1	32	500
080203	Lake Louis	A B C	250	75	5.0	6.0-8.5	1	32	500
080301	Black River–From Jonesville to Corps of Engineers (USACE) Control Structure at Mile 25	A B C	95	20	5.0	6.0-8.5	1	32	265
080302	Black River–From USACE Control Structure to Red River	A B C	95	20	5.0	6.0-8.5	1	32	265
080401	Bayou Bartholomew–From Arkansas state line to Ouachita River (Scenic to Dead Bayou)	A B C G	55	35	5.0	6.0-8.5	1	32	420
080501	Bayou de L'Outre–From Arkansas state line to Ouachita River (Scenic)	A B C G	250	45	5.0	6.0-8.5	1	33	500
080601	Bayou D'Arbonne–From headwaters to Lake Claiborne	A B C D	50	15	5.0	6.0-8.5	1	32	200
080602	Lake Claiborne	A B C D	50	15	5.0	6.0-8.5	1	32	200
080603	Bayou D'Arbonne–From Lake Claiborne to Bayou D'Arbonne Lake	A B C	50	15	5.0	6.0-8.5	1	32	200
080604	Bayou D'Arbonne Lake	A B C	50	15	5.0	6.0-8.5	1	32	200
080605	Bayou D'Arbonne–From Bayou D'Arbonne Lake to Ouachita River (Scenic)	A B C G	50	15	5.0	6.0-8.5	1	32	200
080606	Cypress Creek–From headwaters to Bayou D'Arbonne; includes Colvin Creek	A B C	65	10	5.0	6.0-8.5	1	32	160
080607	Corney Bayou–From Arkansas state line to Corney Lake (Scenic)	A B C G	160	25	5.0	6.0-8.5	1	32	300
080608	Corney Lake	A B C	160	25	5.0	6.0-8.5	1	32	300
080609	Corney Bayou–From Corney Lake to Bayou D'Arbonne Lake (Scenic)	A B C G	160	25	5.0	6.0-8.5	1	32	300
080610	Middle Fork Bayou D'Arbonne–From headwaters to Bayou D'Arbonne Lake (Scenic)	A B C G	50	15	[20]	6.0-8.5	1	32	200
080701	Bayou Desiard and Lake Bartholomew; also called Dead Bayou	A B C D	25	25	5.0	6.0-8.5	1	32	100
080801	Cheniery Creek–From headwaters to Cheniery Brake Lake	A B C	25	25	5.0	6.0-8.5	1	32	100
080802	Cheniery Brake Lake	A B C	25	25	5.0	6.0-8.5	1	32	100
080901	Boeuf River–From Arkansas state line to Ouachita River	A B C	105	45	5.0	6.0-8.5	1	32	430
080902	Bayou Bonne Idee–From headwaters to Boeuf River	A B C	20	10	5.0	6.0-8.5	1	32	180
080903	Big Creek–From headwaters to Boeuf River; includes Big	A B C	230	75	5.0	6.0-8.5	1	32	635

Table 3. Numerical Criteria and Designated Uses

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
	Colewa Bayou								
080904	Bayou Lafourche--From near Oakridge to Boeuf River near Columbia	A B C	500	200	5.0	6.0-8.5	1	32	1,500
080905	Turkey Creek--From headwaters to Turkey Creek Cutoff; includes Turkey Creek Cutoff, Big Creek, and Glade Slough	B C	250	75	[2]	6.0-8.5	2	32	500
080906	Turkey Creek--From Turkey Creek Cutoff to Turkey Creek Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
080907	Turkey Creek Lake; includes outfall to Boeuf River	A B C	250	75	5.0	6.0-8.5	1	32	500
080908	Lake LaFourche	A B C	250	75	5.0	6.0-8.5	1	32	500
080909	Crew Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
080910	Clear Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
080911	Woolen Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
080912	Tisdale Brake and Stalkinghead Creek--From headwaters to Little Bayou Boeuf	B L	500	200	[13]	6.0-8.5	2	32	1,500
081001	Bayou Macon--From Arkansas state line to Tensas River	A B C	50	55	5.0	6.0-8.5	1	32	380
081002	Joe's Bayou--From headwaters to Bayou Macon	A B C	250	75	5.0	6.0-8.5	1	32	500
081003	Deer Creek--From headwaters to Boeuf River	B L	105	45	[13]	6.0-8.5	2	32	430
081101	Lake Providence	A B C	25	25	5.0	6.0-8.5	1	32	150
081201	Tensas River--From headwaters to Jonesville; includes Tensas Bayou	A B C	45	30	5.0	6.0-8.5	1	32	500
081202	Lake St. Joseph	A B C	25	25	5.0	6.0-8.5	1	32	150
081203	Lake Bruin	A B C D	25	25	5.0	6.0-8.5	1	32	150
081301	Little River--From Archie Dam to Ouachita River	A B C	95	10	5.0	6.0-8.5	1	32	265
081401	Dugdemonia River--From headwaters to Big Creek	A B C	250	750	[14]	6.0-8.5	1	32	2,000
081402	Dugdemonia River--From Big Creek to Little River	A B C	250	750	5.0	6.0-8.5	1	32	2,000
081501	Castor Creek--From headwaters to Little River	A B C	25	25	5.0	6.0-8.5	1	32	100
081502	Chatham Lake	A B C	25	25	5.0	6.0-8.5	1	32	100
081503	Beaucoup Creek--From headwaters to Castor Creek	A B C	25	25	[21]	6.0-8.5	1	32	100
081504	Flat Creek--From headwaters to Castor Creek	A B C	25	25	5.0	6.0-8.5	1	32	100
081505	Caney Lake	A B C	25	25	5.0	6.0-8.5	1	32	100
081601	Little River--From Castor Creek-Dugdemonia confluence to Bear Creek (Scenic)	A B C G	250	500	5.0	6.0-8.5	1	33	1,000
081601-556716	Georgetown Reservoir	A B C G D	250	500	5.0	6.0-8.5	1	33	1,000
081602	Little River--From Bear Creek to Catahoula Lake (Scenic)	A B C G	50	75	5.0	6.0-8.5	1	33	260
081603	Catahoula Lake	A B C	50	75	5.0	6.0-8.5	1	33	260
081604	Catahoula Lake Diversion Canal--From Catahoula Lake to Black River	A B C	50	75	5.0	6.0-8.5	1	33	260
081605	Little River--From Catahoula Lake to Dam at Archie	A B C	50	75	5.0	6.0-8.5	1	33	260
081606	Fish Creek--From headwaters to Little River (Scenic)	A B C G	50	75	5.0	6.0-8.5	1	33	260
081607	Trout Creek--From headwaters to Little River (Scenic)	A B C G	50	75	5.0	6.0-8.5	1	33	260
081608	Big Creek--From headwaters to Little River (Scenic)	A B C D G	50	75	5.0	6.0-8.5	1	33	260
081609	Hemphill Creek--From headwaters to Catahoula Lake; includes Hair Creek	A B C	50	75	5.0	6.0-8.5	1	33	260
081610	Old River--From Catahoula Lake to Little River	A B C	250	75	5.0	6.0-8.5	1	32	500
081611	Bayou Funny Louis--From headwaters to Little River	A B C	50	75	5.0	6.0-8.5	1	33	260
Pearl River Basin (09)									
090101	Pearl River--From Mississippi state line to Pearl River Navigation Canal	A B C	20	15	5.0	6.0-8.5	1	32	180
090102	East Pearl River--From Holmes Bayou to I-10	A B C	20	15	5.0	6.0-8.5	1	32	180
090103	East Pearl River--From I-10 to Lake Borgne (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
090104	Peters Creek--From headwaters to Pearl River	A B C	20	30	5.0	6.0-8.5	1	30	150
090105	Pearl River Navigation Canal--From Pools Bluff to Lock No. 3	A B C	20	15	5.0	6.0-8.5	1	32	180
090106	Holmes Bayou--From Pearl River to West Pearl River (Scenic)	A B C G	20	15	5.0	6.0-8.5	1	32	180
090107	Pearl River--From Pearl River Navigation Canal to Holmes Bayou	A B C	20	15	5.0	6.0-8.5	1	32	180
090201	West Pearl River--From headwaters to Holmes Bayou (Scenic)	A B C G	20	15	5.0	6.0-8.5	1	32	180
090202	West Pearl River--From Holmes Bayou to The Rigolets; includes east and west mouths (Scenic)	A B C G	90	20	5.0	6.0-8.5	1	32	235
090202-5126	Morgan River--From Porters River to West Pearl River (Scenic)	A B C G	90	20	5.0	6.0-8.5	1	32	235
090203	Lower Bogue Chitto--From Pearl River Navigation Canal to Wilsons Slough	A B C	15	10	5.0	6.0-8.5	1	32	105
090204	Pearl River Navigation Canal--From below Lock No. 3	A B C	15	10	5.0	6.0-8.5	1	32	105
090205	Wilson Slough--From Bogue Chitto to West Pearl River (Scenic)	A B C G	15	10	5.0	6.0-8.5	1	32	105
090206	Bradley Slough--From Bogue Chitto to West Pearl River (Scenic)	A B C G	15	10	5.0	6.0-8.5	1	32	105
090207	Middle Pearl River and West Middle Pearl River--From West	A B C	90	20	5.0	6.0-8.5	1	32	235

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
	Pearl River to Little Lake								
090207-5112	Morgan Bayou–From headwaters near I-10 to Middle River	A B C	90	20	5.0	6.0-8.5	1	32	235
090208	Little Lake (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
090301	Pushhepatapa Creek–From headwaters and tributaries at Mississippi state line to Pearl River floodplain (Scenic)	A B C G	15	12	5.0	6.0-8.5	1	35	105
090401	Bogue Lusa Creek–From headwaters to Pearl River floodplain	A B C	30	45	5.0	6.0-8.5	1	32	300
090501	Bogue Chitto River–From Mississippi state line to Pearl River Navigation Canal (Scenic)	A B C G	15	10	5.0	6.0-8.5	1	35	105
090502	Big Silver Creek–From headwaters to Bogue Chitto River	A B C	15	10	5.0	6.0-8.5	1	35	105
090503	Little Silver Creek–From headwaters to Bogue Chitto River	A B C	15	10	5.0	6.0-8.5	1	35	105
090504	Lawrence Creek–From headwaters to Bogue Chitto River	A B C	15	10	5.0	6.0-8.5	1	35	105
090505	Bonner Creek–From headwaters to Bogue Chitto River	A B C	15	10	5.0	6.0-8.5	1	35	105
090506	Thigpen Creek–From headwaters to Bogue Chitto River	A B C	15	10	5.0	6.0-8.5	1	35	105
Red River Basin (10)									
100101	Red River–From Arkansas state line to US-165 in Alexandria	A B C D F	185	110	5.0	6.0-8.5	1	34	780
100201	Red River–From US-165 to Old River Control Structure Outflow Channel	A B C D	185	110	5.0	6.0-8.5	1	34	780
100202	Little River–From headwaters to Old River near Marksville	A B C	250	75	5.0	6.0-8.5	1	32	500
100203	Old River; includes associated water bodies in Spring Bayou WMA; also called LaVielle Riviere	A B C	250	75	5.0	6.0-8.5	1	32	500
100301	Black Bayou–From Texas state line to LA-1 at Black Bayou Lake	A B C F	250	25	5.0	6.0-8.5	1	33	500
100302	Black Bayou Lake–From LA-1 to spillway	A B C	250	25	5.0	6.0-8.5	1	33	500
100303	Black Bayou–From spillway at Black Bayou Lake to Twelve Mile Bayou	A B C	250	25	5.0	6.0-8.5	1	33	500
100304	Twelve Mile Bayou–From headwaters to Red River	A B C D F	175	75	5.0	6.0-8.5	1	32	500
100305	Mahlin Bayou and McCain Creek–From headwaters to Twelve Mile Bayou	B L	175	75	[14]	6.0-8.5	2	32	500
100306	Kelly Bayou–From Arkansas state line to Black Bayou	A B C F	90	40	5.0	6.0-8.5	1	33	665
100307	Caddo Lake–From Texas state line to spillway; includes James Bayou	A B C D F	120	35	5.0	6.0-8.5	1	34	325
100308	Paw Paw Bayou–From Texas state line to Cross Lake; includes tributaries	A B C D F	75	25	5.0	6.0-8.5	1	32	150
100309	Cross Bayou–From Texas state line to Cross Lake	A B C D F	75	25	5.0	6.0-8.5	1	32	150
100310	Cross Lake	A B C D F	75	25	5.0	6.0-8.5	1	32	150
100401	Bayou Bodeau–From Arkansas state line to Red Chute Bayou at Cypress Bayou confluence	A B C F	250	75	5.0	6.0-8.5	1	32	800
100402	Red Chute Bayou–From Cypress Bayou to Flat River	A B C	250	75	[14]	6.0-8.5	1	32	800
100403	Cypress Bayou–From headwaters to Cypress Bayou Reservoir	A B C D F	100	25	5.0	6.0-8.5	1	32	300
100404	Cypress Bayou Reservoir	A B C D F	100	25	5.0	6.0-8.5	1	32	300
100405	Black Bayou–From headwaters to spillway at Black Bayou Reservoir; includes Black Bayou Reservoir	A B C D F	100	25	5.0	6.0-8.5	1	32	300
100406	Flat River–From headwaters to Loggy Bayou	A B C	250	75	5.0	6.0-8.5	1	32	300
100501	Bayou Dorcheat–From Arkansas state line to Lake Bistineau (Scenic)	A B C F G	250	25	5.0	6.0-8.5	1	33	440
100502	Lake Bistineau	A B C F	250	25	5.0	6.0-8.5	1	33	440
100503	Caney Creek–From headwaters to Bayou Dorcheat; excludes Caney Lake	A B C F	250	75	5.0	6.0-8.5	1	32	500
100504	Caney Lake	A B C F	250	75	5.0	6.0-8.5	1	32	500
100505	Loggy Bayou–From Lake Bistineau dam to Flat River	A B C F	75	35	5.0	6.0-8.5	1	32	250
100506	Loggy Bayou–From Flat River to Red River	A B C F	250	75	5.0	6.0-8.5	1	32	800
100601	Bayou Pierre–From headwaters to Bayou Pierre	A B C F	150	75	5.0	6.0-8.5	1	32	500
100602	Boggy Bayou–From headwaters to Wallace Lake	A B C F	150	75	5.0	6.0-8.5	1	32	500
100603	Wallace Lake	A B C F	150	75	5.0	6.0-8.5	1	32	500
100604	Wallace Bayou–From Wallace Lake to Bayou Pierre	A B C F	150	75	5.0	6.0-8.5	1	32	500
100605	Clear Lake and Smithport Lake; includes old Edwards Lake	A B C F	250	75	5.0	6.0-8.5	1	32	500
100606	Bayou Pierre–From Sawing Lake to Red River	A B C F	150	75	5.0	6.0-8.5	1	32	500
100701	Black Lake Bayou–From headwaters to one mile north of confluence with Leatherman Creek	A B C F	26	9	5.0	6.0-8.5	1	32	79
100702	Black Lake Bayou–From one mile north of Leatherman Creek to Black Lake (Scenic)	A B C F G	26	9	5.0	6.0-8.5	1	32	79
100703	Black Lake and Clear Lake	A B C D F	26	9	5.0	6.0-8.5	1	32	79
100704	Kepler Creek–From headwaters to Kepler Lake	A B C F	25	25	5.0	6.0-8.5	1	32	79
100705	Kepler Lake	A B C F	25	25	5.0	6.0-8.5	1	32	79
100706	Kepler Creek–From Kepler Lake to Black Lake Bayou	A B C F	25	25	5.0	6.0-8.5	1	32	79
100707	Castor Creek–From headwaters to Black Lake Bayou	A B C	26	9	5.0	6.0-8.5	1	32	79
100708	Castor Creek Tributary–From headwaters to Castor Creek	B C	26	9	[2]	6.0-8.5	2	32	79

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
100709	Grand Bayou–From headwaters to Black Lake Bayou	A B C D	26	9	5.0	6.0-8.5	1	32	79
100710	Grand Bayou Tributary–From headwaters to Grand Bayou	B C	26	9	[2]	6.0-8.5	2	32	79
100801	Saline Bayou–From headwaters near Arcadia to Saline Lake (Scenic)	A B C F G	110	20	5.0	6.0-8.5	1	32	250
100802	Saline Lake	A B C F	110	20	5.0	6.0-8.5	1	32	250
100803	Saline Bayou–From Saline Lake to Red River	A B C F	110	20	5.0	6.0-8.5	1	32	250
100804	Saline Bayou Tributary–From headwaters to Saline Bayou near Arcadia	B C	110	20	[2]	6.0-8.5	2	32	250
100901	Nantaches Creek–From headwaters to Nantaches Lake	A B C F	25	25	5.0	6.0-8.5	1	32	100
100902	Nantaches Lake	A B C F	25	25	5.0	6.0-8.5	1	32	100
100903	Bayou Nantaches–From Nantaches Lake to Red River	A B C F	25	25	5.0	6.0-8.5	1	32	100
101001	Sibley Lake	A B C D F	25	25	5.0	6.0-8.5	1	32	100
101101	Cane River–From above Natchitoches to Red River	A B C D F	25	25	5.0	6.0-8.5	1	32	100
101102	Kisatchie Bayou–From headwaters to Kisatchie National Forest	A B C F	25	25	5.0	6.0-8.5	1	32	100
101103	Kisatchie Bayou–From Kisatchie National Forest to Old River (Scenic)	A B C F G	25	25	5.0	6.0-8.5	1	32	100
101201	Cotile Reservoir	A B C	50	25	5.0	6.0-8.5	1	32	200
101301	Rigolette Bayou–From headwaters to Red River	A B C F	25	25	5.0	6.0-8.5	1	32	100
101302	Iatt Lake	A B C F	25	25	5.0	6.0-8.5	1	32	100
101303	Iatt Creek–From headwaters to Iatt Lake	A B C F	25	25	5.0	6.0-8.5	1	32	100
101401	Buhlow Lake near Pineville	A B C	100	50	5.0	6.0-8.5	1	32	250
101501	Big Saline Bayou–From Catahoula Lake to Saline Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
101502	Saline Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
101504	Saline Bayou–From Larto Lake to Saline Lake (Scenic)	A B C G	45	10	5.0	6.0-8.5	1	32	165
101505	Larto Lake	A B C	45	10	5.0	6.0-8.5	1	32	165
101506	Big Creek–From headwaters to Saline Lake	A B C	45	10	5.0	6.0-8.5	1	32	165
101601	Bayou Cocodrie–From Little Cross Bayou to Wild Cow Bayou (Scenic)	A B C F G	250	75	5.0	6.0-8.5	1	32	500
101602	Cocodrie Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
101603	Lake St. John	A B C	250	75	5.0	6.0-8.5	1	32	500
101604	Lake Concordia	A B C	250	75	5.0	6.0-8.5	1	32	500
101605	Bayou Cocodrie–From Lake Concordia to LA-15	A B C	250	75	5.0	6.0-8.5	1	32	500
101606	Bayou Cocodrie–From Wild Cow Bayou to Red River	A B C	250	75	5.0	6.0-8.5	1	32	500
101607	Bayou Cocodrie–From LA-15 to Little Cross Bayou	B L	250	75	[13]	6.0-8.5	2	32	500
Sabine River Basin (11)									
110101	Toledo Bend Reservoir–From Texas-Louisiana state line to Toledo Bend Dam	A B C D F	120	60	5.0	6.0-8.5	1	34	500
110201	Sabine River–From Toledo Bend Dam to Old River below Sabine Island WMA	A B C D	120	60	5.0	6.0-8.5	1	33	500
110202	Pearl Creek–From headwaters to Sabine River (Scenic)	A B C D G	120	60	5.0	6.0-8.5	1	33	500
110301	Sabine River–From Old River below Sabine Island WMA to Sabine Lake (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
110302	Black Bayou–From Pirogue Ditch to Sabine Lake (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
110303	Sabine Lake (Estuarine)	A B C E	N/A	N/A	4.0	6.0-8.5	4	35	N/A
110304	Sabine Pass (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
110401	Bayou Toro–From headwaters to LA-473	A B C	25	25	5.0	6.0-8.5	1	32	150
110402	Bayou Toro–From LA-473 to Sabine River	A B C	25	25	5.0	6.0-8.5	1	32	150
110501	West Anacoco Creek–From headwaters to Vernon Lake	A B C	15	10	5.0	6.0-8.5	1	32	90
110502	East Anacoco Creek–From headwaters to Vernon Lake	A B C	15	10	5.0	6.0-8.5	1	32	90
110503	Vernon Lake	A B C	15	10	5.0	6.0-8.5	1	32	90
110504	Bayou Anacoco–From Vernon Lake to Anacoco Lake	A B C	15	10	5.0	6.0-8.5	1	32	90
110505	Anacoco Lake	A B C	15	10	5.0	6.0-8.5	1	32	90
110506	Bayou Anacoco–From Anacoco Lake to Cypress Creek	A B C	15	10	5.0	6.0-8.5	1	32	90
110507	Bayou Anacoco–From Cypress Creek to Sabine River	A B C	150	300	5.0	6.0-8.5	1	32	1,000
110601	Vinton Waterway–From Vinton to ICWW (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
110602	Black Bayou–From ICWW to Pirogue Ditch (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
110701	Sabine River Basin Coastal Bays and Gulf Waters to the State three-mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
Terrebonne Basin (12)									
120102	Bayou Poydras–From headwaters to Bayou Choctaw	A B C	250	75	5.0	6.0-8.5	1	32	500
120103	Bayou Choctaw–From Bayou Poydras to Bayou Grosse Tete	A B C	250	75	5.0	6.0-8.5	1	32	500
120104	Bayou Grosse Tete–From headwaters to ICWW near Wilbert Canal	A B C	25	25	5.0	6.0-8.5	1	32	200
120105	Chamberlin Canal–From Chamberlin to Bayou Choctaw	A B C	250	75	5.0	6.0-8.5	1	32	500
120106	Bayou Plaquemine–From Plaquemine Lock to ICWW	A B C	250	75	5.0	6.0-8.5	1	32	500
120107	Upper Grand River and Lower Flat River–From headwaters to ICWW	A B C	250	75	5.0	6.0-8.5	1	32	500

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
120108	False River	A B C	25	25	5.0	6.0-8.5	1	32	200
120109	Intracoastal Waterway--From Port Allen Locks to Bayou Sorrel Locks	A B C D	60	40	5.0	6.0-8.5	1	32	300
120110	Bayou Cholpe--From headwaters to Bayou Choctaw	A B C	25	25	5.0	6.0-8.5	1	32	200
120111	Bayou Maringouin--From headwaters to East Atchafalaya Basin Levee	A B C	25	25	5.0	6.0-8.5	1	32	200
120201	Lower Grand River and Belle River--From Bayou Sorrel Lock to Lake Palourde; includes Bay Natchez, Lake Natchez, Bayou Milhomme, and Bayou Long	A B C	60	40	5.0	6.0-8.5	1	32	300
120202	Bayou Black--From ICWW to Houma	A B C D	85	40	5.0	6.0-8.5	1	32	500
120203	Bayou Boeuf--From Lake Palourde to ICWW	A B C D	250	75	5.0	6.0-8.5	1	32	500
120204	Lake Verret and Grassy Lake	A B C	100	75	5.0	6.0-8.5	1	32	350
120205	Lake Palourde	A B C D	100	75	5.0	6.0-8.5	1	32	350
120206	Grand Bayou and Little Grand Bayou--From headwaters to Lake Verret	A B C	60	40	5.0	6.0-8.5	1	32	300
120207	Thibodaux Swamp--Forested wetland located in Lafourche and Terrebonne Parishes, 6.2 miles southwest of Thibodaux, east of Terrebonne-Lafourche Drainage Canal, and north of Southern Pacific Railroad; also called Pointe Au Chene Swamp	B C	[5]	[5]	[5]	[5]	2	[5]	[5]
120208	Bayou Ramos Swamp Wetland--Forested wetland located 1.25 miles north of Amelia in St. Mary Parish, south of Lake Palourde	B C	[18]	[18]	[18]	[18]	2	[18]	[18]
120301	Bayou Terrebonne--From Thibodaux to ICWW in Houma	A B C	540	90	5.0	6.0-8.5	1	32	1,350
120302	Company Canal--From Bayou Lafourche to ICWW	A B C D F	500	150	5.0	6.5-9.0	1	32	1,000
120303	Lake Long	A B C	500	150	5.0	6.5-9.0	1	32	1,000
120304	Intracoastal Waterway--From Houma to Larose	A B C D F	250	75	5.0	6.5-9.0	1	32	500
120401	Bayou Penchant--From Bayou Chene to Lake Penchant	A B C G	500	150	5.0	6.5-9.0	1	32	1,000
120402	Bayou Chene--From ICWW to Bayou Penchant	A B C	250	75	5.0	6.5-8.0	1	32	500
120403	Intracoastal Waterway--From Bayou Boeuf Locks to Bayou Black in Houma; includes segments of Bayous Boeuf, Black, and Chene	A B C D F	250	75	5.0	6.5-8.5	1	32	500
120404	Lake Penchant	A B C	500	150	5.0	6.5-9.0	1	32	1,000
120405	Lake Hache and Lake Theriot	A B C	500	150	5.0	6.0-8.5	1	32	1,000
120406	Lake de Cade	A B C E	N/A	N/A	5.0	6.0-9.0	4	35	N/A
120501	Bayou Grand Caillou--From Houma to Bayou Pelton	A B C	500	150	5.0	6.0-8.5	1	32	1,000
120502	Bayou Grand Caillou--From Bayou Pelton to Houma Navigation Canal (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
120503	Bayou Petit Caillou--From Bayou Terrebonne to LA-24 bridge	A B C E	500	150	5.0	6.0-9.0	4	32	1,000
120504	Bayou Petit Caillou--From LA-24 bridge to Boudreaux Canal (Estuarine)	A B C E	N/A	N/A	4.0	6.0-9.0	4	32	N/A
120505	Bayou Du Large--From Houma to Marmande Canal	A B C	500	150	5.0	6.5-9.0	1	32	1,000
120506	Bayou Du Large--From Marmande Canal to one-half mile north of St. Andrews Mission (Estuarine)	A B C E	N/A	N/A	4.0	6.0-9.0	4	35	N/A
120507	Bayou Chauvin--From Ashland Canal to Lake Boudreaux (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	32	N/A
120508	Houma Navigation Canal--From Bayou Pelton to one mile south of Bayou Grand Caillou (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
120509	Houma Navigation Canal--From Houma to Bayou Pelton	A B C D	500	150	5.0	6.0-8.5	1	32	1,000
120601	Bayou Terrebonne--From Houma to Company Canal (Estuarine)	A B C	445	105	4.0	6.0-9.0	1	32	1,230
120602	Bayou Terrebonne--From Company Canal to Humble Canal (Estuarine)	A B C E	5,055	775	4.0	6.5-9.0	4	32	10,000
120603	Company Canal--From ICWW to Bayou Terrebonne	A B C	500	150	5.0	6.5-9.0	1	32	1,000
120604	Bayou Blue--From ICWW to Grand Bayou Canal	A B C	445	105	5.0	6.5-9.0	1	32	1,000
120605	Bayou Pointe Au Chien--From headwaters to St. Louis Canal	A B C	445	105	5.0	6.5-9.0	1	32	1,000
120606	Bayou Blue--From Grand Bayou Canal to Bully Camp Canal (Estuarine)	A B C	5,055	775	4.0	6.5-9.0	1	32	10,000
120701	Bayou Grand Caillou--From Houma Navigation Canal to Caillou Bay (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
120702	Bayou Petit Caillou--From Boudreaux Canal to Houma Navigation Canal (Estuarine)	A B C E	N/A	N/A	4.0	6.0-9.0	4	32	N/A
120703	Bayou Du Large--From one-half mile north of St. Andrews Mission to Caillou Bay (Estuarine)	A B C E	N/A	N/A	4.0	6.0-9.0	4	35	N/A
120704	Bayou Terrebonne--From Humble Canal to Lake Barre (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
120705	Houma Navigation Canal--From one-half mile south of Bayou Grand Caillou to Terrebonne Bay (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
120706	Bayou Blue--From Bully Camp Canal to Lake Raccourci	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
	(Estuarine)								
120707	Lake Boudreaux	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120708	Lost Lake and Four League Bay	A B C E	N/A	N/A	5.0	6.0-9.0	4	35	N/A
120709	Bayou Petite Caillou--From Houma Navigation Canal to Terrebonne Bay	A B C E	N/A	N/A	5.0	6.0-9.0	4	32	N/A
120801	Caillou Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120802	Terrebonne Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120803	Timbalier Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120804	Lake Barre	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120805	Lake Pelto	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120806	Terrebonne Basin Coastal Bays and Gulf Waters to the State three-mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A

ENDNOTES:

[1] – [24] ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:

A public hearing will be held on January 24, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ054. Such comments must be received no later than February 15, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ054. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive,

Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Water Quality Standards Triennial
Revision**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This proposed rule is expected to have no significant effect on state or local governmental expenditures. Most costs required to meet the proposed water quality standards limits have already been required by the U.S. Environmental Protection Agency (EPA) to meet current water quality-based and/or technology-based permit limits.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect on state or local governmental revenue collections is anticipated. The changes proposed in this revision are not expected to affect state or local municipal sewage treatment plants.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated. The only changes in this proposed revision that may affect a few industrial dischargers are the more stringent human health criteria. After considering the locations, current permit limits, and technology of the potentially affected dischargers, no additional significant costs to industry or consumers are expected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect on competition or employment is anticipated.

Herman Robinson, CPM
Executive Counsel
0612#068

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Protective Helmets and Safety Vests (LAC 35:I.309)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:I.309 "Protective Helmets and Safety Vests," to provide for safety vest requirements of anyone riding horses, in addition to jockeys in a race.

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

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 3. General Rules

§309. Protective Helmets and Safety Vests

A. All persons exercising or schooling horses are compelled to wear protective helmets recommended by the stewards and approved by the commission, and a safety vest designed to provide shock-absorbing protection to the upper body, as evidenced by a label with a rating of 5, by the British Equestrian Trade Association. This shall also apply to association outriders and pony riders in post parade. Anyone failing to comply with this requirement may be fined or suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 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 2:423 (December 1976), amended LR 3:19 (January 1977), LR 4:271 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 33:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule through January 15, 2007, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Protective Helmets and Safety Vests

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated costs or savings to state or local governmental units associated with this rule, other than one-time costs directly associated with its publication.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units associated with this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action benefits riders by promoting good safety practices while riding/exercising horses. Specifically, this rule change requires safety vests for all persons while riding a horse on the racetrack. Current rules only provide for safety vests for jockeys. However, the practice is currently in place for all riders due to track rules. The financial responsibility for a safety vest falls upon each individual rider. The cost of each safety vest is approximately \$250.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this rule change.

Charles A. Gardner III
Executive Director
0612#037

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Racing a Horse under Investigation (LAC 35:I.1733)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:I.1733 "Racing a Horse under Investigation," to revise the penalty portion of the Rule.

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

**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. If the penalty options as described in §1737 and §1797 include a redistribution of the purse or a referral to the commission the horse allegedly to have been administered any such drug or substance shall not be allowed to enter or 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), LR 4:287 (August 1978), 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), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 33:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule through January 15, 2007, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Racing a Horse under Investigation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs or savings to state or local governmental units associated with this rule, other than one-time costs directly associated with its publication.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units associated with this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action benefits horsemen by amending the penalty portion of the rule, and only prevents a horse from racing (while under investigation) if a there is a purse redistribution and/or referral to the Commission. In such cases where a lesser penalty is charged, for instance, if the trainer is fined, then the horse would still be able to run.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this rule change.

Charles A. Gardiner III
Executive Director
0612#038

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Testing for Dangerous Substance Abuse (LAC 35:I.1791)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:I.1791 "Testing for Dangerous Substance Abuse," to revise third violation penalties of the Rule (Paragraph D.4), with additional rehabilitation requirements.

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

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1791. Testing for Dangerous Substance Abuse

A. - D3. ...

4. For a licensed person's third violation, he shall be suspended up to a maximum of 15 years and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His/her reinstatement may be allowed upon proof of enrollment and continued attendance in a commission approved drug rehabilitation program with a minimum of one year stay in a halfway house, at which he/she must attain the highest level of Recovery Dynamics, Step 12 of an AA/NA program, and otherwise submit proof he/she is currently and has been drug-free. In addition, he/she must sign a consent agreement with stipulations as determined by the commission.

D5. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 13:289 (May 1987), amended by Department of Economic Development, Racing Commission, LR 15:620 (August 1989), LR 16:394 (May 1990), LR 17:172 (February 1991), LR 17:648 (July 1991), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 33:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or Larry Munster, assistant executive director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule through January 15, 2007, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Testing for Dangerous Substance Abuse

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs or savings to state or local governmental units associated with this rule, other than one-time costs directly associated with its publication.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units associated with this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action benefits horsemen by promoting a safe racing environment by prohibiting drug abuse. Specifically, this action amends the third violation penalty portion of the rule changing the 15-year mandatory penalty to "up to" 15 years, giving the Commission more flexibility penalizing violators, and giving the violators a better chance of returning to racing sooner. The Commission has, in practice, allowed (in rare cases) violators to return before the 15-year mandatory penalty. Also, this proposed rule change provides for additional rehabilitation requirements, the cost of which is still borne by the violator.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this rule change.

Charles A. Gardiner III
Executive Director
0612#036

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Total Dissolved Carbon Dioxide Testing (LAC 35:I.1720)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:I.1720 "Total Dissolved Carbon Dioxide Testing," to revise the penalty portion of the Rule.

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

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1720. Total Dissolved Carbon Dioxide Testing

A. - B.3.b. ...

4. In the event a sample drawn from a horse contains an amount of TCO₂ which exceeds the levels described above, the following penalties shall apply.

a. ...

b. The second time the laboratory reports an excessive TCO₂ level, the stewards shall suspend the trainer for the duration of the race meeting plus 10 days or for a period not to exceed six months, whichever is greater, the purse shall be redistributed and the case referred to the commission.

4.c. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Racing Commission, LR 26:1992 (September 2000), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 32:1221 (July 2006), LR 33:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule through January 15, 2007, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Total Dissolved Carbon Dioxide Testing**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs or savings to state or local governmental units associated with this rule, other than one-time costs directly associated with its publication.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units associated with this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action benefits horsemen by penalizing those attempting to "milkshake" horses (giving doses of bicarbonate of soda), unfairly giving an advantage over other horses in a race. The proposed rule change amends the penalty phase of the current rule. Currently, penalties for violations of this rule are applicable only for positive tests discovered through post-race analysis. The amendment allows for violators to be sanctioned where analysis reveals a positive, both from post- and pre-race analysis. Additionally, this action adds the penalty of a redistributed purse to a second offense.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this rule change.

Charles A. Gardiner III
Executive Director
0612#035

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Nursing Facility Administrators**

**Pre-Examination Requirements
(LAC 46:XLIX.503)**

The Board of Examiners of Nursing Facility Administrators proposes to amend LAC 46:XLIX.503 et seq., in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Board of Examiners of Nursing Facility Administrators Act R.S. 37:2504A(1).

The purpose of the proposed Rule change is to ensure continued quality professional healthcare in the nursing home industry. To provide such professional healthcare it is deemed necessary to increase educational requirements through a college degree program from an accredited institute of higher learning.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLIX. Nursing Facility Administrators

Chapter 5. Examinations

**§503. Pre-Examination Requirements: Conditions
Precedent**

A. No person shall be admitted to or be permitted to take an examination for licensing as a nursing home administrator unless he shall have first submitted evidence satisfactory to the board that he:

- 1. - 4. ...
- 5. has successfully completed a bachelors degree from an accredited institute of higher learning. Fifteen hours towards such degree must be in any combination of the following courses:
 - a. accounting;
 - b. business law;
 - c. economics;
 - d. general health care;
 - e. management;
 - f. marketing;
 - g. nutrition;
 - h. physical science;
 - i. psychology;
 - g. and sociology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:789 (July 1994), LR 33:

Family Impact Statement

The proposed amendments, to Rule XLIX Chapter 5, should not have any impact on family as defined by R.S. 49:972. There should not be any effect on the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the

behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments until 4 p.m., December 31, 2006, to Mark A. Hebert, Board of Examiners of Nursing Facility Administrators, 5647 Superior Drive, Baton Rouge, LA 70816.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Pre-Examination Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the rule publication costs, which are estimated to be \$200 in fiscal year 2007, it is not anticipated that the proposed rule amendments will result in any material costs or savings to the Board of Examiners, any state unit or local government unit.

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 or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will increase educational requirements from 60 semester hours to a Bachelors degree in order to be licensed by the Board of Examiners of Nursing Facility Administrators. There is no anticipated cost increase to most applicants as approximately 90 percent of new applicants in Fiscal year 05-06 had BS or BA degrees. The Board expects this trend to continue until the rule is fully implemented.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no significant effect anticipated on competition and employment, other than the added incentive that a degree would bring to the decision when hiring one individual with a degree over another who may be "grandfathered" and had only received 60 or more credit hours.

Mark A. Hebert
Executive Director
0612#021

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Psychologists**

**Certificate of Prescriptive Authority
(LAC 46:LXIII.403)**

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, the Board of Examiners of Psychologists intends to amend LAC 46:LXIII.403.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

**Chapter 4. Certificate of Prescriptive Authority
§403. Application for Certificate of Prescriptive
Authority**

A. - B.3 ...

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Temporary Licensure
(LAC 46:LXIII.Chapter 10)

4. If the license of a psychologist who has applied for a certificate of prescriptive authority is under disciplinary restriction or under investigation due to a complaint having been filed with this board, granting of the certificate of prescriptive authority may be withheld until such time as the restriction or the investigation has come to conclusion and the license is in good standing status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:70 (January 2005), amended LR 33:

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to the certificate of prescriptive authority requirements of psychologists will have no known or foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personal responsibility of children; or, the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 8280 YMCA Plaza Dr., Bldg. 8-B, Baton Rouge, LA 70810. All comments must be submitted by 12 p.m., January 10, 2007.

Jaime T. Monic
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Certificate of Prescriptive Authority

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost for this rule totals \$120 in FY 06-07 and only applies to the Board of Examiners of Psychologists. Those costs are related to publishing the proposed and final 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.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated costs or economic benefits to affected persons or non-governmental groups. The proposed rule changes the word "shall" to "may" allowing the Board the discretion to determine what charges would warrant the withholding of prescriptive privileges.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Jaime T. Monic
Executive Director
0612#040

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, that the Board of Examiners of Psychologists intends to adopt Chapter 10 to facilitate the temporary registration of out-of-state psychologists in accordance with the Louisiana Licensing Law for Psychologist, R.S. 37:2365.D. as well as temporary emergency registration of out-of-state psychologists in compliance with R.S. 29:769(E).

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 10. Temporary Licensure

§1001. Registration of Out-of-State Psychologist

A. Pursuant to R.S. 37:2365.D any nonresident duly licensed or certified for independent practice as a psychologist in the state of his/her residence and which state will permit residents of this state a like and similar privilege as provided herein may, if associated with a psychologist who is a resident of the state of Louisiana and licensed under Title 37, Chapter 28 of the Louisiana Revised Statutes, practice as a psychologist for a period not to exceed thirty days in any calendar year to the same extent and manner as if licensed in this state.

B. A psychologist not licensed in Louisiana, whose license is current and unrestricted in the jurisdiction of his/her residence, must properly register with the board prior to providing psychological services in Louisiana as follows:

1. completed registration form signed by the Out-of-State Psychologist as well as the associating Licensed Louisiana Psychologist, shall be submitted along with a copy of the respective current and unrestricted licenses, picture identification, and any other information pertaining to identification or fitness to practice as requested by the board;

2. documentation that the psychologist is engaged in a legitimate professional setting, and provides satisfactory documentation to the board of the location site(s) that he/she will be providing psychological services and dates of service;

3. a statement attesting to any prior disciplinary actions, felonies or convictions, participation in an Impaired Psychologist Program, or any pending litigations or actions the licensee may be facing; and,

4. documentation that the state in which the Out-of-State Psychologist resides provides a like and similar privilege to licensed Louisiana psychologists.

C. Upon acceptance, the psychologist shall comply with the Louisiana Licensing Law for Psychologists Title 37 Chapter 28, the *Louisiana Administrative Code*, Title 46, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skills, training, and ability.

D. Should a qualified psychologist registered with the board thereafter fail to comply with any requirement or

condition established by this rule, the board may immediately terminate his/her registration. In addition, any known jurisdiction in which the psychologist holds a license will be notified of any complaint, investigation and/or disciplinary proceedings by this board.

E. In the event a psychologist fails to register with the board, but practices psychology, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of psychology and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2365.D.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:

§1002. Emergency Temporary Registration for Psychologists

A. Pursuant to R.S.29:769(E), licensed Psychologists from other jurisdictions of the United States may respond to a declared public health emergency and be granted a temporary registration to engage in the practice of Psychology as defined in R.S. 37:2352(5).

B. Prior to providing professional services in Louisiana a psychologist licensed in another jurisdiction of the United States, shall apply for an Emergency Temporary Registration (ETR). The application for ETR shall be made available via the board website or mailed upon request.

C. Applications for Emergency Temporary Registration shall be processed as priority during a declared emergency.

D. Accordingly, additional requirements for an ETR may be imposed pursuant to the emergency declaration issued which more properly address the needs of the particular declared emergency.

E. A psychologist not licensed in Louisiana, whose license is current and unrestricted in the jurisdiction of his/her residence in the United States, and properly registers with the board may gratuitously provide psychological services if:

1. the psychologist is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the location site(s) that he/she will be providing psychological services;

2. the psychologist shall comply with the Louisiana Licensing Law for Psychologists Title 37 Chapter 28, the *Louisiana Administrative Code*, Title 46, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skills, training, and ability; and

3. the psychologist renders psychological services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of psychological services with the state of Louisiana.

F. The authority provided for the emergency rule shall be applicable for a period of time not to exceed sixty days at the discretion of the board, with the potential extension of up to two additional periods not to exceed sixty days for each extension as determined appropriate and necessary by the board.

G. All interested psychologists shall submit to the board, a copy of their respective current and unrestricted licenses, picture identification, and any other information pertaining to identification or fitness to practice as requested by the board.

H. Should a qualified psychologist registered with the board thereafter fail to comply with any requirement or condition established by this rule, the board may immediately terminate his/her registration. In addition, any known jurisdiction in which the psychologist holds a license will be notified of any complaint, investigation and/or disciplinary proceedings by this board.

I. In the event a psychologist fails to register with the board, but practices psychology, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of psychology and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:769(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to the temporary registration of out-of-state of psychologists will have a positive impact on the stability and functioning of the family since it will allow mental health professionals to assist the citizens of Louisiana in the event of a declared emergency. The proposed Rule will have no known or foreseeable impact on the authority and rights of parents regarding the education and supervision of their children; family earnings and family budget; behavior and personal responsibility of children; or, the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 8280 YMCA Plaza Dr., Bldg. 8-B, Baton Rouge, LA 70810. All comments must be submitted by 12 p.m., January 10, 2007.

Jaime T. Monic
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Temporary Licensure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost for this rule totals \$120 in FY 06-07 and only applies to the Board of Examiners of Psychologists. Those costs are related to publishing the proposed and final 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.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated costs or economic benefits to affected persons or non-governmental groups. The proposed rule will allow the Board to issue temporary licenses to psychologists from other jurisdictions of the United States in order to respond to a declared public emergency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no estimated effect on competition and employment.

Jaime T. Monic
Executive Director
0612#041

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

Disaster Relief Permits (LAC 46:XLVII.3328)

The Louisiana State Board of Nursing proposes to adopt LAC 46:XLVII.3328 in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The proposed adoption to Rule LAC 46:XLVII.3328 Disaster Relief Permits will allow the Louisiana State Board of Nursing to issue disaster relief permits to an individual to practice as a registered nurse or advanced practice registered nurse to provide gratuitous or non-gratuitous nursing services in Louisiana during a public health emergency, and for such periods thereafter as approved by the board. In addition, the Rules allow the Disaster Relief Permit to be valid for 60 days from the date of issuance and may be extended for additional 60 day periods as determined appropriate and necessary by the board provided all condition prerequisites to original issuances are satisfied.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

**Subchapter C. Registration and Registered Nurse
Licensure**

§3328. Disaster Relief Permits

A. The board may issue disaster relief permits to an individual to practice as a registered nurse or advanced practice registered nurse to provide gratuitous or non-gratuitous nursing services in this state during a public health emergency, and for such periods thereafter as approved by the board, provided such individual:

1. holds a current, unrestricted license in good standing issued by the licensing authority of another state to practice as a registered nurse or as an advanced practice registered nurse;
2. presents or causes to be presented to the board:
 - a. picture identification;
 - b. proof of current licensure in another state; and
 - c. a completed disaster permit affidavit.

B. A Disaster Relief Permit may be issued upon such terms, conditions, limitations or restrictions as to time, place, nature, and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law.

C. The Disaster Relief Permit will be valid for 60 days from the date of issuance and may be extended for additional

60 day periods as determined appropriate and necessary by the board provided all condition prerequisites to original issuances are satisfied.

D. If allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:911 et seq., or any rule promulgated by the board is received during the permit interval, the Disaster Relief Permit shall be recalled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 919 and 920.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 33:

Family Impact Statement

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed amendments to rules is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their children; or the ability of the family or a local government to perform the function as contained in the proposed rule amendments.

Interested persons may submit written comments on the proposed Rule until 5 p.m., January 10, 2007 to Barbara L. Morvant, Executive Director, 5207 Essen Lane, Suite 6, Baton Rouge, LA 70809.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Disaster Relief Permits**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated increase in expenditures or savings due to these proposed rules except for the publication of the proposed rules estimated at \$300 in FY 06-07.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost or economic benefit to affected persons or non-governmental groups. The proposed rules creates a new section LAC 46:XLVII.3328 Disaster Relief Permits which will allow the board to issue disaster relief permits to an individual to practice as a registered nurse or advanced practice registered nurse to provide gratuitous or non-gratuitous nursing services in Louisiana during a public health emergency, and for such periods thereafter as approved by the board. In addition, the rules allow the Disaster Relief Permit to be valid for sixty (60) days from the date of issuance and may be extended for additional sixty (60) day periods as determined appropriate and necessary by the board provided all condition prerequisites to original issuances are satisfied.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Barbara L. Morvant
Executive Director
0612#046

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Temporary Permits to Practice as Registered Nurse (LAC 46:XLVII.3329)

The Louisiana State Board of Nursing proposes to amend LAC 46:XLVII.3329 in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

This proposed Rule LAC 46:XLVII.3329 provides for issuance of temporary permits to practice as a registered nurse.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter C. Registration and Registered Nurse Licensure

§3329. Temporary Permits

A. In accordance with R.S. 37:920, the Board of Nursing may issue the following temporary permits to practice as a registered nurse.

1. A working permit may be issued to graduates of approved schools pending the results of the first licensing examination, provided:

a. the examination is taken within three months after graduation from the approved nursing education program;

b. the person resides in Louisiana and plans to work in Louisiana;

c. there is no evidence of violation of this Part or of LAC 46:XLVII.3331; and

d. there are no allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and LAC 46:XLVII.3403 and 3405.

2. The terminology R.N. applicant identifies those individuals who have been issued a temporary working permit. R.N. applicant may be abbreviated as R.N. App. after signatures on records. The full spelling is required on identification pins.

3. The temporary work permit is limited as follows.

a. The R.N. applicant shall practice only in nursing situations where direct R.N. supervision is available.

b. The R.N. applicant shall serve in a staff nurse position.

c. The R.N. applicant shall assume only those responsibilities and functions commonly included in the staff nurse position.

4. The working permit issued to the R.N. applicant expires upon the R.N. applicant's receipt of the results of the first examination after graduation, or at the end of three months if the examination has not been taken.

B. A 90-day permit to practice as a registered nurse may be issued to any nurse currently registered in another state, territory, or country, pending receipt of endorsement

credentials providing that said nurse has filed a complete application for licensure by endorsement and provided that:

1. the person provides verification of current licensure in the state of last employment;

2. the person resides in Louisiana and plans to work in Louisiana; and

3. there is no evidence of violation of this Part or of §3331; and

4. there are no allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and §§3403 and 3405.

C. Graduates of foreign nursing schools, except for certain Canadian schools, are not eligible for work permits.

D. A temporary permit to practice as a registered nurse or an advanced practice registered nurse for a maximum period of six months may be issued to an individual enrolled in the clinical practice component of a board approved refresher course for the purpose of RN or APRN licensure reinstatement or licensure endorsement provided:

1. the individual provides satisfactory evidence that he or she previously held an unencumbered license in Louisiana or another jurisdiction recognized in Louisiana;

2. the individual completes the application form provided by the board;

3. the individual provides satisfactory documentation of enrollment in a refresher course approved by the board in accordance with §3335.D.2.a;

4. the individual pays the licensure fee required by §3341.A.f or 3327.A.8;

5. there is no evidence of violation of this Part or of §3331; and

6. there are no allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and §§3403 and 3405.

E. Any individual who receives a temporary permit issued pursuant to Subsection D above shall:

1. practice under the supervision of a licensed registered nurse or advanced practice registered nurse if seeking licensure as an RN or under the supervision of a licensed advanced practice registered nurse if seeking licensure as an APRN; and

2. be entitled to use the designation RN applicant if applying for licensure as a registered nurse or APRN applicant if applying for licensure as an advanced practice registered nurse.

F. If allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:911 et seq., or any rule promulgated by the board is received during the permit interval, the temporary permit issued pursuant to this Section above shall be recalled and licensure denied or delayed in accordance with LAC 46:XLVII.3331 or until such time as the person completes the disciplinary process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:78 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 23:961 (August 1997), LR24:1293(July 1998), LR 28:2513 (December 2002), LR 33:

Family Impact Statement

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed amendments to

rules is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their children; or the ability of the family or a local government to perform the function as contained in the proposed rule amendments.

Interested persons may submit written comments on the proposed Rule until 5 p.m., January 10, 2007 to Barbara L. Morvant, Executive Director, 5207 Essen Lane, Suite 6, Baton Rouge, LA, 70809

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Temporary Permits to Practice as
Registered Nurse**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated increase in expenditures or savings due to these proposed rules except for the publication of the proposed rules estimated at \$300 in FY 06-07.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There is no estimated cost or economic benefit to affected persons or non-governmental groups. The proposed rules amend LAC 46:XLVII.3329 Temporary Permits to clarify that in order to be issued a working permit to new graduates of approved schools of nursing there shall be no evidence of a violation of the Nurse Practice Act or evidence of grounds for disciplinary action. These amendments provide for consistency for all individuals issued temporary permits that if allegations of acts or omissions which constitute grounds for disciplinary action arise that the temporary permit is recalled.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment.

Barbara L. Morvant, MN, RN
Executive Director
0612#045

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Addictive Disorders
Addictive Disorder Regulatory Authority**

**ADRA Documents and Payment of Costs
(LAC 46:LXXX.501)**

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, pursuant to the authority vested in the Department of Health and Hospitals by the Addictive Disorders Practice Act, R.S. 37:3386-3390.6, intends to amend Title 46:LXXX by

adopting §501, ADRA Documents and Payment of Costs. The proposed Rule is set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXX. Substance Abuse Counselors

**Chapter 5. ADRA Documents and Payment of Costs
§501. Fees**

A. The fees and penalties of the ADRA shall be as follows.

**1. Addiction Counselor and Prevention Practice
Credential**

- a. Application \$100
- b. Renewal of credential \$200
- c. Certification by Reciprocity \$200
- d. Late fee for renewal \$150
- e. Reinstatement of credential \$200

2. Specialty Certifications

- a. Application \$100
- b. Renewal \$ 50
- c. Late fee for renewal \$150

**3. In-Training Status for Counselor and Prevention
Practice Credential**

- a. Initial Application \$ 50
- b. Annual Renewal \$ 25
- c. Late fee for renewal \$ 75

4. Treatment and Prevention Para-professional

- a. Initial Application \$ 25
- b. Annual Renewal \$ 25
- c. Late fee for renewal \$ 50

**5. Approved Training or Educational Institute,
Provider or Institution**

- a. Initial Application \$250
- b. Annual Renewal \$250
- c. Course reports for each participant \$ 5

**6. CEU Approval for Training or Educational
Institutes, Providers or Institutions Who Do Not Obtain
Approved Provider Status**

- a. Approval per course \$150
- b. Course reports for each participant \$ 10

**7. Approval of CEU Credits Not Obtained from an
Approved Provider or where the Provider has Not Received
ADRA Approval of the Course**

- a. For each 15 hours of CEU credit submitted \$100

8. The ADRA may impose an administrative fee not to exceed \$500 for each violation of its regulations committed by any person holding any ADRA practice credential, ADRA specialty certification, ADRA training status or other professional or para-professional status offered or recognized by the ADRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3788.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 33:

Family Impact Statement

1. The Effect on the Stability of the Family. It is anticipated that this Rule will have a positive impact on family stability.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. It is anticipated that this Rule will have a positive impact.

3. The Effect on the Functioning of the Family. It is anticipated that this Rule will have a positive impact.

4. The Effect on Family Earnings and Family Budget. It is anticipated that this Rule will have a positive impact.

5. The Effect on the Behavior and Personal Responsibility of Children. It is anticipated that this Rule will have a positive impact.

6. The Ability of the Family or Local Unit Government to Perform the Function as Contained in the Proposed Rule. It is anticipated that this Rule will have a positive impact.

Interested persons may submit written comments to Robert Sawyer, J.D., Director, Addictive Disorder Regulatory Authority, 628 Fourth Street, Baton Rouge, LA 70802. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for January 26, 2007 at 10 a.m. in the Bienville Building, Conference Room 118, First Floor, 628 Fourth Street, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4 p.m. January 26, 2007.

Frederick P. Cerise, M.D., M.P.H.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: ADRA Documents and Payment of Costs**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only implementation costs will be the printing costs for the proposed rule and the final rule, which is estimated to be a total of 11,152 for the current fiscal year. There are no estimated implementation costs for FY 2007/2008 and FY 2008/2009. All costs of the ADRA, including the cost of implementation, presently are provided for from general appropriation funds out of the OAD budget. Once fees are implemented, pursuant to this rule, it is anticipated that the funds generated will be used to offset the existing funds used to pay the operational cost of the ADRA, resulting in a state general fund savings to the state. Fees/savings are estimated to be \$55,000 in FY 06-07 and \$110,000 in future fiscal years.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of these rules will authorize the Addictive Disorder Regulatory Authority to impose and collect fees from those it regulates. These self-generated funds are anticipated to allow the ADRA to reduce the amount of the state general fund appropriations required to sustain the office.

It is anticipated that the ADRA will generate approximately \$55,000 from fees during the period January 1, 2007 through June 30, 2007. Thereafter it is anticipated that the revenue collections will be approximately \$110,000/year. This anticipated revenue will be derived from fees for the issuance and renewals of practice credentials, specialty certifications and in training status. In addition, fees will come from the approval of CEU courses and providers.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Those professionals regulated by the ADRA will pay fees to support and sustain the infrastructure. The ADRA maintains and enforces the minimum standards for addiction professionals in Louisiana. The rule will allow the ADRA to generate funds for its operation. Those who are regulated by the ADRA enjoy the benefit of having professional practice credentials and specialty certifications that meet the minimum standards required by the Louisiana Addictive Disorder Practice Act.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The ADRA not only issues credentials to qualified practitioners, but acts to prevent those without the necessary qualifications from competing with qualified professionals. Thus, it is anticipated that there will be a positive impact on competition and employment.

Frederick P. Cerise, M.D., M.P.H.
Secretary
0612#032

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Intermediate Care Facilities for the Mentally Retarded
Reimbursement of Medical Supplies
(LAC 50:VII.32901 and 32903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:VII.32901 and 32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for intermediate care facilities for the mentally retarded (ICFs/MR) that included the Inventory for Client and Agency Planning (ICAP) instruments (*Louisiana Register*, Volume 31, Number 9). The bureau promulgated an Emergency Rule which amended the provisions of the September 20, 2005 Rule governing the reimbursement methodology for ICFs/MR to include reimbursement of certain medical supply costs for Medicaid recipients who are medically fragile (*Louisiana Register*, Volume 32, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 20, 2006 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care
Subpart 3. Intermediate Care Facilities for the Mentally Retarded

Chapter 329. Reimbursement Methodology
Subchapter A. Reimbursement Components

§32901. Cost Reports

A. - C.1. ...

2. For providers receiving pervasive plus supplements and other client specific adjustments to the rate in accordance with §32903.I, the facility wide direct care floor is established at 94 percent of the per diem direct care payment, the pervasive plus supplement, and other client specific adjustments to the rate. The direct care floor will be applied to the cost reporting year in which the facility receives a pervasive plus supplement and/or a client specific rate adjustment. In no case, however, shall a facility receiving a pervasive plus supplement and/or client specific rate adjustment have total facility payments reduced to less than 104 percent of the total facility cost as a result of imposition of the direct care floor.

C.3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1592 (July 2005), repromulgated LR 31:2252 (September 2005), amended LR 33:

§32903. Rate Determination

A. - H.2. ...

I. Other Client Specific Adjustments to the Rate. A facility may request a client specific rate supplement for reimbursement of the costs for enteral nutrition, ostomy or tracheotomy medical supplies or a vagus nerve stimulator.

1. The provider must submit sufficient medical supportive documentation to the DHH ICAP Review Committee to establish medical need for enteral nutrition, ostomy or tracheotomy medical supplies.

a. The amount of reimbursement determined by the ICAP Review Committee shall be based on the average daily cost for the provision of the medical supplies.

b. The provider must submit annual documentation to support the need for the adjustment to the rate.

2. Prior authorization for implementation for the Vagus Nerve Stimulator shall be requested after the evaluation has been completed but prior to stimulator implantation. The request to initiate implantation shall come from the multi-disciplinary team as a packet with the team's written decision regarding the recipient's candidacy for the implant and the results of all pre-operative testing. The PA-01 form for the device and surgeon shall be included in the packet forwarded to Unisys.

a. The amount of reimbursement shall be the established fee on the Medicaid Fee Schedule for medical equipment and supplies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1592 (July 2005), repromulgated LR 31:2253 (September 2005), amended LR 33:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, January 27, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Intermediate Care Facilities
for the Mentally Retarded
Reimbursement of Medical Supplies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$77,619 for FY 06-07, \$122,998 for FY 07-08, and \$126,688 for FY 08-09. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$197,222 for FY 06-07, \$312,855 for FY 07-08, and \$322,241 for FY 08-09. It is anticipated that \$136 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the September 20, 2006 Emergency Rule, proposes to amend the provisions governing the reimbursement methodology for Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) to include reimbursement of certain medical supply costs for Medicaid recipients who are medically fragile (approximately 80 recipients). It is anticipated that implementation of this proposed rule will increase program expenditures for ICFs/MR services by approximately \$274,569 for FY 06-07 and \$435,853 for FY 07-08 and \$448,929 for FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips
Acting Medicaid Director
0612#082

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medical Transportation Program
Non-Emergency Medical Transportation Services
Reimbursement Rate Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for non-emergency medical transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. During the 2003 Regular Session of the Louisiana Legislature, additional funds were allocated and the bureau subsequently increased the reimbursement rates for certain designated procedures (*Louisiana Register*, Volume 30, Number 1).

As a result of the allocation of additional funds by the legislature during the 2006 Regular Session, the bureau promulgated an Emergency Rule that increased the reimbursement rates for non-emergency, non-ambulance medical transportation services by 5 percent (*Louisiana Register*, Volume 32, Number 9). The bureau subsequently amended the September 1, 2006 Emergency Rule to increase the reimbursement rate on file for non-emergency, non-ambulance medical transportation services by an additional 9 percent (*Louisiana Register*, Volume 32, Number 12). This proposed Rule is being promulgated to continue the provisions of the September 1, 2006 and December 1, 2006 Emergency Rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that the implementation of this proposed Rule will have a positive impact on family functioning, stability or autonomy as it will encourage provider participation in the Medicaid Program and improve access to non-emergency medical transportation.

Proposed Rule

Effective for dates of service on or after September 1, 2006, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rate for non-emergency, non-ambulance medical transportation services by 5 percent of the rates in effect on August 31, 2006.

Effective for dates of service on or after December 1, 2006, the department increases the rate by an additional 9 percent of the rates in effect on November 30, 2006.

Non-emergency medical transportation provided by friends and family is not included in these reimbursement rate increases.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, January 27, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Medical Transportation Program
Non-Emergency Medical Transportation Services
Reimbursement Rate Increase**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$238,328 for FY 06-07, \$357,557 for FY 07-08, and \$368,283 for FY 08-09. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$606,050 for FY 06-07, \$909,476 for FY 07-08, and \$936,761 for FY 08-09. It is anticipated that \$102 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the September 1, 2006 and December 1, 2006 Emergency Rules, proposes to amend the provisions governing the reimbursement of non-emergency, non-ambulance medical transportation services to increase the reimbursement rate (14.45% total increase for 285,006 services). It is anticipated that implementation of this proposed rule will increase program expenditures for non-emergency medical transportation services by approximately \$844,174 for FY 06-07, \$1,267,033 for FY 07-08, and \$1,305,044 for FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips
Acting Medicaid Director
0612#084

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Professional Services Program Physician Services—Concurrent Care

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Human Resources, Office of Family Security adopted provisions limiting the coverage of inpatient hospital physician visits to one per day for each day of an eligible hospital admission (*Louisiana Register*, Volume 6, Number 11). The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing inpatient concurrent care services provided by physicians to Medicaid recipients under the age of 21 (*Louisiana Register*, Volume 18, Number 1). Concurrent care services are necessary when a patient's condition and diagnosis require the services of more than one physician at the same time to assure that the patient receives the appropriate standard of treatment. In compliance with Section 1905 of the Omnibus Budget Reconciliation Act of 1989, the bureau amended the provisions of the January 20, 1992 Rule governing concurrent care services by physicians for Medicaid beneficiaries up to age 21 (*Louisiana Register*, Volume 19, Number 6). The bureau subsequently promulgated an Emergency Rule to repeal the November 20, 1980 Rule which limited the coverage of inpatient hospital physician visits and amended the provisions of the January 20, 1992 Rule governing concurrent care services to allow for the reimbursement of up to three inpatient evaluation and management services per day for recipients age 21 and over (*Louisiana Register*, Volume 32, Number 12). This proposed Rule is being promulgated to continue the provisions of the January 1, 2007 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy, as described in R.S. 49:972, by helping to stabilize provider participation in the Medicaid Program and improving access to inpatient services for Medicaid recipients age 21 and over.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to repeal the November 20, 1980 Rule which limited the coverage of inpatient hospital physician visits to one per day for each day of an eligible hospital admission. The department also proposes to amend the provisions governing concurrent care services to allow for the reimbursement of up to three medically necessary inpatient evaluation and

management services by providers of different specialties per recipient, per day, for recipients age 21 and over.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, January 25, 2007 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Professional Services Program Physician Services—Concurrent Care

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$2,688,282 for FY 06-07, \$7,383,534 for FY 07-08, and \$7,605,040 for FY 08-09. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 06-07 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$6,837,719 for FY 06-07, \$18,780,655 for FY 07-08, and \$19,344,075 for FY 08-09. It is anticipated that \$102 will be expended in FY 06-07 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the January 1, 2007 Emergency Rule, proposes to amend the provisions governing concurrent care services provided by physicians to allow for the reimbursement of up to three medically necessary inpatient evaluation and management services by providers of different specialties per day for recipients age 21 and over (approximately 68,500 hospital admissions). It is anticipated that implementation of this proposed rule will increase program expenditures for physician services by approximately \$9,525,797 for FY 06-07 and \$26,164,189 for FY 07-08 and \$26,949,115 for FY 08-09.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips
Acting Medicaid Director
0612#083

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 91—The Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities (LAC 37:XIII.Chapter 119)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of the Louisiana Department of Insurance hereby gives notice of the department's intent to promulgate its Regulation 91 which recognizes, presents and permits the use of mortality tables by life insurance companies that reflect the differences in mortality between preferred and standard lives in the determination of their minimum statutory reserve liabilities.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 119. Regulation Number 91—The Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities

§11901. Authority

A. This regulation is promulgated by the Commissioner of Insurance pursuant to authority granted under the Louisiana Insurance Code, Title 22, §22:1 et seq., particularly the Standard Valuation Law, see Title 22, §163.B.(1)(a) and Subsections 10909.A and B of Regulation 85.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§11903. Purpose

A. The purpose of this regulation is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities in accordance with Title 22, §163.B.(1)(a) and Subsections 10909.A and B of Regulation 85.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§11905. Definitions

A. For purposes of this regulation:

2001 CSO Mortality Table—that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)* and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below in Subsection B. Unless the context indicates otherwise, the "2001 CSO

Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following.

2001 CSO Mortality Table (F)—that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

2001 CSO Mortality Table (M)—that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

Composite Mortality Tables—mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

Smoker and Nonsmoker Mortality Tables—mortality tables with separate rates of mortality for smokers and nonsmokers.

B. *2001 CSO Preferred Class Structure Mortality Table*—mortality tables with separate rates of mortality for Super Preferred Nonsmokers, Preferred Nonsmokers, Residual Standard Nonsmokers, Preferred Smokers, and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker tables as adopted by the NAIC at the September 2006 national meeting and published in the *NAIC Proceedings (Third Quarter 2006)*. Unless the context indicates otherwise, the "2001 CSO Preferred Class Structure Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

C. *Statistical Agent*—an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§11907. 2001 CSO Preferred Class Structure Table

A. At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this regulation, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. No such election shall be made until the company demonstrates at least 20 percent of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the

2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of the NAIC model regulation, "Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits Model Regulation."

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§11909. Conditions

A. For each plan of insurance with separate rates for preferred and standard nonsmoker lives, an insurer may use the super preferred nonsmoker, preferred nonsmoker, and residual standard nonsmoker tables to substitute for the nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the residual standard nonsmoker table, the appointed actuary shall certify that:

1. the present value of death benefits over the next 10 years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class;

2. the present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

B. For each plan of insurance with separate rates for preferred and standard smoker lives, an insurer may use the preferred smoker and residual standard smoker tables to substitute for the smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the preferred smoker table, the appointed actuary shall certify that:

1. the present value of death benefits over the next 10 years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basis table corresponding to the valuation table being used for that class;

2. the present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table.

C. Unless exempted by the commissioner, every authorized insurer using the 2001 CSO Preferred Class Structure Table shall annually file with the commissioner, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the commissioner, statistical reports showing mortality and such other information as the commissioner may deem necessary or expedient for the administration of the provisions of this regulation. The form

of the reports shall be established by the commissioner or the commissioner may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§11911. Separability

A. If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of the provision to other persons or circumstances shall not be affected.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

§11913. Effective Date

A. This regulation shall become effective on the date of its final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:

Family Impact Statement

1. Describe the effect of the proposed Rule on the stability of the family. Regulation 91 rule should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed Rule on the authority and rights of parents regarding the education and supervision of their children. Regulation 91 Rule should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the effect of the proposed Rule on the functioning of the family. Regulation 91 should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed Rule on family earnings and budget. Regulation 91 should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed Rule on the behavior and personal responsibility of children. Regulation 91 should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed Rule on the ability of the family or a local government to perform the function as contained in the Rule. Regulation 91 should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

On Thursday, January 25, 2007, beginning at 9 a.m., the Department of Insurance will hold a public hearing in the Poydras Hearing Room located at 1702 N. Third Street, Baton Rouge, LA, 70802 to allow for public commentary concerning the proposed promulgation of its Regulation 91 as set forth above.

Persons interested in obtaining copies of the Rule or in making comments relative to these proposals may do so at the public hearing or by writing to Barry E. Ward, Department of Insurance, P.O. Box 94214, Baton Rouge, LA

70804-9214. Comments will be accepted through the close of business at 4:30 p.m. January 26, 2007.

James J. Donelon
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: The Recognition of Preferred
Mortality Tables for Use in Determining
Minimum Reserve Liabilities**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
DOI does not expect any implementation costs as a result of the adoption of this regulation.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no increase or decrease in revenue as a result of Regulation 91.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The life insurers will be able to use the 2001 CSO Preferred Class Structure mortality table as an alternative to the 2001 CSO Smoker/Non-smoker mortality table for use in determining the life insurance reserve liability values, thereby having reserves that are a better reflection of what they should be in relation to the policy's risk structure. The use of this table should allow the companies to charge more competitive premiums resulting in consumer savings; however, it is impossible for DOI to estimate the amount of such savings.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Implementation of this regulation should have no impact upon competition and employment in the state.

Chad M. Brown
Deputy Commissioner
0612#055

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Natural Gas Pipeline Safety
(LAC 43:XIII.Chapters 3-5, 9-15, 21, 27-33, 51, and 61-63)

The Louisiana Office of Conservation proposes to amend LAC 43:XIII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and pursuant to power delegated under the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. These proposed Rules amend the minimum pipeline safety requirements for natural gas pipelines.

There will be negligible cost to directly affected persons or natural gas pipeline operators. Benefits will be realized by persons living and working near natural gas pipelines through safer construction and operation standards imposed by the rule amendments. Moreover, Louisiana presently receives federal funds and pipeline inspection fees to administer the Natural Gas Pipeline Safety Program. Failure to amend the Louisiana Rules to make them consistent with

federal regulations would cause the state to lose federal funding.

Title 43

Department of Natural Resources

Part XIII. Office of Conservation
Subpart 2. Transportation of Natural and Other Gas by Pipeline [49 CFR Part 191]

Chapter 3. Annual Reports, Incident Reports and Safety Related Condition Reports [49 CFR Part 191]

§301. Scope [49 CFR 191.1]

A. - B.1. ...

2. pipelines on the Outer Continental Shelf (OCS) that are producer operated and cross into state waters without first connecting to a transporting operator's facility on the OCS, upstream (generally seaward) of the last valve on the last production facility on the OCS. Safety equipment protecting PHMSA-regulated pipeline segments is not excluded. Producing operators for those pipeline segments upstream of the last valve of the last production facility on the OCS may petition the administrator, or designee, for approval to operate under PHMSA regulations governing pipeline design, construction, operation, and maintenance under 49 CFR 190.9 [49 CFR 191.1(b)(2)].

B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:218 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 18:854 (August 1992), LR 27:1536 (September 2001), LR 30:1220 (June 2004), LR 33:

§303. Definitions [49 CFR 191.3]

A. As used in Part XIII and in the PHMSA Forms referenced in this Part [49 CFR 191.3]:

Administrator—the administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:255 (March 1985), amended LR 18:854 (August 1992), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004), LR 33:

§307. Addressee for Written Reports [49 CFR 191.7]

A. One copy of each written report, required by Part XIII, for intrastate facilities subject to the jurisdiction of the Office of Conservation pursuant to certification under Section 5(a) of the Natural Gas Pipeline Safety Act must be submitted to the Commissioner of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275. One copy of each written report required by Part XIII must be submitted to the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, DC 20590. Safety-related condition reports required by §323 for intrastate pipeline transportation must be submitted concurrently to that state agency, and if that agency acts as an agent of the secretary with respect to interstate transmission facilities, safety-

related condition reports for these facilities must be submitted concurrently to that agency. [49 CFR 191.7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004), LR 33:

§327. Filing Offshore Pipeline Condition Reports [49 CFR 191.27]

A. - A.6. ...

B. The report shall be mailed to the Commissioner of Conservation, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 and concurrently to the Information Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590 [49 CFR 191.27(b)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:854 (August 1992), amended LR 20:443 (April 1994), LR 30:1224 (June 2004), LR 33:

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49 CFR Part 192]

Chapter 5. General [Subpart A]

§501. What is the Scope of this Subpart? [49 CFR 192.1]

A. - B.1. ...

2. pipelines on the Outer Continental Shelf (OCS) that are producer-operated and cross into state waters without first connecting to a transporting operator's facility on the OCS, upstream (generally seaward) of the last valve on the last production facility on the OCS. Safety equipment protecting PHMSA-regulated pipeline segments is not excluded. Producing operators for those pipeline segments upstream of the last valve of the last production facility on the OCS may petition the administrator, or designee, for approval to operate under PHMSA regulations governing pipeline design, construction, operation, and maintenance under 49 CFR 190.9 [49 CFR 192.1 (b)(2)];

3. ...

4. onshore gathering of gas [49 CFR 192.1(b)(4)]:
a. through a pipeline that operates at less than 0 psig (0 kPa) [49 CFR 192.1(b)(4)(i)];

b. through a pipeline that is not a regulated onshore gathering line (as determined in §508) [49 CFR 192.1(b)(4)(ii)]; and

c. within inlets of the Gulf of Mexico, except for the requirements in §2712 [CFR 49 192.1(b)(4)(iii)].

5. any pipeline system that transports only petroleum gas or petroleum gas/air mixtures to [49 CFR 192.1(b)(5)]:

a. fewer than 10 customers, if no portion of the system is located in a public place [49 CFR 192.1(b)(5)(i)]; or

b. a single customer, if the system is located entirely on the customer's premises (no matter if a portion of the system is located in a public place) [49 CFR 192.1(b)(5)(ii)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004), amended LR 33:

§503. Definitions [49 CFR 192.3]

A. ...

Administrator—the administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004), amended LR 31:679 (March 2005), LR 33:

§507. What documents are incorporated by reference partly or wholly in this Part? [49 CFR 192.7]

A. ...

B. All incorporated materials are available for inspection in the *Pipeline and Hazardous Materials Safety Administration*, 400 Seventh Street, SW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/IBR_locations.html. These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. In addition, the incorporated materials are available from the respective organizations listed in Paragraph C.1 of this Section [49 CFR 192.7(b)].

C. ...

C.1. Incorporated by Reference (IBR) ↓ List of Organizations and Addresses [49 CFR 192.7(c)(1)]

a. Pipeline Research Council International, Inc. (PRCI), c/o Technical Toolboxes, 3801 Kirby Drive, Suite 520, Houston, TX 77098.

b. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005.

c. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

d. ASME International (ASME), Three Park Avenue, New York, NY 10016-5990.

e. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NE., Vienna, VA 22180.

f. National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101.

g. Plastics Pipe Institute, Inc. (PPI), 1825 Connecticut Avenue, NW., Suite 680, Washington, DC 20009.

h. NACE International (NACE), 1440 South Creek Drive, Houston, TX 77084.

i. Gas Technology Institute (GTI), 1700 South Mount Prospect Road, Des Plaines, IL 60018.

2. Documents incorporated by reference (numbers in parentheses indicate applicable editions) [49 CFR 192.7(c)(2)].

Source and Name of Referenced Material	Title 43 Reference
A. Pipeline Research Council International (PRCI):	
(1) AGA Pipeline Research Committee, Project PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe"(December 22, 1989). The RSTRENG program may be used for calculating remaining strength.	§§3333.A; 2137.C.
B. American Petroleum Institute (API):	
(1) API Specification 5L "Specification for Line Pipe" (43rd edition and errata, 2004).	§§705.E; 913; 5103 Item I.
(2) API Recommended Practice 5L1 "Recommended Practice for Railroad Transportation of Line Pipe" (6th edition, 2002).	§715.A.1.
(3) API Specification 6D "Pipeline Valves" (22nd edition, January 2002).	§1105.A.
(4) API Recommended Practice 80 (API RP 80) "Guidelines for the Definition of Onshore Gas Gathering Lines" (1st edition, April 2000)	§508
(5) API 1104 "Welding of Pipelines and Related Facilities" (19th edition, 1999, including Errata October 31, 2001).	§§1307.A; 1309.C.1; 1321.C; 5103 Item II.
(6) API Recommended Practice 1162 "Public Awareness Programs for Pipeline Operators," (1st edition, December 2003)	§2716
C. American Society for Testing and Materials (ASTM):	
(1) ASTM Designation: A 53/A53M-04a (2004) "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc Coated, Welded and Seamless".	§§913; 5103 Item I.
(2) ASTM Designation: A106/A106M-04b (2004) "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service".	§§913; 5103 Item I.
(3) ASTM Designation: A333/A333M-05 (2005) "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service".	§§913; 5103 Item I.
(4) ASTM Designation: A372/A372M-03 (2003) "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels".	§1137.B.1.
(5) ASTM Designation: A381-96 (Reapproved 2001) "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems".	§§913; 5103 Item I.
(6) ASTM Designation: A671-04 (2004) "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures".	§§913; 5103 Item I.
(7) ASTM Designation: A672-96 (Reapproved 2001) "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures".	§§913; 5103 Item I.

Source and Name of Referenced Material	Title 43 Reference
(8) ASTM Designation: A691 "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High- Pressure Service at High Temperatures".	§§913; 5103 Item I.
(9) ASTM Designation: D638-03 "Standard Test Method for Tensile Properties of Plastics".	§§1513.A.3; 1513.B.1.
(10) ASTM Designation: D2513-87 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings".	§713.A.1.
(11) ASTM Designation: D2513-99 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings".	§§1151.B; 1511.B.2; 1513.A.1.a; 5103 Item I.
(12) ASTM Designation: D 2517-00 "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings".	§§1151.A; 1511.D.1; 1513.A.1.b; 5103 Item I.
(13) ASTM Designation: F1055-1998 "Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing".	§1513.A.1.c.
D. ASME International (ASME):	
(1) ASME B16.1-1998 "Cast Iron Pipe Flanges and Flanged Fittings".	§1107.C.
(2) ASME B16.5-2003 (October 2004) "Pipe Flanges and Flanged Fittings".	§§1107.A; 1509.
(3) ASME B31G-1991 (Reaffirmed 2004)"Manual for Determining the Remaining Strength of Corroded Pipelines".	§§2137.C; 3333.A.
(4) ASME B31.8-2003 (February 2004) "Gas Transmission and Distribution Piping Systems".	§2719.A.1.a.
(5) ASME B31.8S-2004 "Supplement to B31.8 on Managing System Integrity of Gas Pipelines".	§§3303.C; 3307.B; 3311.A; 3311.A.9; 3311.A.11; 3311.A.12; 3311.A.13; 3313.A; 3313.B.1; 3317.A; 3317.B; 3317.C; 3317.E.1; 3317.E.4; 3321.A.1; 3323.B.2; 3323.B.3; 3325.B; 3325.B.1; 3325.B.2; 3325.B.3; 3325.B.4; 3327.B; 3327.C.1.a; 3329.B.1; 3329.B.2; 3333.A; 3333.D.1; 3333.D.1.a; 3335.A; 3335.B.1.d; 3337.C.1; 3339.A.1.a.i; 3339.A.1.a.ii; 3339.A.3.1.c; 3345.A.
(6) ASME Boiler and Pressure Vessel Code, Section I, Rules for Construction of Power Boilers (2004 edition including addenda through July 1, 2005).	§1113.A.
(7) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1, "Rules for Construction of Pressure Vessels," (2004 edition, including addenda through July 1, 2005).	§§1113.A; 1113.B; 1113.D; 1125.B.3.
(8) ASME Boiler and Pressure Vessel Code, Section VIII, Division 2, "Rules for Construction of Pressure Vessels-Alternative Rules," (2004 edition, including addenda through July 1, 2005).	§§1113.B; 1125.B.3.

Source and Name of Referenced Material	Title 43 Reference
(9) ASME Boiler and Pressure Vessel Code, Section IX, "Welding and Brazing Qualifications" (2004 edition, including addenda through July 1, 2005).	§§1307.A; 5103 Item II.
E. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):	
(1) MSS SP44-1996(Reaffirmed; 2001) "Steel Pipe Line Flanges". (2) [Reserved]	§1107.A.
F. National Fire Protection Association (NFPA):	
(1) NFPA 30 (2003) "Flammable and Combustible Liquids Code".	§2935.B.
(2) NFPA 58 (2004) "Liquefied Petroleum Gas Code (LP-Gas Code)".	§§511.A; 511.B; 511.C.
(3) NFPA 59 (2004) "Utility LP-Gas Plant Code".	§§511.A; 511.B; 511.C.
(4) NFPA 70 (2005) "National Electrical Code".	§§1123.E; 1149.C.
G. Plastics Pipe Institute, Inc. (PPI):	
(1) PPI TR-3/2004 (2004) "Policies and Procedures for Developing Hydrostatic Design Bases (HDB), Pressure Design Bases (PDB), Strength Design Basis (SDB), and Minimum Required Strength (MRS) Ratings for Thermoplastic Piping Materials or Pipe.	§921.
H. NACE International (NACE):	
(1) NACE Standard RP-0502-2002 "Pipeline External Corrosion Direct Assessment Methodology".	§§3323.B.1; 3325.B; 3325.B.1; 3325.B.1.b; 3325.B.2; 3325.B.3; 3325.B.3.b; 3325.B.3.d; 3325.B.4; 3325.B.4.b; 3331.D; 3335.B.1.d; 3339.A.2.
I. Gas Technology Institute (GTI). (Formerly Gas Research Institute):	
(1) GRI 02/0057 (2002) "Internal Corrosion Direct Assessment of Gas Transmission Pipelines—Methodology".	§§3327.C.2; 307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1226 (June 2004), amended LR 31:681 (March 2005), LR 33:

§508. How are onshore gathering lines and regulated onshore gathering lines determined? [49 CFR 192.8]

A. An operator must use API RP 80 (incorporated by reference, see §507), to determine if an onshore pipeline (or part of a connected series of pipelines) is an onshore gathering line. The determination is subject to the limitations listed below. After making this determination, an operator must determine if the onshore gathering line is a regulated onshore gathering line under Subsection B of this Section [49 CFR 192.8(a)].

1. The beginning of gathering, under Section 2.2(a)(1) of API RP 80, may not extend beyond the furthestmost downstream point in a production operation as defined in Section 2.3 of API RP 80. This furthestmost downstream point does not include equipment that can be used in either production or transportation, such as separators or dehydrators, unless that equipment is involved in the processes of "production and preparation for transportation or delivery of hydrocarbon gas" within the meaning of "production operation" [49 CFR 192.8(a)(1)].

2. The endpoint of gathering, under Section 2.2(a)(1)(A) of API RP 80, may not extend beyond the first downstream natural gas processing plant, unless the operator can demonstrate, using sound engineering principles, that gathering extends to a further downstream plant [49 CFR 192.8(a)(2)].

3. If the endpoint of gathering, under Section 2.2(a)(1)(C) of API RP 80, is determined by the commingling of gas from separate production fields, the fields may not be more than 50 miles from each other, unless the administrator/commissioner finds a longer separation distance is justified in a particular case (see 49 CFR §190.9) [49 CFR 192.8(a)(3)].

4. The endpoint of gathering, under Section 2.2(a)(1)(D) of API RP 80, may not extend beyond the furthestmost downstream compressor used to increase gathering line pressure for delivery to another pipeline [49 CFR 192.8(a)(4)].

B. For purposes of §509, "regulated onshore gathering line" means [49 CFR 192.8(b)]:

1. each onshore gathering line (or segment of onshore gathering line) with a feature described in the second column that lies in an area described in the third column [49 CFR 192.8(b)(1)]; and

2. as applicable, additional lengths of line described in the fourth column to provide a safety buffer [49 CFR 192.8(b)(2)].

Type	Feature	Area	Safety Buffer
A	—Metallic and the MAOP produces a hoop stress of 20 percent or more of SMYS. If the stress level is unknown, an operator must determine the stress level according to the applicable provisions in Chapter 9 of this Subpart. —Non-metallic and the MAOP is more than 125 psig (862 kPa).	Class 2, 3, or 4 location (see § 505).	None.
B	—Metallic and the MAOP produces a hoop stress of less than 20 percent of SMYS. If the stress level is unknown, an operator must determine the stress level according to the applicable provisions in Chapter 9 of this Subpart. —Non-metallic and the MAOP is 125 psig (862 kPa) or less.	Area 1. Class 3 or 4 location. Area 2. An area within a Class 2 location the operator determines by using any of the following three methods: (a) A Class 2 location. (b) An area extending 150 feet (45.7 m) on each side of the centerline of any continuous 1 mile (1.6 km) of pipeline and including more than 10 but fewer than 46 dwellings. (c) An area extending 150 feet (45.7 m) on each side of the centerline of any continuous 1000 feet (305 m) of pipeline and including 5 or more dwellings.	If the gathering line is in Area 2(b) or 2(c), the additional lengths of line extend upstream and downstream from the area to a point where the line is at least 150 feet (45.7 m) from the nearest dwelling in the area. However, if a cluster of dwellings in Area 2 (b) or 2(c) qualifies a line as Type B, the Type B classification ends 150 feet (45.7 m) from the nearest dwelling in the cluster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1226 (June 2004), amended LR 31:681 (March 2005), LR 33:

§509. What requirements apply to gathering lines?

[49 CFR 192.9]

A. Requirements. An operator of a gathering line must follow the safety requirements of this Part as prescribed by this Section [49 CFR 192.9(a)].

B. Offshore lines. An operator of an offshore gathering line must comply with requirements of this Part applicable to transmission lines, except the requirements in §1100 and in Chapter 33 of this Subpart [49 CFR 192.9(b)].

C. Type A Lines. An operator of a Type A regulated onshore gathering line must comply with the requirements of this Part applicable to transmission lines, except the requirements in §1110 and in Chapter 33 of this Subpart. However, an operator of a Type A regulated onshore gathering line in a Class 2 location may demonstrate compliance with Chapter 31 by describing the processes it uses to determine the qualification of persons performing operations and maintenance tasks [49 CFR 192.9(c)].

D. Type B Lines. An operator of a Type B regulated onshore gathering line must comply with the following requirements [49 CFR 192.9(d)]:

1. if a line is new, replaced, relocated, or otherwise changed, the design, installation, construction, initial inspection, and initial testing must be in accordance with requirements of this Part applicable to transmission lines [49 CFR 192.9(d)(1)];

2. if the pipeline is metallic, control corrosion according to requirements of Chapter 21 of this Subpart applicable to transmission lines [49 CFR 192.9(d)(2)];

3. carry out a damage prevention program under §2714 [49 CFR 192.9(d)(3)];

4. establish a public education program under §2716 [49 CFR 192.9(d)(4)];

5. establish the MAOP of the line under §2719 [49 CFR 192.9(d)(5)]; and

6. install and maintain line markers according to the requirements for transmission lines in §2907 [49 CFR 192.9(d)(6)].

E. Compliance deadlines. An operator of a regulated onshore gathering line must comply with the following deadlines, as applicable [49 CFR 192.9(e)].

1. An operator of a new, replaced, relocated, or otherwise changed line must be in compliance with the applicable requirements of this Section by the date the line goes into service, unless an exception in §513 applies [49 CFR 192.9(e)(1)].

2. If a regulated onshore gathering line existing on April 14, 2006 was not previously subject to this Part, an operator has until the date stated in the second column to comply with the applicable requirement for the line listed in the first column, unless the administrator finds a later deadline is justified in a particular case [49 CFR 192.9(e)(2)].

Requirement	Compliance Deadline
Control corrosion according to Chapter 21 requirements for transmission lines.	April 15, 2009
Carry out a damage prevention program under §2714.	October 15, 2007
Establish MAOP under §2719	October 15, 2007
Install and maintain line markers under §2907.	April 15, 2008
Establish a public education program under §2716.	April 15, 2008
Other provisions of this Part as required by Subsection C of this Section for Type A lines.	April 15, 2009

3. If, after April 14, 2006, a change in class location or increase in dwelling density causes an onshore gathering line to be a regulated onshore gathering line, the operator has 1 year for Type B lines and 2 years for Type A lines after the line becomes a regulated onshore gathering line to comply with this Section [49 CFR 192.9(e)(3)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:511 (July 1984), LR 20:443 (April 1994), LR 21:821 (August 1995), LR 24:1307 (July 1998), LR 30:1227 (June 2004), LR 31:681 (March 2005), LR 33:

§510. Outer Continental Shelf Pipelines
[49 CFR 192.10]

A. Operators of transportation pipelines on the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act 43 U.S.C. 1331) must identify on all their respective pipelines the specific points at which operating responsibility transfers to a producing operator. For those instances in which the transfer points are not identifiable by a durable marking, each operator will have until September 15, 1998 to identify the transfer points. If it is not practicable to durably mark a transfer point and the transfer point is located above water, the operator must depict the transfer point on a schematic located near the transfer point. If a transfer point is located subsea, then the operator must identify the transfer point on a schematic which must be maintained at the nearest upstream facility and provided to PHMSA upon request. For those cases in which adjoining operators have not agreed on a transfer point by September 15, 1998 the regional director and the MMS regional supervisor will make a joint determination of the transfer point [49 CFR 192.10].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1537 (September 2001), amended LR 30:1227 (June 2004), LR 33:

§513. What general requirements apply to pipelines regulated under this Subpart? [49 CFR 192.13]

A. No person may operate a segment of pipeline listed in the first column that is readied for service after the date in the second column, unless [49 CFR 192.13(a)]:

A.1. ...

A.2. the pipeline qualifies for use under this Subpart according to the requirements in §514 [49 CFR 192.13(a)(2)].

Pipeline	Date
Offshore gathering line.	July 31, 1977
Regulated onshore gathering line to which this Subpart did not apply until April 14, 2006	March 15 2007
All other pipelines.	March 12, 1971

B. No person may operate a segment of pipeline listed in the first column that is replaced, relocated, or otherwise changed after the date in the second column, unless the replacement, relocation, or change has been made according to the requirements in this Subpart [49 CFR 192.13(b)].

Pipeline	Date
Offshore gathering line.	July 31, 1977
Regulated onshore gathering line to which this Subpart did not apply until April 14, 2006.	March 15 2007
All other pipelines.	November 12, 1970

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:511 (July 1984), LR 30:1227 (June 2004), LR 33:

§515. Rules of Regulatory Construction
[49 CFR 192.15]

A. As used in this regulation: [49 CFR 192.15(a)]
Includes—including but not limited to;

May not—"is not permitted to" or "is not authorized to;"

Chapter 9. Pipe Design [Subpart C]

§921. Design of Plastic Pipe [49 CFR 192.121]

A. Subject to the limitations of §923, the design pressure for plastic pipe is determined in accordance with either of the following formulas.

$$P = 2S \frac{t}{(D-t)} 0.32$$

$$P = \frac{2S}{(SDR-1)} 0.32$$

where:

P = Design pressure, gauge, psig (kPa)

S = For thermoplastic pipe, the HDB determined in accordance with the listed specification at a temperature equal to 73 F (23°C), 100°F (38°C), 120°F (49°C), or 140°F (60°C). In the absence an HDB established at the specified temperature, the HDB of a higher temperature may be used in determining a design pressure rating at the specified temperature by arithmetic interpolation using the procedure in Part D.2 of PPI TR-3/2004, HDB/PDB/SBD/MRS Policies", (incorporated by reference see §507). For reinforced thermosetting plastic pipe, 11,000 psig (75,842 kPa).

t = Specified wall thickness, in. (mm)

D = Specified outside diameter, in (mm)

SDR= Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10 [49 CFR 192.121].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:

§923. Design Limitations for Plastic Pipe
[49 CFR 192.123]

A. Except as provided in Subsection E of this Section, the design pressure may not exceed a gauge pressure of 125 psig (862 kPa) for plastic pipe used in [49 CFR 192.123(a)]:

A.1. – D. ...

E. The design pressure for thermoplastic pipe produced after July 14, 2004 may exceed a gauge pressure of 100 psig (689 kPa) provided that [49 CFR 192.123(e)]:

1. ...

2. the material is a PE2406 or a PE3408 as specified within ASTM D2513 (incorporated by reference, see §507) [49 CFR 192.123(e)(2)];

3. the pipe size is nominal pipe size (IPS) 12 or less and [49 CFR 192.123(e)(3)];

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:

Chapter 11. Design of Pipeline Components [Subpart D]

§1104. Qualifying Metallic Components [49 CFR 192.144]

A. Notwithstanding any requirement of this Chapter which incorporates by reference an edition of a document listed in §507 or §5103 of this Subpart, a metallic component manufactured in accordance with any other edition of that document is qualified for use under this Subpart if [49 CFR 192.144]:

1. ...

2. the edition of the document under which the component was manufactured has equal or more stringent requirements for the following as an edition of that document currently or previously listed in §507 or §5103 of this Subpart [49 CFR 192.144(b)]:

a. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, amended LR 10:515 (July 1984), LR 30:1232 (June 2004), LR31:682 (March 2005), LR 33:

§1105. Valves [49 CFR 192.145]

A. Except for cast iron and plastic valves, each valve must meet the minimum requirements of API 6D (incorporated by reference, see §507), or to a national or international standard that provides an equivalent performance level. A valve may not be used under operating conditions that exceed the applicable pressure-temperature ratings contained in those requirements [49 CFR 192.145(a)].

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 27:1539 (September 2001), LR 30:1232 (June 2004), LR 31:682 (March 2005), LR 33:

§1110. Passage of Internal Inspection Devices [49 CFR 192.150]

A. Except as provided in Subsections B and C of this Section, each new transmission line and each replacement of line pipe, valve, fitting, or other line component in a transmission line must be designed and constructed to accommodate the passage of instrumented internal inspection devices [49 CFR 192.150(a)].

B. - B.6. ...

7. offshore transmission lines, except transmission lines 10 3/4 inches (273 millimeters) or more in outside diameter on which construction begins after December 28, 2005, that run from platform to platform or platform to shore unless [49 CFR 192.150(b)(7)]:

a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21:821 (August

1995), amended LR 27:1539 (September 2001), LR 30:1233 (June 2004), LR 31:683 (March 2005), LR 33:

Chapter 13. Welding of Steel in Pipelines [Subpart E] §1305. Welding Procedures [49 CFR 192.225]

A. Welding must be performed by a qualified welder in accordance with welding procedures qualified under Section 5 of API 1104 (incorporated by reference, see §507) or Section IX of the ASME Boiler and Pressure Vessel Code "Welding and Brazing Qualifications" (incorporated by reference, see §507) to produce welds meeting the requirements of this Chapter. The quality of the test welds used to qualify welding procedures shall be determined by destructive testing in accordance with the applicable welding standard(s) [49 CFR 192.225(a)].

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:228 (April 1983), amended LR 10:521 (July 1984), LR 30:1241 (June 2004), LR 31:683 (March 2005), LR 33:

§1307. Qualification of Welders [49 CFR 192.227]

A. Except as provided in Subsection B of this Section, each welder must be qualified in accordance with Section 6 of API 1104 (incorporated by reference, see §507) or Section IX of the ASME Boiler and Pressure Vessel Code (incorporated by reference, see §507). However, a welder qualified under an earlier edition than listed in §507 may weld but may not requalify under that earlier edition [49 CFR 192.227(a)].

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:229 (April 1983), amended LR 10:521 (July 1984), LR 24:1309 (July 1998), LR 30:1241 (June 2004), LR 31:683 (March 2005), LR 33:

§1309. Limitations on Welders [49 CFR 192.229]

A. - C. ...

1. may not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless within the preceding 6 calendar months the welder has had one weld tested and found acceptable under the Sections 6 or 9 of API Standard 1104 (incorporated by reference, see §507). Alternatively, welders may maintain an ongoing qualification status by performing welds tested and found acceptable under the above acceptance criteria at least twice each calendar year, but at intervals not exceeding 7 1/2 months. A welder qualified under an earlier edition of a standard listed in §507 of this Subpart may weld but may not requalify under that earlier edition [49 CFR 192.229(c)(1)]; and

C.2. - D.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:229 (April 1983), amended LR 10:521 (July 1984), LR 24:1309 (July 1998), LR 27:1541 (September 2001), LR 30:1241 (June 2004), LR 31:683 (March 2005), LR 33:

§1321. Inspection and Test of Welds [49 CFR 192.241]

A. Visual inspection of welding must be conducted by an individual qualified by appropriate training and experience to ensure that [49 CFR 192.241(a)]:

A.1. - B.2. ...

C. The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in Section 9 of API Standard 1104 (incorporated by reference, see §507). However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if Appendix A to API 1104 applies to the weld, the acceptability of the weld may be further determined under that appendix [49 CFR 192.241(c)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:230 (April 1983), amended LR 10:522 (July 1984), LR 24:1309 (July 1998), LR 27:1541 (September 2001), LR 30:1242 (June 2004), LR 31:683 (March 2005), LR 33:

Chapter 15. Joining of Materials Other Than by Welding [Subpart F]

§1513. Plastic Pipe: Qualifying Joining Procedures [49 CFR 192.283]

A. - A.1. ...

a. in the case of thermoplastic pipe, Paragraph 6.6 (sustained pressure test) or Paragraph 6.7 (Minimum Hydrostatic Burst Test) or Paragraph 8.9 (Sustained Static pressure Test) of ASTM D2513 (incorporated by reference, see §507) [49 CFR 192.283(a)(1)(i)];

b. in the case of thermosetting plastic pipe, Paragraph 8.5 (Minimum Hydrostatic Burst Pressure) or Paragraph 8.9 (Sustained Static Pressure Test) of ASTM D2517 (incorporated by reference, see §507) or [49 CFR 192.283(a)(1)(ii)];

c. in the case of electrofusion fittings for polyethylene pipe and tubing, Paragraph 9.1 (Minimum Hydraulic Burst Pressure Test), Paragraph 9.2 (Sustained Pressure Test), Paragraph 9.3 (Tensile Strength Test), or Paragraph 9.4 (Joint Integrity Tests) of ASTM Designation F1055 (incorporated by reference, see §507) [49 CFR 192.283(a)(1)(iii)].

A.2. ...

3. for procedures intended for non-lateral pipe connections, follow the tensile test requirements of ASTM D638 (incorporated by reference, see §507), except that the test may be conducted at ambient temperature and humidity. If the specimen elongates no less than 25 percent or failure initiates outside the joint area, the procedure qualifies for use [49 CFR 192.283(a)(3)].

B. ...

1. use an apparatus for the test as specified in ASTM D 638 (except for conditioning), (incorporated by reference, see §507) [49 CFR 192.283(b)(1)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:523 (July 1984), LR 20:445 (April 1994), LR 24:1310 (July 1998), LR 27:1541 (September 2001), LR 30:1244 (June 2004), LR 31:683 (March 2005), LR 33:

§1515. Plastic Pipe: Qualifying Persons to Make Joints [49 CFR 192.285]

A - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:524 (July 1984), LR 30:1244 (June 2004), LR 33:

§1517. Plastic Pipe; Inspection of Joints [49 CFR 192.287]

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 30:1245 (June 2004), LR 33:

Chapter 21. Requirements for Corrosion Control [Subpart I]

§2103. How does this Chapter apply to converted pipelines and regulated onshore gathering lines? [49 CFR 192.452]

A. Converted pipelines. Notwithstanding the date the pipeline was installed or any earlier deadlines for compliance, each pipeline which qualifies for use under this Subpart in accordance with §514 must meet the requirements of this Chapter specifically applicable to pipelines installed before August 1, 1971, and all other applicable requirements within one year after the pipeline is readied for service. However, the requirements of this Chapter specifically applicable to pipelines installed after July 31, 1971, apply if the pipeline substantially meets those requirements before it is readied for service or it is a segment which is replaced, relocated, or substantially altered [49 CFR 192.452(a)].

B. Regulated onshore gathering lines. For any regulated onshore gathering line under §509 existing on April 14, 2006, that was not previously subject to this Subpart, and for any onshore gathering line that becomes a regulated onshore gathering line under §509 after April 14, 2006, because of a change in class location or increase in dwelling density [49 CFR 192.452(b)]:

1. the requirements of this Chapter specifically applicable to pipelines installed before August 1, 1971, apply to the gathering line regardless of the date the pipeline was actually installed [49 CFR 192.452(b)(1)]; and

2. the requirements of this Chapter specifically applicable to pipelines installed after July 31, 1971, apply only if the pipeline substantially meets those requirements [49 CFR 192.452(b)(2)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:235 (April 1983), amended LR 10:527 (July 1984), LR 30:1252 (June 2004), LR 33:

§2142. Direct Assessment [49 CFR 192.490]

A. Each operator that uses direct assessment as defined in §3303 on an onshore transmission line made primarily of steel or iron to evaluate the effects of a threat in the first

column must carry out the direct assessment according to the standard listed in the second column. These standards do not apply to methods associated with direct assessment, such as close interval surveys, voltage gradient surveys, or examination of exposed pipelines, when used separately from the direct assessment process [49 CFR 192.490].

Threat	Standard ¹
External corrosion	§33252
Internal corrosion in pipelines that transport dry gas.	§3327
Stress corrosion cracking	§3329

¹For lines not subject to Chapter 33 of this Subpart, the terms "covered segment" and "covered pipeline segment" in §§3325, 3327, and 3329 refer to the pipeline segment on which direct assessment is performed.

²In §3325B, the provision regarding detection of coating damage applies only to pipelines subject to Chapter 33 of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:

Chapter 27. Operations [Subpart L]

§2716. Public Awareness [49 CFR 192.616]

A. Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (IBR, see §307) [49 CFR 192.616(a)].

B. The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities [49 CFR 192.616(b)].

C. The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety [49 CFR 192.616(c)].

D. The operator's program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on (49 CFR 192.616(d)):

1. use of a one-call notification system prior to excavation and other damage prevention activities [49 CFR 192.616(d)(1)];
2. possible hazards associated with unintended releases from a gas pipeline facility [49 CFR 192.616(d)(2)];
3. physical indications that such a release may have occurred [49 CFR 192.616(d)(3)];
4. steps that should be taken for public safety in the event of a gas pipeline release [49 CFR 192.616(d)(4)]; and
5. procedures for reporting such an event [49 CFR 192.616(d)(5)].

E. The program must include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations [49 CFR 192.616(e)].

F. The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports gas [49 CFR 192.616(f)].

G. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area [49 CFR 192.616(g)].

H. Operators in existence on June 20, 2005, must have completed their written programs no later than June 20, 2006. As an exception, operators of small propane distribution systems having less than 25 customers and master meter operators having less than 25 customers must have completed development and documentation of their programs no later than June 20, 2007. Upon request, operators must submit their completed programs to PHMSA or, in the case of an intrastate pipeline facility operator, the appropriate state agency [49 CFR 192.616(h)].

I. The operator's program documentation and evaluation results must be available for periodic review by appropriate regulatory agencies [49 CFR 192.616(i)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21:823 (August 1995), amended LR 30:1264 (June 2004), LR 33:

§2719. What is the maximum allowable operating pressure for steel or plastic pipelines? [49 CFR 192.619]

A. - A.1. ...

a. 80 percent of the first test pressure that produces yield under Section N5 of Appendix N of ASME B31.8 (incorporated by reference, see §507), reduced by the appropriate factor in Subparagraph A.2.b of this Section [49 CFR 192.619(a)(1)(i)]; or

1.b. - 2.b. ...

3. the highest actual operating pressure to which the segment was subjected during the five years preceding the applicable date in the second column. This pressure restriction applies unless the segment was tested according to the requirements in Paragraph A.2 of this Section after the applicable date in the third column or the segment was updated according to the requirements in Chapter 25 of this Subpart [49 CFR 192.619(a)(3)].

Pipeline Segment	Pressure Date	Test Date
—Onshore gathering line that first became subject to this Subpart (other than §2712) after April 13, 2006. —Onshore transmission line that was a gathering line not subject to this Subpart before March 15, 2006.	March 15, 2006, or date line becomes subject to this Subpart, whichever is later.	5 years preceding applicable date in second column.
Offshore gathering lines.	July 1, 1976	July 1, 1971
All other pipelines.	July 1, 1970	July 1, 1965

A.4. - B. ...

C. The requirements on pressure restrictions in this Section do not apply in the following instance. An operator may operate a segment of pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the 5 years preceding the applicable date in the second column of the table in Paragraph A.3 of

this Section. An operator must still comply with §2711 [49 CFR 192.619(c)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:242 (April 1983), amended LR 10:534 (July 1984), LR 24:1312 (July 1998), LR 27:1547 (September 2001), LR 30:1264 (June 2004), LR 33:

Chapter 29. Maintenance [Subpart M]

§2923. Distribution Systems: Leakage Surveys [49 CFR 192.723]

A. - B.1. ...

2. A leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at least once every 5 calendar years at intervals not exceeding 63 months. However, for cathodically unprotected distribution lines subject to § 2117.E on which electrical surveys for corrosion are impractical, a leakage survey must be conducted at least once every 3 calendar years at intervals not exceeding 39 months [49 CFR 192.723(b)(2)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:537 (July 1984), LR 21:823 (August 1995), LR 24:1313 (July 1998), LR 30:1269 (June 2004), LR 31:685 (March 2005), LR 33:

§2927. Abandonment or Deactivation of Facilities [49 CFR 192.727]

A. - G. ...

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with the NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions." To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at www.npms.rspa.dot.gov or contact the NPMS National Repository at 703-317-3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or e-mail to the Information Officer, *Pipeline and Hazardous Materials Safety Administration*, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; e-mail, roger.little@dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws [49 CFR 192.727(g)(1)].

2. Data on pipeline facilities abandoned before October 10, 2000 must be filed by before April 10, 2001. Operators may submit reports by mail, fax or e-mail to the Information Officer, *Pipeline and Hazardous Materials Safety Administration*, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; e-mail, roger.little@dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws. [49 CFR 192.727(g)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:538 (July 1984), LR 21:824 (August 1995), LR 27:1549 (September 2001), LR 30:1269 (June 2004), LR 33:

§2939. Pressure Limiting and Regulating Stations: Inspection and Testing [49 CFR 192.739]

A. Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is [49 CFR 192.739(a)]:

1. in good mechanical condition [49 CFR 192.739(a)(1)];

2. adequate from the standpoint of capacity and reliability of operation for the service in which it is employed [49 CFR 192.739(a)(2)];

3. except as provided in Subsection B of this Section, set to control or relieve at the correct pressure consistent with the pressure limits of §1161.A and [49 CFR 192.739(a)(3)];

4. properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation [49 CFR 192.739(a)(4)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:538 (July 1984), LR 30:1270 (June 2004), LR 33:

§2943. Pressure Limiting and Regulating Stations: Capacity of Relief Devices [49 CFR 192.743]

A. Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in §2939.B, the capacity must be consistent with the pressure limits of §1161.A. This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations [49 CFR 192.743(a)].

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:538 (July 1984), LR 30:1271 (June 2004), LR 31:685 (March 2005), LR 33:

Chapter 31. Operator Qualification [Subpart N]
§3105. Qualification Program [49 CFR 192.805]

A. - A.5. ...

6. communicate changes that affect covered tasks to individuals performing those covered tasks [49 CFR 192.805(f)]; and

7. identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed [49 CFR 192.805(g)];

8. after December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities [49 CFR 192.805(h)]; and

9. after December 16, 2004, notify the administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the administrator or state agency has verified that it complies with this Section [49 CFR 192.805(i)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1272 (June 2004), LR 31:685 (March 2005), LR 33:

§3109. General [49 CFR 192.809]

A. Operators must have a written qualification program by April 27, 2001. The program must be available for review by the Administrator or by a state agency participating under 49 U.S.C. Chapter 601 if the program is under the authority of that state agency [49 CFR 192.809(a)].

B. - D. ...

E. After December 16, 2004, observation of on-the-job performance may not be used as the sole method of evaluation [49 CFR 192.809(e)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1273 (June 2004), LR 33:

Chapter 33. Pipeline Integrity Management
[Subpart O]

§3303. What definitions apply to this Chapter?
[49 CFR 192.903]

A. ...

High consequence area—an area established by one of the methods described in Subparagraphs a or b as follows:

a. An *area* defined as:

- i. a Class 3 location under §505; or
- ii. a Class 4 location under §505; or
- iii. any area in a Class 1 or Class 2 location where the potential impact radius is greater than 660 feet (200 meters), and the area within a potential impact circle contains 20 or more buildings intended for human occupancy; or
- iv. any area in a Class 1 or Class 2 location where the potential impact circle contains an identified site.

b. The area within a potential impact circle containing:

i. 20 or more buildings intended for human occupancy, unless the exception in Subparagraph d applies; or

ii. an identified site.

c. Where a potential impact circle is calculated under either method a. or b. to establish a high consequence area, the length of the high consequence area extends axially along the length of the pipeline from the outermost edge of the first potential impact circle that contains either an identified site or 20 or more buildings intended for human occupancy to the outermost edge of the last contiguous potential impact circle that contains either an identified site or 20 or more buildings intended for human occupancy (see Figure E.I.A. in §5109 Appendix E).

d. If in identifying a high consequence area under Clause a.iii of this definition or Clause b.i of this definition, the radius of the potential impact circle is greater than 660 feet (200 meters), the operator may identify a high consequence area based on a prorated number of buildings intended for human occupancy within a distance 660 feet (200 meters) from the centerline of the pipeline until December 17, 2006. If an operator chooses this approach, the operator must prorate the number of buildings intended for human occupancy based on the ratio of an area with a radius of 660 feet (200 meters) to the area of the potential impact circle (i.e., the prorated number of buildings intended for human occupancy is equal to $[20 \times (660 \text{ feet [or } 200 \text{ meters]}/\text{potential impact radius in feet [or meters]})^2]$).

Potential Impact Radius (PIR)—the radius of a circle within which the potential failure of a pipeline could have significant impact on people or property. PIR is determined by the formula $r = 0.69 * [\text{square root of } (p*d^2)]$, where 'r' is the radius of a circular area in feet surrounding the point of failure, 'p' is the maximum allowable operating pressure (MAOP) in the pipeline segment in pounds per square inch and 'd' is the nominal diameter of the pipeline in inches.

NOTE: 0.69 is the factor for natural gas. This number will vary for other gases depending upon their heat of combustion. An operator transporting gas other than natural gas must use Section 3.2 of ASME/ANSI B31.8S-2001 (Supplement to ASME B31.8; incorporated by reference, see §507) to calculate the impact radius formula.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1273 (June 2004), LR 31:685 (March 2005), LR 33:

§3307. What must an operator do to implement this Chapter? [49 CFR 192.907]

A. ...

B. Implementation Standards. In carrying out this Chapter, an operator must follow the requirements of this Chapter and of ASME/ANSI B31.8S (incorporated by reference, see §507) and its appendices, where specified. An operator may follow an equivalent standard or practice only when the operator demonstrates the alternative standard or practice provides an equivalent level of safety to the public and property. In the event of a conflict between this Chapter

and ASME/ANSI B31.8S, the requirements in this Chapter control [49 CFR 192.907(b)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1274 (June 2004), LR 33:

§3313. When may an operator deviate its program from certain requirements of this Chapter?

[49 CFR 192.913]

A. - B.2.f. ...

g. semi-annual performance measures beyond those required in §3345 that are part of the operator's performance plan [see §3311.9]. An operator must submit these measures, by electronic or other means, on a semi-annual frequency to OPS in accordance with §3351 [49 CFR 192.913(b)(1)(vii)]; and

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1275 (June 2004), amended LR 31:686 (March 2005), LR 33:

§3317. How does an operator identify potential threats to pipeline integrity and use the threat identification in its integrity program?

[49 CFR 192.917]

A. Threat Identification. An operator must identify and evaluate all potential threats to each covered pipeline segment. Potential threats that an operator must consider include, but are not limited to, the threats listed in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 2, which are grouped under the following four categories [49 CFR 192.917(a)]:

1. - 4. ...

B. Data Gathering and Integration. To identify and evaluate the potential threats to a covered pipeline segment, an operator must gather and integrate existing data and information on the entire pipeline that could be relevant to the covered segment. In performing this data gathering and integration, an operator must follow the requirements in ASME/ANSI B31.8S, Section 4. At a minimum, an operator must gather and evaluate the set of data specified in Appendix A to ASME/ANSI B31.8S, and consider both on the covered segment and similar non-covered segments, past incident history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, internal inspection records and all other conditions specific to each pipeline [49 CFR 192.917(b)].

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1276 (June 2004), amended LR 31:686 (March 2005), LR 33:

§3321. How is the baseline assessment to be conducted?

[49 CFR 192.921]

A. ...

1. internal inspection tool or tools capable of detecting corrosion, and any other threats to which the covered segment is susceptible. An operator must follow ASME/ANSI B31.8S (incorporated by reference, see §507), Section 6.2 in selecting the appropriate internal inspection tools for the covered segment [49 CFR 192.921(a)(1)];

2. pressure test conducted in accordance with Chapter 23 of this Subpart. An operator must use the test pressures specified in Table 3 of Section 5 of ASME/ANSI B31.8S, to justify an extended reassessment interval in accordance with §3339 [49 CFR 192.921(a)(2)].

A.3. - F. ...

G. Newly Installed Pipe. An operator must complete the baseline assessment of a newly-installed segment of pipe covered by this Subpart within 10 years from the date the pipe is installed. An operator may conduct a pressure test in accordance with Paragraph A.2 of this Section, to satisfy the requirement for a baseline assessment [49 CFR 192.921(g)].

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1277 (June 2004), amended LR 31:686 (March 2005), LR 33:

§3325. What are the requirements for using External Corrosion Direct Assessment (ECDA)?

[49 CFR 192.925]

A. ...

B. General Requirements. An operator that uses direct assessment to assess the threat of external corrosion must follow the requirements in this Section, in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 6.4, and in NACE RP 0502-2002 (incorporated by reference, see §507). An operator must develop and implement a direct assessment plan that has procedures addressing preassessment, indirect examination, direct examination, and post-assessment. If the ECDA detects pipeline coating damage, the operator must also integrate the data from the ECDA with other information from the data integration (§3317.B) to evaluate the covered segment for the threat of third party damage, and to address the threat as required by §3317.E.1 [49 CFR 192.925(b)].

1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1278 (June 2004), amended LR 31:687 (March 2005), LR 33:

§3327. What are the requirements for using Internal Corrosion Direct Assessment (ICDA)?

[49 CFR 192.927]

A. ...

B. General Requirements. An operator using direct assessment as an assessment method to address internal corrosion in a covered pipeline segment must follow the requirements in this Section and in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 6.4 and Appendix B2. The ICDA process described in this Section applies only for a segment of pipe transporting nominally dry natural gas, and not for a segment with electrolyte nominally present in the gas stream. If an operator uses ICDA to assess a covered segment operating with electrolyte present in the gas stream, the operator must develop a plan that demonstrates how it will conduct ICDA in the segment to effectively address internal corrosion, and must provide notification in accordance with §3321.A.4 or §3337.C.4 [49 CFR 192.927(b).]

C. - C.1.d. ...

2. ICDA Region Identification. An operator's plan must identify where all ICDA Regions are located in the transmission system, in which covered segments are located. An ICDA Region extends from the location where liquid may first enter the pipeline and encompasses the entire area along the pipeline where internal corrosion may occur and where further evaluation is needed. An ICDA Region may encompass one or more covered segments. In the identification process, an operator must use the model in GRI 02-0057, "Internal Corrosion Direct Assessment of Gas Transmission Pipelines—Methodology," (incorporated by reference, see §507). An operator may use another model if the operator demonstrates it is equivalent to the one shown in GRI 02-0057. A model must consider changes in pipe diameter, locations where gas enters a line (potential to introduce liquid) and locations down stream of gas draw-offs (where gas velocity is reduced) to define the critical pipe angle of inclination above which water film cannot be transported by the gas [49 CFR 192.927(c)(2)].

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1279 (June 2004), amended LR 31:687 (March 2005), LR 33:

§3329. What are the requirements for using Direct Assessment for Stress Corrosion Cracking (SCCDA)? [49 CFR 192.929]

A. - B. ...

1. Data Gathering and Integration. An operator's plan must provide for a systematic process to collect and evaluate data for all covered segments to identify whether the conditions for SCC are present and to prioritize the covered segments for assessment. This process must include gathering and evaluating data related to SCC at all sites an operator excavates during the conduct of its pipeline operations where the criteria in ASME/ANSI B31.8S (incorporated by reference, see §507), Appendix A3.3 indicate the potential for SCC. This data includes at minimum, the data specified in ASME/ANSI B31.8S, Appendix A3 [49 CFR 192.929(b)(1)];

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1280 (June 2004), amended LR 31:687 (March 2005), LR 33:

§3333. What actions must be taken to address integrity issues? [49 CFR 192.933]

A. General Requirements. An operator must take prompt action to address all anomalous conditions that the operator discovers through the integrity assessment. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure that the condition is unlikely to pose a threat to the integrity of the pipeline until the next reassessment of the covered segment. If an operator is unable to respond within the time limits for certain conditions specified in this Section, the operator must temporarily reduce the operating pressure of the pipeline or

take other action that ensures the safety of the covered segment. If pressure is reduced, an operator must determine the temporary reduction in operating pressure using ASME/ANSI B31G (incorporated by reference, see §507) or AGA Pipeline Research Committee Project PR-3-805 [(RSTRENG); incorporated by reference, see §507] or reduce the operating pressure to a level not exceeding 80 percent of the level at the time the condition was discovered. (See §507 for information on availability of incorporation by reference information). A reduction in operating pressure cannot exceed 365 days without an operator providing a technical justification that the continued pressure restriction will not jeopardize the integrity of the pipeline [49 CFR 192.933(a)].

B. Discovery of Condition. Discovery of a condition occurs when an operator has adequate information about a condition to determine that the condition presents a potential threat to the integrity of the pipeline. A condition that presents a potential threat includes, but is not limited to, those conditions that require remediation or monitoring listed under Paragraphs D.1 through D.3 of this Section. An operator must promptly, but no later than 180 days after conducting an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator demonstrates that the 180-day period is impracticable [49 CFR 192.933(b)].

C. Schedule for Evaluation and Remediation. An operator must complete remediation of a condition according to a schedule that prioritizes the conditions for evaluation and remediation. Unless a special requirement for remediating certain conditions applies, as provided in Subsection D of this Section, an operator must follow the schedule in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 7, Figure 4. If an operator cannot meet the schedule for any condition, the operator must justify the reasons why it cannot meet the schedule and that the changed schedule will not jeopardize public safety. An operator must notify OPS in accordance with §3349 if it cannot meet the schedule and cannot provide safety through a temporary reduction in operating pressure or other action. An operator must also notify a state or local pipeline safety authority when either a covered segment is located in a state where OPS has an interstate agent agreement, or an intrastate covered segment is regulated by that state [49 CFR 192.933(c)].

D. - D.1. ...

a. a calculation of the remaining strength of the pipe shows a predicted failure pressure less than or equal to 1.1 times the maximum allowable operating pressure at the location of the anomaly. Suitable remaining strength calculation methods include, ASME/ANSI B31G; RSTRENG; or an alternative equivalent method of remaining strength calculation. These documents are incorporated by reference and available at the addresses listed in (see §507) [49 CFR 192.933(d)(1)(i)];

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1281 (June 2004), amended LR 31:688 (March 2005), LR 33:

§3335. What additional preventive and mitigative measures must an operator take? [49 CFR 192.935]

A. General Requirements. An operator must take additional measures beyond those already required by this Subpart to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in a high consequence area. An operator must base the additional measures on the threats the operator has identified to each pipeline segment (see §3317). An operator must conduct, in accordance with one of the risk assessment approaches in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 5, a risk analysis of its pipeline to identify additional measures to protect the high consequence area and enhance public safety. Such additional measures include, but are not limited to, installing automatic shut-off valves or remote control valves, installing computerized monitoring and leak detection systems, replacing pipe segments with pipe of heavier wall thickness, providing additional training to personnel on response procedures, conducting drills with local emergency responders and implementing additional inspection and maintenance programs [49 CFR 192.935(a)].

B. ...

1. Third Party Damage. An operator must enhance its damage prevention program, as required under §2714 of this Subpart, with respect to a covered segment to prevent and minimize the consequences of a release due to third party damage. Enhanced measures to an existing damage prevention program include, at a minimum [49 CFR 192.935(b)(1)]:

a. - c. ...

d. monitoring of excavations conducted on covered pipeline segments by pipeline personnel. If an operator finds physical evidence of encroachment involving excavation that the operator did not monitor near a covered segment, an operator must either excavate the area near the encroachment or conduct an above ground survey using methods defined in NACE RP-0502-2002 (incorporated by reference, see §507). An operator must excavate, and remediate, in accordance with ANSI/ASME B31.8S and §3333 any indication of coating holidays or discontinuity warranting direct examination [49 CFR 192.935(b)(1)(iv)].

B.2. - C. ...

D. Pipelines Operating below 30 percent SMYS. An operator of a transmission pipeline operating below 30 percent SMYS located in a high consequence area must follow the requirements in Paragraphs D.1 and D.2 of this Section. An operator of a transmission pipeline operating below 30 percent SMYS located in a Class 3 or Class 4 area but not in a high consequence area must follow the requirements in Paragraphs D.1, D.2 and D.3 of this Section [49 CFR 192.935(d)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1282 (June 2004), amended LR 31:688 (March 2005), LR 33:

§3337. What is a continual process of evaluation and assessment to maintain a pipeline's integrity? [49 CFR 192.937]

A. ...

B. Evaluation. An operator must conduct a periodic evaluation as frequently as needed to assure the integrity of each covered segment. The periodic evaluation must be based on a data integration and risk assessment of the entire pipeline as specified in §3317. For plastic transmission pipelines, the periodic evaluation is based on the threat analysis specified in §3317.D. For all other transmission pipelines, the evaluation must consider the past and present integrity assessment results, data integration and risk assessment information (§3317), and decisions about remediation (§3333) and additional preventive and mitigative actions (§3335). An operator must use the results from this evaluation to identify the threats specific to each covered segment and the risk represented by these threats [49 CFR 192.937(b)].

C. Assessment Methods. In conducting the integrity reassessment, an operator must assess the integrity of the line pipe in the covered segment by any of the following methods as appropriate for the threats to which the covered segment is susceptible (see §3317), or by confirmatory direct assessment under the conditions specified in §3331 [49 CFR 192.937(c)]:

1. internal inspection tool or tools capable of detecting corrosion, and any other threats to which the covered segment is susceptible. An operator must follow ASME/ANSI B31.8S (incorporated by reference, see §507), Section 6.2 in selecting the appropriate internal inspection tools for the covered segment [49 CFR 192.937(c)(1)];

2. pressure test conducted in accordance with Chapter 23 of this Subpart. An operator must use the test pressures specified in Table 3 of Section 5 of ASME/ANSI B31.8S, to justify an extended reassessment interval in accordance with §3339 [49 CFR 192.937(c)(2)];

3. direct assessment to address threats of external corrosion, internal corrosion, or stress corrosion cracking. An operator must conduct the direct assessment in accordance with the requirements listed in §3323 and with as applicable, the requirements specified in §§3325, 3327 or 3329 [49 CFR 192.937(c)(3)];

4. other technology that an operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify the Office of Pipeline Safety (OPS) 180 days before conducting the assessment, in accordance with §3349. An operator must also notify a state or local pipeline safety authority when either a covered segment is located in a state where OPS has an interstate agent agreement, or an intrastate covered segment is regulated by that state [49 CFR 192.937(c)(4)];

5. confirmatory direct assessment when used on a covered segment that is scheduled for reassessment at a period longer than seven years. An operator using this reassessment method must comply with §3331 [49 CFR 192.937(c)(5)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1283 (June 2004), amended LR 31:688 (March 2005), LR 33:

§3339. What are the required reassessment intervals? [49 CFR 192.939]

A. - A.1.a.ii. ...

b. External Corrosion Direct Assessment. An operator that uses ECDA that meets the requirements of this Chapter must determine the reassessment interval according to the requirements in Paragraphs 6.2 and 6.3 of NACE RP0502-2002 (incorporated by reference, see §507) [49 CFR 192.939(a)(2)].

1.c. - 2.d. ...

e. reassessment by the low stress assessment method at 7-year intervals in accordance with §3341 with reassessment by one of the methods listed in Paragraphs B.1 through B.3 of this Section by year 20 of the interval [49 CFR 192.939(b)(5)].

f. the following table sets forth the maximum reassessment intervals. Also refer to §5109, Appendix E.II for guidance on Assessment Methods and Assessment Schedule for Transmission Pipelines Operating Below 30 percent SMYS. In case of conflict between the rule and the guidance in the Appendix, the requirements of the rule control. An operator must comply with the following requirements in establishing a reassessment interval for a covered segment [49 CFR 192.939(b)(6)].

Maximum Reassessment Interval			
Assessment Method	Pipeline operating at or above 50% SMYS	Pipeline operating at or above 30% SMYS, up to 50% SMYS	Pipeline operating below 30% SMYS
Internal Inspection Tool, Pressure Test or Direct Assessment	10 years (*)	15 years (*)	20 years (**)
Confirmatory Direct Assessment	7 years	7 years	7 years
Low stress reassessment	not applicable	not applicable	7 years + ongoing actions specified in §3341.

(*)A confirmatory direct assessment as described in §3331 must be conducted by year 7 in a 10-year interval and years 7 and 14 of a 15-year interval.

(**)A low stress reassessment or confirmatory direct assessment must be conducted by years 7 and 14 of the interval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1283 (June 2004), amended LR 31:688 (March 200), LR 33:

§3345. What methods must an operator use to measure program effectiveness? [49 CFR 192.945]

A. General. An operator must include in its integrity management program methods to measure, on a semi-annual basis, whether the program is effective in assessing and evaluating the integrity of each covered pipeline segment and in protecting the high consequence areas. These measures must include the four overall performance measures specified in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 9.4, and the specific measures for each identified threat specified in ASME/ANSI B31.8S, Appendix A. An operator must submit the four overall performance measures, by electronic or other means, on a semi-annual frequency to OPS in accordance with §3351. An operator must submit its first report on overall performance measures by August 31, 2004. Thereafter, the performance measures must be complete through June 30 and December

31 of each year and must be submitted within 2 months after those dates [49 CFR 192.945(a)].

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1285 (June 2004), amended LR 31:689 (March 2005), LR 33:

§3349. How does an operator notify OPS and the Louisiana Commissioner of Conservation? [49 CFR 192.949]

A. ...

1. sending the notification to the Information Resources Manager, Office of Pipeline Safety, *Pipeline and Hazardous Materials Safety Administration*, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington DC 20590 [49 CFR 192.949(a)(1)];

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1286 (June 2004), amended LR 33:

§3351. Where does an operator file a report? [49 CFR 192.951]

A. ...

1. by mail to the Office of Pipeline Safety, *Pipeline and Hazardous Materials Safety Administration*, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, DC 20590 [49 CFR 192.951(1)];

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1286 (June 2004), amended LR 33:

Chapter 51.

§5103. Appendix B—Qualification of Pipe

I. Listed Pipe Specifications

API 5L—Steel pipe, "API Specification for Line Pipe" (incorporated by reference, see §507)

ASTM A 53/A53M—Steel pipe, "Standard Specification for Pipe, Steel Black and Hot-Dipped, Zinc-Coated, welded and Seamless"(IBR, see §507)

ASTM A 106—Steel pipe, "Standard Specification for Seamless Carbon Steel Pipe for High temperature Service" (incorporated by reference, see §507)

ASTM A 333/A 333M—Steel pipe, "Standard Specification for Seamless and Welded steel Pipe for Low Temperature Service" (incorporated by reference, see §507)

ASTM A 381—Steel pipe, "Standard specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems" (incorporated by reference, see §507)

ASTM A 671—Steel pipe, "Standard Specification for Electric-Fusion-Welded Pipe for Atmospheric and Lower Temperatures" (incorporated by reference, see §507)

ASTM A 672—Steel pipe, "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (incorporated by reference, see §507)

ASTM A 691—Steel pipe, "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High

Pressure Service at High Temperatures" (incorporated by reference, see §507)

ASTM D 2513—Thermoplastic pipe and tubing, "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings" (incorporated by reference, see §507)

ASTM D 2517—Thermosetting plastic pipe and tubing, "Standard Specification Reinforced Epoxy Resin Gas Pressure Pipe and Fittings" (incorporated by reference, see §507)

II. Steel Pipe of Unknown or Unlisted Specification

A. ...

B. Weldability. A girth weld must be made in the pipe by a welder who is qualified under Chapter 13 of this Subpart. The weld must be made under the most severe conditions under which welding will be allowed in the field and by means of the same procedure that will be used in the field. On pipe more than 4 inches (102 millimeters) in diameter, at least one test weld must be made for each 100 lengths of pipe. On pipe 4 inches (102 millimeters) or less in diameter, at least one test weld must be made for each 400 lengths of pipe. The weld must be tested in accordance with API Standard 1104 (incorporated by reference, see §507). If the requirements of API Standard 1104 cannot be met, weldability may be established by making chemical tests for carbon and manganese, and proceeding in accordance with Section IX of the ASME Boiler and Pressure Vessel Code (IBR, see §507). The same number of chemical tests must be made as are required for testing a girth weld.

C. ...

D. Tensile properties. If the tensile properties of the pipe are not known, the minimum yield strength may be taken as 24,000 p.s.i. (165 MPa) or less, or the tensile properties may be established by performing tensile test as set forth in API Specification 5L (incorporated by reference, see §507).

Number of Tensile Tests--All Sizes	
10 lengths or less	1 set of tests for each length.
11 to 100 lengths	1 set of tests for each 5 lengths, but not less than 10 tests.
Over 100 lengths	1 set of tests for each 10 lengths, but not less than 20 tests.

If the yield-tensile ratio, based on the properties determined by those tests, exceeds 0.85, the pipe may be used only as provided in §705.C5(c).

III. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 10:541 (July 1984), amended LR 18:859 (August 1992), LR 27:1551, 1552 (September 2001), LR 30:1287 (June 2004), LR 31:689 (March 2005), LR 33:

Chapter 61. General [Part 199↓Subpart A]

§6102. Applicability [49 CFR 199.2]

A. ...

B. This Subpart does not apply to any person for whom compliance with LAC 43:XIII or LAC 33:V.Subpart 3 (49 CFR Part 192 and 195) would violate the domestic laws or policies of another country [49 CFR 199.2(b)].

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 27:1554 (September 2001), LR 30:1292 (June 2004), LR 33:

§6103. Definitions [49 CFR 199.3]

A. ...

Administrator the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 18:852 (August 1992), LR 21:826, 829 (August 1995), LR 24:1306 (July 1998), LR 27:1554 (September 2001), LR 30:1292 (June 2004), LR 33:

§6107. Stand-Down Waivers [49 CFR 199.7]

A. Each operator who seeks a waiver under 49 CFR §40.21 from the stand-down restriction must submit an application for waiver in duplicate to the Associate Administrator for Pipeline Safety, *Pipeline and Hazardous Materials Safety Administration*, Department of Transportation, Washington, DC 20590 [49 CFR 199.7(a)].

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1293 (June 2004), amended LR 33:

Chapter 63. Drug Testing [Subpart B]

§6319. Reporting of Anti-Drug Testing Results [49 CFR 199.119]

A. Each large operator (having more than 50 covered employees) shall submit an annual MIS report to PHMSA of its anti-drug testing using the Management Information System (MIS) form and instructions as required by 49 CFR Part 40 (at 40.25 and Appendix H to Part 40), not later than March 15 of each year for the prior calendar year (January 1-December 31). The administrator shall require by written notice that small operators (50 or fewer covered employees) not otherwise required to submit annual MIS reports to prepare and submit such reports to PHMSA [49 CFR 199.119(a)].

B. Each report required under this Section shall be submitted to the Office of Pipeline Safety, *Pipeline and Hazardous Materials Safety Administration*, U.S. Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington, DC 20590. The operator may submit a paper report or data electronically using the version of the MIS form provided by DOT. This electronic version of the form can be accessed via the Internet at the following Office of Pipeline Safety web address: <http://ops.dot.gov/drug.htm> [49 CFR 199.119(b)].

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:828 (August 1995), amended LR 30:1296 (June 2004), LR 33:

Family Impact Statement

In accordance with R.S. 49:972, the following statements are submitted after consideration of the impact of the proposed Rule on family as defined therein.

1. The Effect of these Rules on the Stability of the Family. These Rules will have no known effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their children. These Rules will have no known effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These Rules will have no known effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no known effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. These Rules will have no known effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no known effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

In accordance with the laws of the state of Louisiana, and with reference to the provisions of Title 30 of the Louisiana Revised Statutes of 1950, a public hearing will be held in the La Belle Room located on the first floor of the LaSalle Building, 617 North 3rd Street, Baton Rouge, Louisiana, at 8:30 a.m. on January 30, 2007.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., Wednesday, February 5, 2007. If accommodations are required within ten working days of the hearing date. Direct comments to James H. Welsh, Commissioner of Conservation, P. O. Box 94275, Baton Rouge, LA 70804-9275, RE: Docket No. PL 06-154.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Natural Gas Pipeline Safety

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional cost or savings regarding the amendment of this rule. This action adopts federal amendments to pipeline safety regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There may be an increase in revenue collections of the State as a result of the proposed amendment of the rule. Due to the uncertainty as to the number of miles of pipelines that will become jurisdictional under this proposed amendment we are unable to determine the amount of the increase. Once a company's pipeline facilities are found to be jurisdictional, the established fee of \$15/mile of pipeline will be assessed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no significant costs or economic benefits to any person or group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Gary P. Ross
Assistant Commissioner
0612#064

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Hazardous Liquids Pipeline Safety
(LAC 33:V.Chapters 301-313)

The Louisiana Office of Conservation proposes to amend LAC 33:V.301et seq., in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. These proposed Rules amend the minimum pipeline safety requirements for hazardous liquids pipelines.

There will be negligible cost to directly affected persons or hazardous liquids pipeline operators. Benefits will be realized by persons living and working near hazardous liquids pipelines through safer construction and operation standards imposed by the rule amendments. Moreover, Louisiana presently receives federal funds and pipeline inspection fees to administer the Hazardous Liquids Pipeline Safety Program. Failure to amend the Louisiana rules to make them consistent with federal regulations would cause the state to lose federal funding.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline [49 CFR Part 195]

Subchapter A. General [Subpart A]

§30103. Applicability [49 CFR 195.1]

A. - B.4. ...

5. transportation of a hazardous liquid or carbon dioxide in offshore pipelines in state waters which are located upstream from the outlet flange of each facility where hydrocarbons or carbon dioxide are produced or where produced hydrocarbons or carbon dioxide are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream [49 CFR 195.1(b)(5)];

6. ...

7. transportation of a hazardous liquid or carbon dioxide through onshore production (including flowlines), refining or manufacturing facilities or storage or in-plant piping systems associated with such facilities [49 CFR 195.1(b)(7)];

8. transportation of a hazardous liquid or carbon dioxide through onshore production (including flowlines), refining or manufacturing facilities or storage or in-plant

piping systems associated with such facilities [49 CFR 195.1(b)(8)];

9. transportation of a hazardous liquid or carbon dioxide [49 CFR 195.1(b)(9)]:

a. by vessel, aircraft, tank truck, tank car, or other nonpipeline mode of transportation [49 CFR 195.1(b)(9)(i)]; or

b. through facilities located on the grounds of a materials transportation terminal that are used exclusively to transfer hazardous liquid or carbon dioxide between nonpipeline modes of transportation or between a nonpipeline mode and a pipeline, not including any device and associated piping that are necessary to control pressure in the pipeline under §30406.B [49 CFR 195.1(b)(9)(ii)]; and

10. transportation of carbon dioxide downstream from the following point, as applicable [49 CFR 195.1(b)(10)]:

a. the inlet of a compressor used in the injection of carbon dioxide for oil recovery operations, or the point where recycled carbon dioxide enters the injection system, whichever is farther upstream [49 CFR 195.1(b)(10)(i)]; or

b. the connection of the first branch pipeline in the production field that transports carbon dioxide to injection wells or to headers or manifolds from which pipelines branch to injection wells [49 CFR 195.1(b)(10)(ii)].

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20:439 (1994), LR 21:814 (August 1995), LR 29:2804 (December 2003), LR 33:

§30105. Definitions [49 CFR 195.2]

A. ...

Administrator the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

Maximum Operating Pressure (MOP) the maximum pressure at which a pipeline or segment of a pipeline may be normally operated under this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 21:815 (August 1995), LR 27:1523 (September 2001), LR 28:83 (January 2002), LR 29:2805 (December 2003), LR 31:675 (March 2005), LR 33:

§30107. Matter Incorporated by Reference in Whole or in Part [49 CFR 195.3]

A. ...

B. All incorporated materials are available for inspection in the Pipeline and Hazardous Materials Safety Administration, 400 Seventh Street, SW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. These materials have been

approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, materials incorporated by reference are available as follows [49 CFR 195.3(b)].

1. Pipeline Research Council International, Inc. (PRCI), c/o Technical Toolboxes, 3801 Kirby Drive, Suite 520, Houston, TX 77098 [49 CFR 195.3(b)(1)]

2. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005 [49 CFR 195.3(b)(2)]

3. ASME International (ASME), Three Park Avenue, New York, NY 10016-5990 [49 CFR 195.3(b)(3)]

4. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NE., Vienna, VA 22180 [49 CFR 195.3(b)(4)]

5. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428 [49 CFR 195.3(b)(5)]

6. National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101 [49 CFR 195.3(b)(6)]

7. NACE International, 1440 South Creek Drive, Houston, TX 77084 [49 CFR 195.3(b)(7)]

C. The full titles of publications incorporated by reference wholly or partially in this Subpart are as follows. Numbers in parentheses indicate applicable editions [49 CFR 195.3(c)].

Source and Name of Referenced Material	Title 33 Reference
A. Pipeline Research Council International, Inc. (PRCI):	
(1) AGA Pipeline Research Committee, Project PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (December 22, 1989). The RSTRENG program may be used for calculating remaining strength.	§30452.H.4.a.ii.
B. American Petroleum Institute (API):	
(1) API Specification 5L "Specification for Line Pipe" (43rd edition and errata, 2004)	§§30161.B.1; 30161.E.
(2) API Specification 6D "Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)" (22nd edition, January 2002)	§30173.A.4.
(3) API Specification 12F "Specification for Shop Welded Tanks for Storage of Production Liquids" (11th edition, November 1994)	§§30189.B.1; 30205.B.2; 30264.B.1; 30264.E.1; 30307.A; 30565; 30579.D.
(4) API 510 "Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration" (8th edition, June 1997, and Addenda 1 through 4)	§§30205.B.3; 30432.C.
(5) API Standard 620 "Design and Construction of Large, Welded, Low-Pressure Storage Tanks" (10th edition, 2002 including Addendum 1)	§§30189.B.2; 30205.B.2; 30264.B.1; 30264.E.3; 30307.B.
(6) API 650 "Welded Steel Tanks for Oil Storage" (10th edition, 1998 including Addenda 1-3)	§§30189.B.3; 30205.B.1; 30264.B.1; 30264.E.2; 30307.C; 30307.D; 30565; 30579.D.
(7) API Recommended Practice 651 "Cathodic Protection of Aboveground Petroleum Storage Tanks" (2nd edition, December 1997)	§§30565; 30579.D.

Source and Name of Referenced Material	Title 33 Reference
(8) API Recommended Practice 652 "Lining of Aboveground Petroleum Storage Tank Bottoms" (2nd edition, December 1997)	§30579.D.
(9) API Standard 653 "Tank Inspection, Repair, Alteration, and Reconstruction" (3rd edition, 2001, including Addendum 1, 2003)	§§30205.B.1; 30432.B.
(10) API 1104 "Welding of Pipelines and Related Facilities" (19th edition, 1999 including October 31, 2001 errata)	§§30222; 30228.B.
(11) API 1130 "Computational Pipeline Monitoring" (2nd edition, 2002)	§§30191; 30444.
(12) API Standard 2000 "Venting Atmospheric and Low Pressure Storage Tanks" (5th edition, April 1998)	§§30264.E.2; 30264.E.3.
(13) API Recommended Practice 2003 "Protection Against Ignitions Arising out of Static, Lightning, and Stray Currents" (6th edition, 1998).	§30405.A.
(14) API Publication 2026 "Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service" (2nd edition, 1998)	§30405.B.
(15) API Recommended Practice 2350 "Overfill Protection for Storage Tanks In Petroleum Facilities" (2nd edition, 1996)	§30428.C.
(16) API Standard 2510 "Design and Construction of LPG Installations" (8th edition, 2001)	§§30189.B.3; 30205.B.3; 30264.B.2; 30264.E.4; 30307.E; 30428.C; 30432.C.
(17) API Recommended Practice 1162 "Public Awareness Programs for Pipeline Operators," (1st edition, December 2003	§§30440.A; 30440.B; 30440.C.
C. ASME International (ASME):	
(1) ASME B16.9 "Factory-Made Wrought Steel Butt Welding Fittings"	§30175.A.
(2) ASME B31.4 -2002 (October 2002) "Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids"	§30452.H.4.a.
(3) ASME B31G "Manual for Determining the Remaining Strength of Corroded Pipelines")	§§30452.H.4.a.ii; 30452.H.4.c.iv.
(4) ASME B31.8 "Gas Transmission and Distribution Piping Systems"	§§30111.A.1.a; 30406.A.1.a.
(5) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 "Rules for Construction of Pressure Vessels," (2004 edition, including addenda through July 1, 2005)	§§30181; 30307.E.
(6) ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 "Alternate Rules for Construction for Pressure Vessels" (2004 edition, including addenda through July 1, 2005)	§30307.E.
(7) ASME Boiler and Pressure Vessel Code, Section IX "Welding and Brazing Qualifications," (2004 edition, including addenda through July 1, 2005)	§30222.
D. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):	
(1) MSS SP-75-2004 "Specification for High Test Wrought Butt Welding Fittings"	
2) [Reserved]	§30175.A.
E. American Society for Testing and Materials (ASTM):	
(1) ASTM Designation: A53/A53M-04a (2004) "Standard . Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless"	§30161.E.
(2) ASTM Designation: A106/A106M-04b (2004) "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service"	§30161.E.

Source and Name of Referenced Material	Title 33 Reference
(3) ASTM Designation: A 333/A 333M-05 "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service"	§30161.E.
(4) ASTM Designation: A 381-96 (Reapproved 2001) "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems"	§30161.E.
(5) ASTM Designation: A 671-04 (2004) "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures"	§30161.E.
(6) ASTM Designation: A 672-96 (Reapproved 2001) "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures"	§30161.E.
(7) ASTM Designation: A 691 -98 (Reapproved 2002) "Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures"	§30161.E.
F. National Fire Protection Association (NFPA):	
(1) NFPA 30 (2003) "Flammable and Combustible Liquids Code"	
(2) [Reserved]	§30264.B.1.
G. NACE International (NACE):	
(1) NACE Standard RP 0169-2002: "Control of External Corrosion on Underground or Submerged Metallic Piping Systems"	
(2) Reserved	§30571.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:439 (1994), LR 21:815 (August 1995), LR 24:1313 (1998), LR 27:1523 (September 2001), LR 29:2806 (December 2003), LR 33:

Subchapter B. Reporting Accidents and Safety-Related Conditions [Subpart B]

§30139. Filing Offshore Pipeline Condition Reports [49 CFR 195.57]

A. - A.6. ...

B. The report shall be mailed to the Information Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590 and concurrently to the Commissioner of Conservation, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 [49 CFR 195.57(b)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2812 (December 2003), amended LR 33:

§30140. Address for Written Reports [49 CFR 195.58]

A. Each written report required by this Subchapter must be made to the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, DC 20590 and concurrently to Office of Conservation, Pipeline Safety, P.O. Box 94275, Baton Rouge, LA 70804-9275. Safety-related condition reports required by §30133 for intrastate pipelines must be submitted concurrently to the state agency, and if that agency acts as an agent of the secretary with respect to

interstate pipelines, safety related condition reports for these pipelines must be submitted concurrently to that agency [49 CFR 195.58].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2812 (December 2003), amended LR 33:

§30141. Abandoned Underwater Facilities Report [49 CFR 195.59]

A. ...

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with NPMS *Standards for Pipeline and Liquefied Natural Gas Operator Submissions*. To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at www.npms.rspa.dot.gov or contact the NPMS National Repository at (703) 317-3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS Standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax, or e-mail to the Information Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; email, roger.little@dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws [49 CFR 195.59(a)].

2. Data on pipeline facilities abandoned before October 10, 2000 must be filed before April 10, 2001. Operators may submit reports by mail, fax, email to the Information Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; email, roger.little@dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws [49 CFR 195.59(b)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2813 (December 2003), amended LR 33:

Subchapter C. Design Requirements [Subpart C]

§30173. Valves [49 CFR 195.116]

A. - A.3. ...

4. Each valve must be both hydrostatically shell tested and hydrostatically seat tested without leakage to at least the requirements set forth in Section 10 of API Standard 6D (incorporated by reference, see §30107 [49 CFR 195.116(d)]).

5. - 6.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 29:2816 (December 2003), LR 33:

Chapter 302. Transportation of Hazardous Liquids by Pipeline Construction [49 CFR Part 195 Subpart D]

§30214. Welding Procedures [49 CFR 195.214]

A. Welding must be performed by a qualified welder in accordance with welding procedures qualified under Section 5 of API 1104 or Section IX of the ASME Boiler and Pressure Vessel Code (incorporated by reference, see §30107). The quality of the test welds used to qualify the welding procedure shall be determined by destructive testing [49 CFR 195.214(a)].

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2818 (December 2003), amended LR 31:677 (March 2005), LR 33:

§30222. Welders Qualification of Welders [49 CFR 195.222]

A. Each welder must be qualified in accordance with Section 6 of API 1104 (incorporated by reference, see §30107) or Section IX of the ASME Boiler and Pressure Vessel Code, (incorporated by reference, see §30107) except that a welder qualified under an earlier edition than listed in §30107 may weld but may not requalify under that earlier edition [49 CFR 195.222(a)].

B. - B.1. ...

2. had one weld tested and found acceptable under Section 9 of API 1104 (incorporated by reference, see §30107) [49 CFR 195.222(b)(2)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2818 (December 2003), amended LR 31:677 (March 2005), LR 33:

§30248. Cover over Buried Pipeline [49 CFR 195.248]

A. Unless specifically exempted in this Chapter, all pipe must be buried so that it is below the level of cultivation. Except as provided in §30248.B of this Section, the pipe must be installed so that the cover between the top of the pipe and the ground level, road bed, river bottom, or underwater natural bottom (as determined by recognized and generally accepted practices), as applicable, complies with the following table [49 CFR 195.248(a)].

Location	Cover (Inches)(Millimeters)	
	For Normal Excavation	For Rock Excavation ¹
Industrial, commercial and residential area	36 (914)	30 (762)
Crossings of inland bodies of water with a width of at least 100 ft. (30 meters) from high water mark to high water mark	48 (1219)	18 (457)
Drainage ditches at public roads and railroads	36 (914)	36 (914)
Deepwater port safety zone	48 (1219)	24 (610)
Gulf of Mexico and its inlets in waters less than 15 feet (4.6 meters) deep as measured from mean low water	36 (914)	18 (457)
Other offshore areas under water less than 12 ft (3.7 meters) deep as measured from mean low water	36 (914)	18 (457)
Any other area	30 (762)	18 (457)

¹Rock excavation is any excavation that requires blasting or removal by equivalent means.

B. Except for the Gulf of Mexico and its inlets in waters less than 15 feet (4.6 meters) deep, less cover than the minimum required by Subsection A of this Section and § 30210 may be used if [49 CFR 195.248(b)]:

1. -2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2820 (December 2003), amended LR 31:678 (March 2005), LR 33:

§30264. Impoundment, Protection against Entry, Normal/Emergency Venting or Pressure/Vacuum Relief for Aboveground Breakout Tanks [49 CFR 195.264]

A. - B.1. ...

a. impoundment around a breakout tank must be installed in accordance with Section 4.3.2.3.2. [49 CFR 195.264(b)(1)(i)]; and

b. impoundment by drainage to a remote impounding area must be installed in accordance with Section 4.3.2.3.1. [49 CFR 195.264(b)(1)(ii)].

2. For tanks built to API Standard 2510, the installation of impoundment must be in accordance with Section 5 or 11 of API Standard 2510 (incorporated by reference, see §30107) [49 CFR 195.264(b)(2)].

C. - E.2. ...

3. Pressure-relieving and emergency vacuum relieving devices installed on low pressure tanks built to API Standard 620 must be in accordance with section 9 of API Standard 620 (incorporated by reference, see §30107) and its references to the normal and emergency venting requirements in API Standard 2000 (incorporated by reference, see §30107) [49 CFR 195.264(e)(3)].

4. Pressure and vacuum-relieving devices installed on high pressure tanks built to API Standard 2510 must be in accordance with Sections 7 or 11 of API Standard 2510 (incorporated by reference, see §30107) [49 CFR 195.264(e)(4)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2821 (December 2003), amended LR 33:

Chapter 303. Transportation of Hazardous Liquids by Pipeline—Pressure Testing [49 CFR Part 195 Subpart E]

§30307. Pressure Testing Aboveground Breakout Tanks [49 CFR 195.307]

A. ...

B. For aboveground breakout tanks built to API Standard 620 and first placed in service after October 2, 2000, hydrostatic and pneumatic testing must be in accordance with Section 7.18 of API Standard 620 (incorporated by reference, see §30107) [49 CFR 195.307(b)].

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2823 (December 2003), amended LR 33:

Chapter 304. Transportation of Hazardous Liquids by Pipeline—Operation and Maintenance [49 CFR Part 195 Subpart F]

§30440. Public Awareness [49 CFR 195.440]

A. Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see §30107) [49 CFR 195.440(a)].

B. The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities [49 CFR 195.440(b)].

C. The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety [49 CFR 195.440(c)].

D. The operator's program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on [49 CFR 195.440(d)]:

1. use of a one-call notification system prior to excavation and other damage prevention activities [49 CFR 195.440(d)(1)];

2. possible hazards associated with unintended releases from a hazardous liquid or carbon dioxide pipeline facility [49 CFR 195.440(d)(2)];

3. physical indications that such a release may have occurred [49 CFR 195.440(d)(3)];

4. steps that should be taken for public safety in the event of a hazardous liquid or carbon dioxide pipeline release [49 CFR 195.440(d)(4)]; and

5. procedures to report such an event [49 CFR 195.440(d)(5)].

E. The program must include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations [49 CFR 195.440(e)].

F. The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports hazardous liquid or carbon dioxide [49 CFR 195.440(f)].

G. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area [49 CFR 195.440(g)].

H. Operators in existence on June 20, 2005, must have completed their written programs no later than June 20, 2006. Upon request, operators must submit their completed programs to PHMSA or, in the case of an intrastate pipeline facility operator, the appropriate state agency [49 CFR 195.440(h)].

I. The operator's program documentation and evaluation results must be available for periodic review by appropriate regulatory agencies [49 CFR 195.440(i)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2829 (December 2003), amended LR 33:

§30452. Pipeline Integrity Management in High Consequence Areas [49 CFR 195.452]

A. - C.1.a.ii. ...

iii. external corrosion direct assessment in accordance with §30588 [49 CFR 195.452(c)(1)(i)(C)]; or

iv. other technology that the operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify the Office of Pipeline Safety (OPS) 90 days before conducting the assessment, by sending a notice to the addresses or facsimile numbers specified in Subsection M of this Section [49 CFR 195.452(c)(1)(i)(D)].

C.1.b. - J.5.a. ...

b. pressure test conducted in accordance with Chapter 303 of this Subpart [49 CFR 195.452(j)(5)(ii)];

c. external corrosion direct assessment in accordance with §30588 [49 CFR 195.588(j)(5)(iii)]; or

d. other technology that the operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify OPS 90 days before conducting the assessment, by sending a notice to the addresses or facsimile numbers specified in Subsection M of this Section [49 CFR 195.452(j)(5)(iv)].

K. - L.2. ...

M. Where does an operator send a notification? An operator must send any notification required by §30452 to the Commissioner of Conservation, Pipeline Safety Section, P.O. Box 94275, Baton Rouge, LA 70804-9275 or to the facsimile number (225) 342-5529 and to the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, D.C. 20590, or to the facsimile number (202) 366-7128 [49 CFR 195.452(m)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2830 (December 2003), amended LR 30:1216 (June 2004), LR 33:

Chapter 305. Transportation of Hazardous Liquids by Pipeline—Qualification of Pipeline Personnel [49 CFR Part 195 Subpart G] and Corrosion Control [49 CFR Part 195 Subpart H]

Subchapter A. Qualification of Pipeline Personnel [49 CFR Part 195 Subpart G]

§30505. Qualification Program [49 CFR 195.505]

A. - A.5. ...

6. communicate changes that affect covered tasks to individuals performing those covered tasks [49 CFR 195.505(f)];

7. identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed [49 CFR 195.505(g)];

8. after December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities [49 CFR 195.505(h)]; and

9. after December 16, 2004, notify the administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the administrator or state agency has verified that it complies with this Section [49 CFR 195.505(i)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2835 (December 2003), amended LR 33:

§30509. General [49 CFR 195.509]

A. Operators must have a written qualification program by April 27, 2001. The program must be available for review by the administrator or by a state agency participating under 49 U.S.C. Chapter 601 if the program is under the authority of that state agency [49 CFR 195.509(a)].

B. - D. ...

E. After December 16, 2004, observation of on-the-job performance may not be used as the sole method of evaluation [49 CFR 195.509(e)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2836 (December 2003), amended LR 33:

Subchapter B. Corrosion Control [49 CFR Part 195 Subpart H]

§30553. What special definitions apply to this Subchapter? [49 CFR 195.553]

A. ...

Direct Assessment—an integrity assessment method that utilizes a process to evaluate certain threats (i.e., external corrosion, internal corrosion and stress corrosion cracking) to a pipeline segment's integrity. The process includes the gathering and integration of risk factor data, indirect examination or analysis to identify areas of suspected corrosion, direct examination of the pipeline in these areas, and post assessment evaluation.

External Corrosion Direct Assessment (ECDA)—a four-step process that combines pre-assessment, indirect inspection, direct examination, and post-assessment to evaluate the threat of external corrosion to the integrity of a pipeline.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2836 (December 2003), amended LR 33:

§30571. What criteria must I use to determine the adequacy of cathodic protection?
[49 CFR 195.571]

A. Cathodic protection required by this Subchapter must comply with one or more of the applicable criteria and other considerations for cathodic protection contained in Paragraphs 6.2 and 6.3 of NACE Standard RP0169 (incorporated by reference, see §30107) [49 CFR 195.571].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2838 (December 2003), amended LR 33:

§30573. What must I do to monitor external corrosion control?
[49 CFR 195.573]

A. - A.1. ...

2. Identify or not more than two years after cathodic protection is installed, whichever comes later, the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE Standard RP0169 (incorporated by reference, see §30107) [49 CFR 195.573(a)(2)].

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2838 (December 2003), amended LR 33:

§30588. What standards apply to direct assessment?
[49 CFR 195.588]

A. If you use direct assessment on an onshore pipeline to evaluate the effects of external corrosion, you must follow the requirements of this section for performing external corrosion direct assessment. This section does not apply to methods associated with direct assessment, such as close interval surveys, voltage gradient surveys, or examination of exposed pipelines, when used separately from the direct assessment process [49 CFR 195.588(a)].

B. The requirements for performing external corrosion direct assessment are as follows [49 CFR 195.588(b)]:

1. General. You must follow the requirements of NACE Standard RP0502-2002 (incorporated by reference, see §30107). Also, you must develop and implement an ECDA plan that includes procedures addressing pre-assessment, indirect examination, direct examination, and post-assessment [49 CFR 195.588(b)(1)].

2. Pre-assessment. In addition to the requirements in Section 3 of NACE Standard RP0502-2002, the ECDA plan procedures for pre-assessment must include [49 CFR 195.588(b)(2)]:

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a pipeline segment [49 CFR 195.588(b)(2)(i)];

b. the basis on which you select at least two different, but complementary, indirect assessment tools to assess each ECDA region [49 CFR 195.588(b)(2)(ii)]; and

c. if you utilize an indirect inspection method not described in Appendix A of NACE Standard RP0502-2002, you must demonstrate the applicability, validation basis, equipment used, application procedure, and utilization of data for the inspection method [49 CFR 195.588(b)(2)(iii)].

3. Indirect examination. In addition to the requirements in Section 4 of NACE Standard RP0502-2002, the procedures for indirect examination of the ECDA regions must include [49 CFR 195.588(b)(3)]:

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a pipeline segment [49 CFR 195.588(b)(3)(i)];

b. criteria for identifying and documenting those indications that must be considered for excavation and direct examination, including at least the following [49 CFR 195.588(b)(3)(ii)]:

i. the known sensitivities of assessment tools [49 CFR 195.588(b)(3)(ii)(A)];

ii. the procedures for using each tool [49 CFR 195.588(b)(3)(ii)(B)]; and

iii. the approach to be used for decreasing the physical spacing of indirect assessment tool readings when the presence of a defect is suspected [49 CFR 195.588(b)(3)(ii)(C)];

c. for each indication identified during the indirect examination, criteria for [49 CFR 195.588(b)(3)(iii)]:

i. defining the urgency of excavation and direct examination of the indication [49 CFR 195.588(b)(3)(iii)(A)]; and

ii. defining the excavation urgency as immediate, scheduled, or monitored [49 CFR 195.588(b)(3)(iii)(B)]; and

d. criteria for scheduling excavations of indications in each urgency level [49 CFR 195.588(b)(3)(iv)].

4. direct examination. In addition to the requirements in Section 5 of NACE Standard RP0502-2002, the procedures for direct examination of indications from the indirect examination must include [49 CFR 195.588(b)(4)]:

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a pipeline segment [49 CFR 195.588(b)(4)(i)];

b. criteria for deciding what action should be taken if either [49 CFR 195.588(b)(4)(ii)]:

i. corrosion defects are discovered that exceed allowable limits (Section 5.5.2.2 of NACE Standard RP0502-2002 provides guidance for criteria) [49 CFR 195.588(b)(4)(ii)(A)]; or

ii. root cause analysis reveals conditions for which ECDA is not suitable (Section 5.6.2 of NACE Standard RP0502-2002 provides guidance for criteria) [49 CFR 195.588(b)(4)(ii)(B)];

c. criteria and notification procedures for any changes in the ECDA plan, including changes that affect the severity classification, the priority of direct examination, and the time frame for direct examination of indications [49 CFR 195.588(b)(4)(iii)]; and

d. criteria that describe how and on what basis you will reclassify and re-prioritize any of the provisions specified in Section 5.9 of NACE Standard RP0502-2002 [49 CFR 195.588(b)(4)(iv)].

5. post assessment and continuing evaluation. In addition to the requirements in Section 6 of NACE Standard UP 0502-2002, the procedures for post assessment of the effectiveness of the ECDA process must include [49 CFR 195.588(b)(5)]:

a. measures for evaluating the long-term effectiveness of ECDA in addressing external corrosion in pipeline segments [49 CFR 195.588(b)(5)(i)]; and

b. criteria for evaluating whether conditions discovered by direct examination of indications in each ECDA region indicate a need for reassessment of the pipeline segment at an interval less than that specified in Sections 6.2 and 6.3 of NACE Standard RP0502-2002 (see Appendix D of NACE Standard RP0502-2002) [49 CFR 195.588(b)(5)(ii)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 33:

Family Impact Statement

In accordance with R.S. 49:972, the following statements are submitted after consideration of the impact of the proposed rule on family as defined therein.

1. The Effect of this Rule on the Stability of the Family. This Rule will have no known effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their children. This Rule will have no known effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no known effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no known effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. This Rule will have no known effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule will have no known effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

In accordance with the laws of the state of Louisiana, and with reference to the provisions of Title 30 of the Louisiana Revised Statutes of 1950, a public hearing will be held in the La Belle Room located on the first floor of the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA, at 8:30 a.m. on January 30, 2007.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., Wednesday, February 5, 2007. If accommodations are required under the

Americans with Disabilities Act, please contact the Pipeline Division at (225) 342-5505 within ten working days of the hearing date. Direct comments to James H. Welsh, Commissioner of Conservation, P. O. Box 94275, Baton Rouge, LA 70804-9275, RE: Docket No. PL 06-154.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Hazardous Liquids Pipeline Safety

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional costs or savings regarding the amendment of this rule. This action adopts federal amendments to pipeline safety regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue or costs as the department was previously enforcing similar rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no significant costs or economic benefits to any person or group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Gary P. Ross
Assistant Commissioner
0612#065

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

Reporting Requirements for Category 3 or Higher Hurricane
(LAC 33:V.11101, 11103, and 11105)

Under the authority of R.S. 32:1504, 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 adopt regulations for reporting requirements of hazardous materials for Category 3 or higher hurricane in LAC 33:V.Subpart 2, 11101, 11103, and 11105 (Log #DPS001).

This proposed Rule provides a process for the reporting of information regarding hazardous materials that are in transit and/or temporarily stored at a facility and that could present a threat to human health and the environment if compromised during a Category 3 or higher hurricane. Hurricanes Katrina and Rita illustrated the need to be able to accurately account for all hazardous material in this state especially in times of emergency. The state must be aware of the exact nature, quantities, and location of all hazardous materials in this state prior to any potential release under these circumstances. This Rule is being promulgated by the Department of Public Safety in collaboration with the Department of Environmental Quality. The basis and rationale for this Rule are to protect public health and the environment during times of emergency. This proposed Rule

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 2. Department of Public Safety and Corrections—Hazardous Materials

Chapter 111. Reporting Requirements for Category 3 or Higher Hurricane

§11101. Purpose

A. The purpose of this Chapter is to establish procedures for the reporting of information regarding hazardous materials that are in transit and/or temporarily stored at a facility and that could present a threat to human health and the environment if compromised during a Category 3 or higher hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:

§11103. Applicability

A. This Chapter applies to all persons who are engaged in the transportation of hazardous materials by railcars, vessels, or barges, or the temporary storage of hazardous materials in any storage vessel not permanently attached to the ground, that is within the confines of a parish affected, or projected to be affected, by a Category 3 or higher hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:

§11105. Requirements for Reporting

A. Notification shall be given to the DPS, via electronic submittal, to the 24-hour Louisiana Emergency Hazardous Materials Hotline email address at emergency@la.gov within 12 hours of a mandatory evacuation order issued by the proper parish authorities.

B. Definitions

Hazardous Materials—those materials listed on the EHS list, 40 CFR Part 355, Appendix A.

Temporary Storage—the containment of hazardous materials in a container that is portable. This provision does not cover those hazardous materials that are stored in pipelines or any other storage vessel permanently attached to the ground.

C. Mechanism and Responsibilities

1. Within 12 hours of an order of evacuation issued by local parish authorities, persons subject to the provisions of this Chapter shall report the following:

a. the exact nature of, and the type, location, and relative fullness of the container (i.e., full, half-full, or empty) of all hazardous materials that are located within a parish subject to the evacuation order;

b. the primary and secondary contact person's phone, email, and fax number; and

c. whether the facility will be sufficiently manned such that post-event assessments will be performed by company personnel (as soon as safely practicable) and that any releases and/or hazardous situations will be reported in

accordance with existing Louisiana Department of Environmental Quality (LDEQ) and State Police reporting requirements.

2. For those materials that are stored, it shall be necessary to only report those hazardous materials that were not reported in the annual Superfund Amendments and Reauthorization Act (SARA) inventory report and those that are in excess of what is typically stored at the facility.

3. Within a reasonable period of time, persons subject to the provisions of this Chapter shall perform a post-event assessment of those hazardous materials that were actually present in the affected area and to what degree, if any, those materials were compromised by said event and their current condition.

4. Both the DPS and Louisiana Department of Environmental Quality (LDEQ) shall have access to this information.

D. This Chapter does not extinguish any obligation or supersede any other federal or state law requiring reporting of information on hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:

A public hearing will be held on January 24, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed regulation. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by DPS001. Such comments must be received no later than January 31, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to Fax (225)-219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the Department of Environmental Quality, Public Records Center, at (225) 219-3168. Check or money order is required in advance for each copy of DPS001. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Jill P. Boudreaux
Acting Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Reporting Requirements for
Category 3 or Higher Hurricane**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no cost or savings to the state to implement this rule. Some additional paperwork may occur during the period of time for which the additional reporting is required.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no impact on revenue collections of the state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Some additional paperwork may occur during the period of time for which the additional reporting is required for groups engaged in the transportation of hazardous materials or the temporary storage of hazardous materials in any storage vessel not permanently attached to the ground, that is within the confines of a parish affected, or projected to be affected, by a Category 3 or higher hurricane.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no impact on competition or employment as a result of the proposed rule.

Jill P. Boudreaux
Acting Undersecretary
0612#072

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Tax Commission**

Ad Valorem Taxation

(LAC 61:V.101, 307, 309, 703, 705, 901, 907, 1103, 1307, 1503, 2501, 2503, 2091-2909, 3101, 3103, 3105, 3106, 3107, 3501, 3503, 3509, 3511, 3513, 3515, 3517, 3519, 3521, 3523, 3701, 3702)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal Sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2007 (2008 Orleans Parish) tax year.

The full text of this proposed Rule may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Louisiana Tax Commission hereby submits the following Family Impact Statement.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parent Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on the behavior and responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in this Proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or local government to perform this function.

Interested persons may submit written comments on the proposed Rule until 4 p.m., January 9, 2007, at the following address: Vanessa LaFleur, General Counsel, Louisiana Tax Commission, P. O. Box 66788, Baton Rouge, LA 70896.

Elizabeth L. Guglielmo
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Ad Valorem Taxation

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
None.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Local Governmental Units

These revisions will generally increase certain 2007 real and personal property assessments for property of similar age and condition in comparison with equivalent assessment in 2006. Composite multiplier tables for assessment of most personal property will increase by an estimated 2%. Specific valuation tables for assessment of pipelines will generally increase by an estimated 20.5%, oil and gas wells will generally increase by an estimated 10% and drilling rigs will generally increase by an estimated 14.5%. The net effect of these revisions is estimated to increase assessments by 3.5% and tax collections by \$20,625,000 on the basis of the existing statewide average millage. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution.

State Government Units

Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be \$330,713 from public service companies and \$110,035 from financial institutions and insurance companies all of which are assessed by the Tax Commission.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The affects of these new rules on assessments of individual items of equivalent real and personal property will generally be higher in 2007 than in 2006. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and user service fees as itemized above total \$441,000 to be paid by public service property owners, financial institutions and insurance companies for 2006/2007.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. In as much as the proposed changes in assessments are relatively small and there will no longer be any charges for our updates, the impact is thought to be minimal.

Elizabeth L. Guglielmo
Chairman
0612#034

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Child Care Assistance Program-Provider Rate Increase
(LAC 67:III.5103, 5107 and 5109)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, Child Care Assistance Program, pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF).

The Office of Family Support subsidizes a portion of child care expenses incurred by some low-income families to allow them to participate in training programs, attend school, or maintain employment. Although federal regulations do not mandate that state payment rates for child care services fall within the seventy-fifth percentile of the average payment rates for the state's child care providers, this level is encouraged by the Administration for Children and Families. A 2005 Child Care Market Rate Survey concluded that Louisiana's payment rates fall below the seventy-fifth percentile. In an effort to reach this desired level of payment, the agency is proposing to increase the State Maximum Rate for services to eligible child care providers.

The proposed amendments will not increase cost to a child care-eligible client as the agency also proposes to increase the percentage of child care costs paid for by the agency thereby absorbing the provider payment increase.

Section 5107 is being amended to include a provision that an Family Child Day Care Home (FCDCH) provider will not be an eligible provider if the child's non-custodial parent is residing in the FCDCH and is not working or attending a job training or educational program during the hours that care is needed and that an FCDCH provider must care for no more than six children. Language in §5103.A is being repromulgated as it was erroneously removed in a previous Rule change.

**Title 67
SOCIAL SERVICES**

Part III. Office of Family Support

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance

**Subchapter A. Administration, Conditions of Eligibility,
and Funding**

§5103. Conditions of Eligibility

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Strategies to Empower People (STEP) Program, as determined by the case worker, are categorically eligible. The program will pay 100 percent of the FITAP/STEP participant's child care costs, up to the maximum amounts listed in §5109.B. The following eligibility criteria must be met.

1. The household must include a child in current need of child care services who is under the age of 13, or age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or by receipt of Supplemental Security Income (SSI), or who is under court supervision.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 33:

Subchapter B. Child Care Providers

§5107. Child Care Provider

A. - B. ...

C. An FCDCH provider must be registered and active in the CCAP Provider Directory before payments can be made to that provider.

1. To be eligible for participation, an FCDCH provider must complete and sign an FCDCH provider agreement, complete a request for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is at least 18 years of age, and meet all registration requirements, including:

a. - g. ...

h. caring for no more than six children, including his own children and any other children living at his residence, who are under age 13 or age 13 through 17 if disabled.

C.2. - E. ...

F. Under no circumstances can the following be considered an eligible CCAP provider:

1. - 2. ...

3. an FCDCH provider, (if the child's non-custodial parent is residing in the FCDCH and is not working or attending a job training or educational program during the hours the care is needed);

F.4. - I.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484 (July 2004), LR 30: 1487 (July 2004), LR 31:102 (January

2005), LR 31:2263 (September 2005), LR 32:1465 (August 2006), LR 33:

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels, which are published annually. A non-FITAP household may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "co-payment." The sliding fee scale is based on a percentage of the state median income.

Sliding Fee Scale for Child Care Assistance Recipients 75 Percent of Projected Median Income						
Number in Household	2	3	4	5	6	DSS %
Monthly Household Income	0 - 1069	0 - 1341	0 - 1613	0 - 1884	0 - 2156	80%
	1070-1608	1342-1997	1614-2386	1885-2774	2157-3163	60%
	1609-2147	1998-2653	2387-3158	2775-3664	3164-4169	40%
	Above 2147	Above 2653	Above 3158	Above 3664	Above 4169	0%
Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0-2428	0-2699	0-2971	0-3243	0-3514	80%
	2429-3346	2700-3529	2972-3712	3244-3896	3515-4079	60%
	3347-4264	3530-4358	3713-4453	3897-4548	4080-4643	40%
	Above 4264	Above 4358	Above 4453	Above 4548	Above 4643	0%
Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0-3786	0-4058	0-4329	0-4601	0-4873	80%
	3787-4262	4059-4445	4330-4628	4602-4811	4874-4995	60%
	4263-4737	4446-4832	4629-4927	4812-5021	4996-5116	40%
	Above 4737	Above 4832	Above 4927	Above 5021	Above 5116	0%
Number in Household	17	18				DSS %
Monthly Household Income	0-5144	0-5416				80%
	5145-5178					60%
	5179-5211					40%
	Above 5211					0%

NOTE: Effective January 1, 2007, the sliding fee scale has been adjusted as reflected in the above tables.

B. Determination of Payments

1. Payments to providers on behalf of non-FITAP recipients will be a percentage of the lesser of:

a. ...

b. the State Maximum Rate for authorized services effective January 1, 2007 as indicated below:

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$17.50	\$18.50	\$21.65	\$22.65
Class E	\$15.00	\$16.00	\$18.50	\$19.50
Class R	\$15.00	\$16.00	\$18.50	\$19.50
Class U	\$14.50	\$15.50	\$17.90	\$18.90

2. Payments to providers on behalf of FITAP recipients will be the lesser of:

a. ...

b. the State Maximum Rate for authorized services effective January 1, 2007 as indicated below:

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$17.50	\$18.50	\$21.65	\$22.65
Class E	\$15.00	\$16.00	\$18.50	\$19.50
Class R	\$15.00	\$16.00	\$18.50	\$19.50
Class U	\$14.50	\$15.50	\$17.90	\$18.90

B.3. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445(December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule could positively impact family stability by improving the quality of care supplied by child care providers.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? This Rule may have a positive impact on the family budget as low-income child care recipients may pay a lower co-payment as a result of the department's increased percentage of payment; however, this increase will possibly be offset by the increase in provider rate increase.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

Interested persons may submit written comments by January 25, 2007 to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on January 25, 2007 at the Department of Social Services, 627 North Fourth Street, Baton Rouge, LA 70802, Room I-129 at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann S. Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Child Care Assistance Program-
Provider Rate Increase**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this rule will result in a cost increase for the agency of approximately \$5,142,880 for FY 06/07 and \$10,284,660 for FY 07/08 and FY 08/09. These total costs reflect an increase in provider payment rates and an increase in the Department of Social Services share of payments paid to providers. These increased costs will be borne by Federal Child Care Block Grant funds, which are 100% Federal funds. The agency currently has funds to implement this change.

The total monthly cost after implementation has been calculated as follows:

Current average monthly cost per child:

STEP Child Care - 2,690 children x \$305.41 = \$821,552.90
Low Income Child Care -33,209 children x \$199.98 = \$6,637,814.92

TOTAL \$ 7,459,367.82

Projected average monthly cost per child:

STEP Child Care - 2,690 children x 324.89 = \$873,954.10
Low Income Child Care - 33,209 children x 224.11 = \$7,442,468.90

TOTAL \$ 8,316,423.00

FY 06-07 = \$8,316,423 - \$7,459,368 =

\$857,055 x 6 months = \$5,142,330

FY 07-08/08-09 = \$8,316,423 - \$7,459,368 =

\$857,055 x 12 months = \$10,284,660

(DSS funds STEP Child Care at 100% and Low Income Child Care will be funded on average at 68.98%. The clients pay the remaining 31.02%).

The \$5,142,880 for FY 06/07 includes the cost of publishing rulemaking and printing policy changes which is estimated to be \$550. There are no anticipated costs to any other state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule 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)

Agency clients who receive low-income childcare assistance will benefit because their co-pay will decrease by 5%. For example, in the lowest income level using a Class A center, the daily client cost will drop from \$4.13 to \$3.50.

Childcare providers will also receive additional income as a result of the provider rate increase.

There are no anticipated costs to any persons or nongovernmental groups as a result of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0612#054

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Mandatory Fee for Successful Child Support Collection (LAC 67:III.2303 and 2523)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt Title 67, Part III, Subpart 4, Support Enforcement Services (SES), Section 2523 Mandatory Fee for Successful Child Support Collections, which provides for the imposition of an annual fee for successful child support collection in compliance with federal guidelines.

Section 7310 of the Deficit Reduction Act (DRA) of 2005, amended the Social Security Act by adding Subsection 454(6)(B)(ii) which reads "in the case of an individual who has never received assistance under a state program funded under Part A and for whom the state has collected at least \$500 of support, the state shall impose an annual fee of \$25 for each case in which services are furnished, which shall be retained by the state from support collected on behalf of the individual (but not from the first \$500 so collected), paid by the individual applying for the services, recovered from the absent parent, or paid by the state out of its own funds." This federal amendment became effective October 1, 2006. Adoption of §2523 is necessary to ensure continued compliance with federal regulations and avoid federal penalties and sanctions that could be imposed by the Administration for Children and Families, Office of Child Support Enforcement, the governing authority of the Support Enforcement Program in Louisiana.

Title 67

SOCIAL SERVICES

Par III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 23. Single State Agency Organization

Subchapter A. Designation, Authority, Organization and Staffing

§2303. State Plan

A. ...

B. The state plan is available for review at the Office of Family Support Planning Section, 624 North Fourth Street, Room 5-233-19, Baton Rouge, LA 70804.

AUTHORITY NOTE: Promulgated in accordance with Title IV-D of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Louisiana Health and Human Resources Administration, Division of Youth Services, LR 11:495 (November 1975), amended by the Department of Social Services, Office of Family Support, LR 26:2830 (December 2000), LR 33:

Chapter 25. Support Enforcement

Subchapter E. Individuals Not Otherwise Eligible

§2523. Mandatory Fee for Successful Child Support Collection

A. Effective October 1, 2006, in the case of an individual who has never received assistance under a state program funded under Part A of the Social Security Act and for whom the state has collected at least \$500 of support, the state shall impose an annual fee of \$25 for each case in which services are furnished.

B. The custodial party shall be responsible for the annual fee and the fee shall be retained by the state from support collected, (but not from the first \$500 collected) or paid by the state out of its own funds (the payment of which from state funds shall not be considered as an administrative cost of the state for the operation of the plan, and the fees shall be considered income to the program).

C. The mandatory fee will accrue based on the federal fiscal year.

D. Fees imposed and not collected in one year will be collected in the following federal fiscal year or subsequent federal fiscal years.

AUTHORITY NOTE: Promulgated in accordance with section 454(6)(B)(ii) of the Social Security Act, AT-06-01, and DCL-06-28.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? Implementation of this Rule should have no impact on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This Rule should have no adverse effect on family functions.

4. What effect will this have on family earnings and family budget? This Rule should have no effect on family earnings and little effect on family budget as the fee will not be assessed until after \$500 has been collected in a Federal Fiscal Year.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? This Rule does not require any action on the part of the family or local government.

Interested persons may submit written comments by January 25, 2007, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, LA, 70804-90656. He is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed rule will be held on Thursday, January 25, 2007, at the Department of Social Services, Iberville Building, 627 North Fourth Street, First Floor, Room 129, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Mandatory Fee for Successful Child
Support Collection**

NOTICE OF INTENT

Louisiana Association of Tax Administrators

Local Sales Tax Reporting Date (LAC 72.I:Chapter 3)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule would result in no cost other than the cost of publishing rulemaking and printing policy, which is estimated to be approximately \$600, and the cost of printing informational notices for clients which is estimated to be approximately \$5,329. These are one-time costs only and total \$5,929 for FY 06/07.

This will be funded with State General Funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

As a result of the enactment of this rule, Support Enforcement Services is required to collect a \$25 annual fee on cases in which \$500 in child support has been collected within the year and in which an individual has never received public assistance under Title IV-A of the Social Security Act. These fees are required under the provisions of the Deficit Reduction Act of 2005, Section 7310. The agency estimates 45,632 cases would meet the federal guidelines beginning October 1, 2006. These figures are based on existing cases which meet the criteria for the mandatory fee as set forth in the Deficit Reduction Act of 2005.

FY 06/07

45,632 divided by 12 months equals 3,803 cases per month.
3,803 X 9 months (October 2006 through July 2007) = 34,227 cases.

34,227 X \$25 = \$855,675 in increased self-generated revenue.

FY 07/08 and 08/09

45,632 X \$25 = \$1,140,800 in increased self-generated revenue.

Historically, self-generated revenue is used in Support Enforcement Services in place of federal and state revenue. As a result of the fee increase, for FY 06/07, the agency anticipates that State General Fund support will decrease by \$245,727 and Federal Fund support will decrease by \$609,948. For FYs 07/08 and 08/09 the agency anticipates that State General Fund support will decrease by \$321,934 and Federal Fund support will decrease by \$818,866.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs to any non-governmental groups.

The proposed rule will result in costs to the custodial party only after the state has collected \$500 in a year on their case. A \$25 annual fee will then be imposed on the custodial party. The proposed rule will not result in economic benefit to any persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0612#053

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Under the authority of the Uniform Local Sales Tax Code, R.S. 47:337.1 et seq., and in accordance with the Uniform Local Sales Tax Administrative Procedure Act, R.S. 47:337.91 et seq., the Louisiana Association of Tax Administrators hereby gives notice that rulemaking procedures have been initiated to adopt regulations relating to the local sales tax reporting date.

Title 72

UNIFORM LOCAL SALES TAX

Part I. General Provisions

Chapter 3. Local Sales Tax Reporting Date

§301. General Provisions

A. In accordance with R.S. 47:337.18(A), the taxes levied by the local ordinance shall be due and shall be payable on the first day of the month and returns shall be prepared and transmitted to the collector by all dealers on or before the twentieth day of each month for the preceding reporting period. Every dealer, at the time of making the return required hereunder, shall compute and remit to the collector the required tax due for the preceding reporting period, and failure to so remit such tax shall cause said tax to become delinquent.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 47:337.2, R.S. 47:337.18(A), and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:

§303. Definitions

A. Definitions. For the purposes of these rules, the following terms shall have the meaning ascribed to them in this Section.

Courier—a messenger other than the United States Postal Service that delivers parcel, packages and the like containing returns, reports, other documents or payments.

Postage—the amount of money paid for the delivery of a piece of mail by the United States Postal Service.

Postage Meter—the postage printing die and postage registering mechanism of a mailing machine which must meet postal service test specifications and is subject to inspection by the United States Postal Service.

Postmark—an official mark made by the United States postal service on a piece of mail to cancel the stamp and to indicate the place and date of sending.

Local Collector—is the individual or entity designated as collector of the appropriate single sales and use tax collection office, and his duly authorized assistants, of any political subdivision authorized under the constitution and laws of the state of Louisiana to levy and collect a sales and use tax, except a statewide political subdivision, when used in reference to a sales and use tax levied by such political subdivision.

Local Collector's Designated Agent for Electronic Filing—

a. the Louisiana Department of Revenue solely for electronically transmitted returns and remittances as defined in R.S. 47:337.23; or

b. agents that have contractual agreements with the local collectors to accept electronic return and remittances.

Legal Holiday—any legal holiday observed by the Local Collector, Louisiana Department of Revenue or the United States Post Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 47:337.2, R.S. 47:337.18(A), and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:

§305. File Date of a Return, Report and Other Documents

A. Delivery by the United States Postal Service. A return, report or other document in a properly addressed envelope with sufficient postage delivered by the United States Postal Service is deemed filed on the date postmarked by the United States Postal Service. The postmark must bear a date on or before the last date prescribed for filing the return, report or other document in order to be considered timely filed. If the postmark on the envelope is not legible, the taxpayer has the burden of proving the date that the postmark was made. If the return, report or other document is sent by United States registered or certified mail, the date of registration is treated as the date of postmark. A postage meter date is considered a valid postmark date provided it does not conflict with a legible United States Postal Service postmark date. If the dates conflict, the United States Postal Service date shall override the meter date.

B. Delivery by Courier. A return, report or other document delivered by courier is deemed filed on the date it is delivered to the local collector's office.

C. Delivery by the Taxpayer. A return, report or other document delivered by the taxpayer or a representative of the taxpayer is deemed filed on the date it is delivered to the local collector's office.

D. Electronically Filed Report and Remittance. The return and remittance are deemed to be filed when both the return and remittance are transmitted and available to be received by the local collector or the local collector's designated agent for electronic filing.

E. Timely Filing When the 20th Calendar Day Falls on Saturday, Sunday, or Legal Holiday. Unless otherwise specifically provided, when the 20th calendar day following the due date for of any report or return prescribed under the laws administered by the local collector, falls on a Saturday, Sunday, or a legal holiday, the report or return shall be considered timely if it is filed on the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 47:337.2, R.S. 47:337.18(A), and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:

All interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than January 20, 2007, at 4:30 p.m., and should be sent to Tom O'Neal at the following address:

Louisiana Association of Tax Administrators, P.O. Box 398, Vidalia, LA 71373.

Tom O'Neal
Secretary-Treasurer

0612#017

NOTICE OF INTENT

Louisiana Association of Tax Administrators

Tax on the Storage of Property (LAC 72.I:Chapter 5)

Under the authority of the Uniform Local Sales Tax Code, R.S. 47:337.1 et seq., and in accordance with the Uniform Local Sales Tax Administrative Procedure Act, R.S. 47:337.91 et seq., the Louisiana Association of Tax Administrators hereby gives notice that rulemaking procedures have been initiated to adopt regulations relating to the tax on the storage of property.

Title 72

UNIFORM LOCAL SALES TAX

Part I. General Provisions

Chapter 5. Tax on the Storage of Property

NOTE: See LAC 61:I.4404.1 for rules on Interstate Commerce and Export

§501. Purpose

A. For the purpose of use tax levied by local political subdivisions, *storage* means the keeping or retention of tangible personal property for use or consumption within the local taxing jurisdiction. An analysis of whether or not a taxable storage event has occurred within a local taxing jurisdiction requires an evaluation of the original sales transaction as well as the subsequent possession and use of the tangible personal property by the purchaser.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 47:337.12, and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:

§503. Transactions

A. Transactions involving specific pieces of property imported by the purchaser into the taxing jurisdiction, which have written documentation, i.e., invoices, purchase orders, etc. clearly labeled (earmarked for exclusive use outside the taxing jurisdiction) for transshipment outside the taxing jurisdiction at the time of importation into the taxing jurisdiction, are excluded from use tax. Property may be stored in the taxing jurisdiction for an indefinite period of time, however any disposition of the property for a purpose contrary to that originally labeled (earmarked) would immediately subject the transaction to the use tax in the jurisdiction where stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 47:337.12, and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:

§505. Property that Comes to Rest in the Taxing Jurisdiction

A. Property that comes to rest in the taxing jurisdiction which has been documented for exclusive use outside the taxing jurisdiction may also be excluded from use tax if the

purchaser obtains a Temporary Storage Tax Exemption Certificate from the collector prior to or at the time the tangible personal property is imported into the taxing jurisdiction. This certificate would allow the taxpayer/purchaser to store the tangible personal property without the payment of the use tax, however, the purchaser must identify where the tangible personal property will be used on the certificate. If the parish of use is the same as the parish of storage, the tax must be paid at the time of delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 47:337.12, and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:

§507. Transaction in which Title and Possessions are Transferred

A. Transactions in which title and possession of tangible personal property are transferred within a local taxing jurisdiction are clearly sales at retail and these transactions are not eligible for the temporary storage exclusion. Sales tax is due regardless of whether a Temporary Storage Tax Exemption Certificate has been issued or the property is labeled (earmarked) for use in another jurisdiction. The key factor in the transaction is the delivery in purchaser's taxing jurisdiction via the seller's vehicle or by the seller's agent. In such event, the seller is physically giving possession to the purchaser in the purchaser's taxing jurisdiction and a sales tax would be due. Likewise, when the purchaser picks up the property in its own vehicle at the seller's place of business, title and possession have been transferred, and a sales tax would be due in the seller's taxing jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 47:337.12, and R.S. 47:337.91 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Association of Tax Administrators, LR 33:

All interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than January 20, 2007, at 4:30 p.m., and should be sent to Tom O'Neal at the following address: Louisiana Association of Tax Administrators, P.O. Box 398, Vidalia, LA 71373.

Tom O'Neal
Secretary-Treasurer

0612#018

NOTICE OF INTENT

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

Bird Dog Training Areas (LAC 76:V.321)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission do hereby advertise their intent to amend the rules for bird dog training areas on wildlife management areas.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§321. Bird Dog Training Areas

A. Purpose. Bird dog training areas (BDTA) are established to afford users of Wildlife Management Areas (WMA) and other public land an opportunity to train

pointing dogs and flushing retrievers or spaniels with live released birds. The BDTA is not intended to serve as a hunting preserve. The following regulations are adopted to ensure that users of the BDTA utilize the area as intended, and to minimize the potential for negative impacts on wildlife.

B. Establishment and Posting. BDTAs may be established on any WMA or other public land with written consent of the managing agency. Portions of the WMA/public land without significant wild quail populations, and where wildlife will not be negatively impacted are suitable for establishment of BDTAs. BDTAs must be marked with signs and/or paint clearly indicating the boundaries.

C. Permits and Licenses. Each party using the BDTA for dog training must include at least one permittee, and the permittee must have a valid permit in his/her possession while engaged in dog training on the BDTA. For purposes of this Rule, a person or party will be considered to be engaged in dog training if they possess or release live bobwhite quail or pigeons at any time, or if they are present on the BDTA with pointing dogs, spaniels or retrievers during the time quail, woodcock, or waterfowl season is closed on the WMA. Each BDTA requires a unique permit and permits are valid only on the specific BDTA for which the permit is issued. Permits will not be issued to applicants with Class 2 or higher wildlife violation convictions or guilty pleas within three years of the date of application. All users of the BDTA must comply with the WMA/public land self-clearing permit requirements. Any person who takes or attempts to take released or wild bobwhite quail or pigeons on the BDTA must comply with applicable hunting license and WMA/public land permit requirements.

D. Dogs. Only recognizable breeds of pointing dogs, spaniels, and retrievers may be trained on the BDTA. All dogs must wear a collar or tag imprinted with the name and phone number of the owner or trainer. Trainers shall not knowingly allow or encourage their dogs to pursue rabbits, raccoons, or other wildlife.

E. Birds. Only bobwhite quail or pigeons may be released for dog training activities on the BDTA. However, use of pigeons may be prohibited on specific BDTAs. Bobwhite quail and pigeons may only be released within the boundaries of the BDTA. Bobwhite quail and pigeons may be shot in conjunction with dog training activities. When WMA/public land hunting seasons are closed, only bobwhite quail and pigeons may be taken and possessed. When the WMA/public land quail or woodcock hunting season is closed, bobwhite quail and pigeons may only be shot within the boundaries of the BDTA. No more than six quail per day may be released, taken, or possessed per permittee. For example, a party consisting of one permit holder and two helpers may not possess, release, or take more than six quail per day. Wild quail may be taken on the BDTA at any time the BDTA is open to dog training and must be included in the six-bird limit. There is no limit on the number of pigeons that may be taken, released, or possessed. All quail must be marked with a department provided leg band prior to entering the WMA/public land, and if the bird is shot or recaptured, the band must remain on the bird until arrival at the trainer's domicile. Wild quail taken on the BDTA must immediately be marked with a LDWF issued band. Pigeons

are not required to be banded. Bands will be provided by LDWF when the permit is issued. Persons in possession of live bobwhite quail must have a valid game breeder's license or bill of sale from a licensed game breeder.

F. Firearms. When the WMA/public land hunting seasons are closed, only shotguns with shells containing shot not larger than Lead Size 8 or Steel Size 7 are permitted on the BDTA. Firearms must be encased or broken down upon entering and leaving the BDTA when the WMA hunting seasons are closed. Pistols capable of firing only blanks are also permitted.

G. Seasons. Unless specified, BDTAs are open to dog training all year, except all BDTAs are closed to bird dog training activities during the applicable WMA/public land turkey season and modern firearm either-sex deer season. Additional closure periods may be adopted for some BDTAs. Such closure periods will be listed on each BDTA annual permit.

H. Hunter Orange Requirements. Persons engaged in dog training on BDTAs during WMA hunting seasons must comply with WMA/public land hunter orange requirements.

I. Wildlife Management Area/Public Land Regulations. Except as provided herein, all rules and hunting seasons applicable to the WMA/public land on which the BDTA is located are also applicable to the BDTA. Additional regulations may be adopted for some BDTAs and will be listed on each BDTA annual permit.

J. Violation of Rules. A person who is convicted or enters a guilty plea for violation of any provision of this Rule shall be guilty of a Class 2 violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109(B), R.S. 56:115, and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:2268 (September 2005), amended LR 33:

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.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to Mr. David Moreland, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than February 1, 2007.

Terry D. Denmon
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bird Dog Training Areas

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no state or local governmental implementation costs or savings associated with this proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change amends the existing Bird Dog Training Area rule to allow the creation of Bird Dog Training Areas on public lands not managed by the Department of Wildlife and Fisheries. The creation of additional Bird Dog Training Areas will provide additional opportunities for bird dog trainers to train dogs with live released birds. Bird dog trainers will have to secure a permit for each Bird Dog Training Area they wish to use and comply with applicable hunting and land permit requirements and regulations for each specific area location. Permits will be issued to qualifying individuals by the Department at no cost.

Persons or businesses supplying live birds to dog trainers may experience a slight increase in revenues if the demand for live quail and pigeons increases.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment in the public and private sectors.

Wynette Kees
Deputy Undersecretary
0612#061

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Harvesting Wild Alligators (LAC 76:V.701)

The Wildlife and Fisheries Commission does hereby give Notice of Intent to amend the regulations governing firearm usage for harvesting wild alligators, application requirements for wild alligator harvest tags, allowing alligator farmers additional time for tagging farm raised alligator skins, establishing East and West Alligator Hunting Zones, establishing wild season opening dates, and requiring that alligator farmers and dealers provide belly width measurements on farm raised alligator skins within the Alligator Regulations (LAC 76:V.701).

**Title 76
WILDLIFE AND FISHERIES**

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A. - A.4.l. ...

5. Wild Harvest Methods

a. - c.ii. ...

iii. firearms (the possession of shotguns is prohibited while hunting or taking wild alligators; except as authorized by the department for taking of nuisance alligators by nuisance alligator hunters).

NOTE: Violation of this Subparagraph is a Class Two violation as described in Title 56.

d. - h. ...

6. Alligator Hide Tag Procurement and Tagging Requirements

a. - b.i. ...

ii. Land managers and hunters must present a signed document from the landowner verifying their selection to represent that landowner and the total acreage represented to obtain hide tags.

b.iii. - d. ...

e. A hide tag shall be properly attached and locked using the tag's locking device in the alligator's tail immediately upon possession by an alligator hunter. Alligator farmers, fur buyers and fur dealers may wait until farm raised alligators are skinned prior to tagging, but under no circumstances can the tag be attached using the locking device more than 48 hours after dispatching the alligator during the open wild alligator harvest season, or more than seven days after dispatching the alligator outside of the open wild alligator harvest season. Live or dead farm raised alligators may be transported with their accompanying tags from a licensed alligator farm to a licensed processing facility, however each shipment shall be accompanied with the exact number of alligator hide tags. In the event that an alligator tag contains a factory defect rendering it unusable for the purpose intended or becomes detached from an alligator or hide, the tag must be reattached to the tail of the alligator/hide. The department will be responsible for the replacement of reattached tags prior to shipping out-of-state or prior to tanning within the state. It shall be unlawful to tag or attempt to tag an alligator with a tag that has been locked prior to the taking. Locked tags may be replaced upon request at the discretion of the department. The alteration of hide tags is strictly prohibited and will result in the confiscation of all tags and alligators/hides and the revocation of the violator's alligator hunting license. Violation of this Subparagraph is a Class Four violation as described in Title 56.

f. - f.vii. ...

7. Open Season, Open Areas, and Quotas

a. Open seasons are as follows.

i. The state shall be divided into the East and West Alligator Hunting Zones by the following boundary: Beginning at the southwestern most part of Point Au Fer Island thence North along the western boundary of Terrebonne Parish to the Atchafalaya River, thence north along the Atchafalaya River to the East Atchafalaya Protection Levee, thence north along the East Atchafalaya Protection Levee, to Interstate 10, thence east along

Interstate 10 to Interstate 12, thence east along Interstate 12 to Interstate 55, thence north along Interstate 55 to the Mississippi state line. The season for taking alligators in the wild shall open on the last Wednesday of August in the East Zone and the first Wednesday of September in the West Zone and will remain open for 30 days thereafter in each zone. The secretary shall be authorized to close, extend, delay, or reopen the season as biologically justifiable.

a.ii. - e. ...

8. Possession

a. ...

b. Alligator farmers may request hide tags or shipping labels from the department to be used on farm-raised alligators that have died and may hold those alligators in freezers until receipt of the requested hide tags or shipping labels. These alligators may be held in freezers for a maximum of 60 days prior to disposal. All farm raised alligators 24 inches and greater in length that die may be skinned and tagged with an alligator hide tag within 48 hours of death during the open wild alligator harvest season, or within seven days of death outside of the open wild alligator harvest season. Violation of this Subparagraph is a Class Three violation as described in R.S. Title 56.

8.c. - 10.e. ...

11. Report Requirements

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

(b). official shipping manifest including total length in inches (or feet and inches) referenced to CITES tag number of each wild skin in shipment and including total belly width in centimeters (measured at the fifth scute) referenced to CITES tag number of each farm raised alligator skin in shipment. A fully executed (filled out) shipping manifest containing all information required in the buyer/dealer record may be substituted with department approval for the buyer/dealer record requirement on farm raised alligator skins;

11.e.ii.(c). - 17.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004), LR 30:2878 (December 2004), LR 31:2267 (September 2005), LR 33:

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.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit comments relative to the proposed Rule to Philip Bowman, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton

Rouge, LA 70898-9000, prior to Thursday, February 1, 2007.

Terry D. Denmon
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Harvesting Wild Alligators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no state or local governmental implementation costs or savings associated with this proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Alligator hunters, landowners, dealers, processors and farmers will be affected by the proposed rule change. A small number of alligator hunters are estimated to be negatively impacted by losing the ability to be in possession of a shotgun while hunting or taking wild alligators. These hunters will have to use some other means of taking alligators, such as a rifle or handgun.

Wild alligator meat processors, on the other hand, will benefit from the prohibited use of shotgun through improved meat quality. They will also benefit from the creation of two hunting zones, with staggered open hunting season dates, by having more time to process harvested alligators. This is anticipated to improve skin quality and result in more alligator meat available for commerce.

Alligator hunters and landowners will benefit from not having to get their wild alligator hunter applications notarized.

Alligator farmers will benefit from have seven (7) days rather than 48 hours to apply CITES (Convention on International Trade in Endangered Species) tags to their farm-raised alligator skins, except during the open wild alligators harvest season, when they will still be required to apply the CITES tags within 48 hours from the time the alligator was killed, except during the open wild alligator harvest season when farmers will have only 48 hours to apply the CITES tags. These additional five (5) days will provide farmers more time to better prepare their skins for commerce.

Alligator dealers and farmers will be required to report belly width measurements for farm-raised alligators instead of skin length measurements. Belly width is already the standard measurement used to sell and purchase the farm-raised alligators in the world market. This rule change should not require additional work, since the dealers and farmers are currently using this measurement to sell their farm-raised alligator skins.

The rule changes as a whole are beneficial to the alligator industry. None of the proposed changes are anticipated to increase costs, workload or paperwork, but are designed to be less burdensome to participants in the industry, increase the quantity and quality of the products produced by the Louisiana industry for commerce, and as a result may increase the income received from alligator products in the long run.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have little or no effect on competition and employment in the public and private sectors.

Wynette Kees
Deputy Undersecretary
0612#063

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Return Rate and Release Length for Farm Raised Alligators
(LAC 76:V.701)**

The Wildlife and Fisheries Commission does hereby give Notice of Intent to amend the regulations governing the return rate and release length for farm raised alligators within the Alligator Regulations (LAC 76:V.701).

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A. - A.13.d. ...

14. Alligator Egg Collection

a. - i. ...

j. The alligator egg collection permittee and the landowner are responsible for the return of the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. In no case shall the return rate be less than 12 percent at 48 inches total length. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36 inches and a maximum of 54 inches (credit will not be given for inches above 54 inches, however each farmer will be allowed to return a maximum of 5 percent of their total releases due in any given year in the size range of 55 inches to 60 inches total length; no alligator over 60 inches will be accepted for release) in total length and the returned sex ratio should contain at least 50 percent females. The alligator egg collection permittee/landowner are responsible for and must compensate in kind for alligator mortality which occurs for department-authorized return to the wild alligators while being processed, stored, or transported. The department shall be responsible for supervising the required return of these alligators. A department transfer authorization permit is not required for return to the wild alligators which are delivered to the farm of origin no more than 48 hours prior to being processed for wild release. Releases back to the wild will only occur between March 15 and August 25 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Any farmer who owes 1,000 or more

alligators at 48 inches must release at least 1/4 of the total owed for that year by April 30; at least another quarter by June 15, at least another quarter by July 31; and the remainder by August 25. A farmer may do more than the required one-fourth of his releases earlier if available unscheduled days allow. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department-sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Subparagraph is a Class Four violation as described in R.S. Title 56.

14.k. - 17.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004), LR 30:2878 (December 2004), LR 31:2267 (September 2005), LR 33:

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.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit comments relative to the proposed Rule to Philip Bowman, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton

Rouge, LA 70898-9000, prior to Thursday, February 1, 2007.

Terry D. Denmon
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Return Rate and Release Length for
Farm Raised Alligators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no state or local governmental implementation costs or savings associated with the proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Any alligator farmer who participates in the Department's wild alligator egg collection program will be affected by this proposed rule change. The proposed rule change requires alligator farmers to release smaller alligators and reduces the required return rate. When considered together, the result should be no significant change in the number of alligators a farmer is required to release. Thus, the proposed rule is anticipated to have little or no impact on alligator farmers.

A potential benefit from this rule change is the improvement in skin quality of wild-harvested alligators over time, since alligators released at smaller sizes have a greater probability of being of better quality when harvested. Thus, participants in the wild alligator harvest sector of the industry may experience a slight increase in receipts and/or income in the future from the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no effect on competition and employment in the public and private sectors.

Wynette Kees
Deputy Undersecretary
0612#062

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

House Committee on Administration of Criminal Justice

Operation of Video Draw Poker Devices and Penalty Schedule (LAC 42:XI.2407 and 2430)

In accordance with R.S. 49:968, the oversight subcommittee of the Administration of Criminal Justice Committee met on November 28, 2006, in House Committee Room 6 at 9:30 a.m. for the purpose of conducting legislative oversight on a rules proposed by the Louisiana Gaming Control Board and published as a Notice of Intent in the Louisiana Register on August 20, 2006. The set of rules deletes specific penalty provisions contained in LAC 42:XI.2407(A)(1) and (14) and adopts a comprehensive penalty schedule provided for in LAC 42:XI.2430.

The meeting was conducted jointly with the Senate Committee on Judiciary B and was presided over by Senator Robert Marionneau. Members present were: Senators Cravins, Marionneau and Quinn and Representatives Cazayoux, DeWitt, Heaton, Martiny, Romero, White, Farrar, Heaton, White and Wooton.

The Senate subcommittee did not have a quorum to take action with regard to the rules. A quorum of the House oversight subcommittee being present, the subcommittee found the rules unacceptable without objection based upon the following:

1. On January 20, 1998, the Louisiana Gaming Control Board approved a Video Gaming Civil Penalty Schedule to be used for violations of Part XI of the Louisiana Administrative Code, §2401-2425 relating to video poker. This penalty schedule has been used by the board since that time and has not been amended. The penalty schedule was not adopted as a rule and Act No. 61 of the 2005 Regular Session mandated that the board adopt a penalty schedule through its rulemaking authority.

2. The committee has no objection to, and in fact supports, the adoption of a penalty schedule by rule. The objection to the fine schedule which was proposed involved the "multiplier effect" which placed higher fines upon the operators of more than three video draw poker devices for the same violations as operators of only three video draw poker devices.

3. Specifically, the committee objected to this differential in the fine schedule because neither the office of state police nor the Attorney General's office offered an explanation which justified the necessity for the difference. The only explanation offered was that they believed the larger fines for truck stops would function to achieve better compliance and serve as a greater deterrent, and that the board had the authority to raise the fines. With respect to the

issue of functioning as a deterrent or to achieve compliance, the majority of the examples provided by the state police and Attorney General's office involved first time violations and not repeat offenders.

4. When requested to provide specific examples of how the present fine schedule (in operation since 1998) was deficient, the agency representatives had no explanation as to the deficiencies or the necessity for increasing the fines.

5. R.S. 49:968(H)(1) provides that "[i]f both the House and Senate oversight subcommittees fail to find a proposed rule change unacceptable as provided herein, or if the governor disapproves the action of an oversight subcommittee within the time provided in R.S. 49:968(G), the proposed rule change may be adopted by the agency in the identical form proposed by the agency or with technical changes or with changes suggested by the subcommittee, provided at least ninety days and no more than twelve months have elapsed since notice of intent was published in the State Register." The committee entertained the idea of offering amendments to the rules which would incorporate the existing (1998) penalty schedule without the differential or multiplier based solely upon the number of devices operated at a facility. After discussing this with the representatives of the board, it was determined that this solution was impractical due to the intricacies of the necessary suggested amendments and the time the committee had to make those changes.

6. The committee suggested that the board withdraw the rules and make the amendments suggested by the committee but it was determined that the board would not meet again until the time period for rule oversight had elapsed.

7. With limited options available to the oversight committee, the committee found the rules unacceptable with the request to the board that they adopt the 1998 penalty schedule as a rule.

8. The board representatives, representatives of the office of the Attorney General, and the state police indicated that revising the rules to conform with the suggestions of the committee was an acceptable course of action.

9. With respect to the amendments to LAC 42:XI.2407(A)(1) and (14) and repeal of LAC 42:XI.2407(A)(8) these changes to the rules were dependant on the adoption of LAC 42:XI.2430. Those amendments could not be found acceptable if LAC 42:XI.2430 was found unacceptable.

Daniel R. Martiny
Chairman

0612#044

Potpourri

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Air Quality Division

Annual Emissions Inventory Data Submittals (LAC 33:III.919)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with LAC 33:III.919.D, the Secretary gives notice that the directions for submittals of Annual Criteria Pollutant Emissions Inventory Data for calendar year 2006 are as described below.

The Louisiana Department of Environmental Quality has initiated a project to update and enhance the existing emissions inventory reporting system. Due to unavoidable delays, however, the system will not be ready to receive data, nor will user training be completed, in time for users to meet all of the requirements associated with the March 31, 2007, criteria pollutant emissions inventory reporting deadline as outlined in LAC 33:III.919. Therefore, the Department has extended to July 1, 2007, the deadline for submitting calendar year 2006 emission point level data. Facilities are still required to submit the Criteria Pollutant Emissions Certification Statement certifying facility totals for calendar year 2006 emissions by March 31, 2007, in accordance with LAC 33:III.919.B.5 or permit-specific conditions. In anticipation that the new system will be ready to receive facility submittals of emission point level data by July 1, 2007, the Department is authorizing this extension for delayed submission of the criteria pollutant emission point level data. This change in the submittal schedule for emission inventory data is for reporting of calendar year 2006 data only. Facilities with permits that contain language in conflict with this potpourri notice should access the website listed below and provide the Department with certain facility level information no later than midnight on January 22, 2007. The website address for providing this information is: http://www.deq.la.gov/2006_EI. Instructions on completing the short form and agency contact information for questions about the form will be available at that same web address.

This extension of the deadline for submittal of the emission point level data will enable facilities to submit data through the new emissions inventory reporting system and alleviate difficulties associated with reporting and processing data in the current, outdated system. Allowing the 90-day extension for facilities to submit emission point level data will not have a negative impact on data availability. The new system has been designed such that emission inventory data will be readily available for assessment and dissemination, while data submitted via the existing system was typically not available for six months or more following the March 31 submission date.

Again, for calendar year 2006 emissions inventory reporting, the Department requires that the Criteria Pollutant Emissions Certification Statement certifying facility criteria pollutant emission totals be submitted by March 31, 2007, while emission point level data for calendar year 2006 be submitted via the new reporting system by July 1, 2007. For more information regarding this notice, you may contact Jennifer Mouton at (225) 219-3427 or Michael Vince at (225) 219-3485.

Herman Robinson, CPM
Executive Counsel

0612#030

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Plan Development Section

Pointe Coupee Parish Ozone Maintenance Plan

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Plan Development Section, is proposing a revision to the Air Quality State Implementation Plan (SIP) for Pointe Coupee Parish. This SIP revision is mandated under Section 110(a)(1) of the 1990 Clean Air Act Amendments (CAAA)

According to the Phase 1 8-Hour Implementation Rule published April 30, 2004 (69 FR 23951), a revision to the SIP is required for areas that are designated attainment for the 8-hour ozone National Ambient Air Quality Standards (NAAQS) and were designated attainment for the 1-hour ozone NAAQS with an approved maintenance plan. The Section 110(a)(1) maintenance plan for Pointe Coupee Parish must be submitted to the Environmental Protection Agency not later than June 15, 2007.

A public hearing will be held at 1:30 pm on January 24, 2007, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Vivian H. Aucoin at (225) 219-3575 or at the address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the SIP revision no later than 4:30 p.m., January 31, 2007, to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to vivian.aucoin@la.gov.

A copy of the SIP revision for Pointe Coupee Parish may be viewed from 8 a.m. to 4:30 p.m. in the DEQ Public Records Center, Room 127, 602 N. Fifth Street, Baton

Herman Robinson, CPM
Executive Counsel

0612#029

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Regulatory Permits

Act 115 of the 2006 Regular Legislative Session authorized the Department of Environmental Quality, to develop regulatory permits for certain air emissions and water discharges. Act 115 requires the secretary to consider which activities are appropriate for coverage under regulatory permits and to publish an initial list of such activities no later than January 1, 2007.

In a potpourri notice for Request for Comments on Regulatory Permits (0609Pot2) published in the *Louisiana Register* on September 20, 2006, the department solicited written comments from interested parties regarding activities appropriate for consideration of coverage under regulatory permits as the required list was being developed. Comments were received from two sources regarding regulatory permits in the air program.

This notice fulfills the requirement of Act 115 to publish an initial list of activities appropriate for coverage under a regulatory permit by January 1, 2007. The department is initially considering the following activities as eligible for coverage under regulatory permits:

Air—minor sources only:

- Oil and Gas production activities
- Oil and Gas well testing
- Oil and Gas and Pipeline maintenance flaring/venting
- Bulk terminal facilities
- Hot mix asphalt plants
- Concrete ready-mix plants
- Emergency equipment
- Coating operations (priming, painting and sandblasting)

Water—minor sources only:

- Oil and Gas Coastal
- Oil and Gas Territorial Seas
- Construction Activities greater than 1 acre but less than 5 acres
- Hydrostatic Test

This is a preliminary list only and does not preclude the department from considering the applicability of regulatory permits for other sources in the future. For further information regarding air permits, contact Cheryl Sonnier Nolan, Office of Environmental Services, Air Permits Division, at 225-219-3010 or cheryl.nolan@la.gov. For further information regarding water permits, contact Lenny

Herman Robinson, CPM
Executive Counsel

0612#067

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Revision to the Water Quality Management Plan Volume 3: Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards

Under the authority of the Environmental Quality Act, R.S. 30:2071 et seq., the secretary gives notice that procedures have been initiated to amend Volume 3 of the Louisiana Water Quality Management Plan (WQMP).

Federal law governing water quality standards (Water Quality Act of 1987 PL 100-4 Section 303 (c)) requires that states review and revise as appropriate their water quality standards at least once every three years. The *Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards*, as part of the Louisiana Water Quality Management Plan, establishes procedures to effectively implement Louisiana's water quality standards into LPDES surface water discharge permits. The most recent Triennial Revision of the Water Quality Standards (Log #WQ054) proposes an updated method for the application of toxic and metals criteria in estuarine areas. These revisions are found in LAC 33:IX.1105 (definitions), LAC 33:IX.1113.C.6.b, and LAC 33:IX.1113.C.6.d. Therefore, the Water Quality Management Plan, Volume 3, Section 5, is proposed to be revised accordingly. The proposed rule for the Triennial Revision (Log #WQ054) is published in the Notice of Intent section of the December 20, 2006, *Louisiana Register*.

A public hearing on the Water Quality Management Plan revision will be held on January 24, 2007, at 1:30 p.m. in the Galvez Building, Room 1051, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the substantive changes. Should individuals with a disability need an accommodation in order to participate, contact Kimberly Cornelison at the address given below or at (225) 219-3598. Parking in the Galvez Garage is free with a validated parking ticket.

Written comments regarding the proposed revision must be received no later than February 15, 2007, at 4:30 p.m., and should be sent to Kimberly Cornelison, Office of the Environmental Assessment, Water Quality Assessment Division, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to kimberly.cornelison@la.gov. Copies of this proposed revision can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for

POTPOURRI

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Substantive Changes to Proposed Rule OS071,
Notification and Reportable Quantity List Updates
(LAC 33:I.3908, 3919, 3925 and 3931)(OS071S)

each copy. This revision is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This revision is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.:602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Louisiana Water Quality Management Plan
Volume 3

Permitting Guidance Document for Implementing
Louisiana Surface Water Quality Standards

5. Establishing Permit Limits

DEQ will require water quality based limits for pollutants that are present in the discharge as determined by appropriate sampling or are involved in the manufacturing process. The Office will consider effluent variability in the derivation of permit limits using EPA's Technical Support Document¹ (TSD) procedures.

A. Limit Derivation

This derivation process applies to all pollutants where chronic aquatic life are to be met at the edge of the mixing zone (MZ), acute aquatic life criteria are to be met at the edge of the zone of initial dilution (ZID), and human health criteria are to be met below the point of discharge after complete mixing (LAC 33:IX.1115.C). Freshwater aquatic criteria will be used for waters with average ambient salinity less than 2,000 parts per million (ppm). Marine aquatic criteria will be used for waters with average ambient salinity greater than or equal to 10,000 ppm. In areas of brackish water (defined in LAC 33:IX.1105), the applicable criteria are the more stringent of the freshwater or marine criteria, as described in LAC 33:IX.1113.C.6.b and d. Total Maximum Daily Load (TMDL) type WLAs shall be used in lieu of a site-specific dilution (Complete Mix Balance Model, Fischer Model, etc.) type WLAs as they are developed. TMDL type WLAs account for all known and unknown sources of a pollutant with each known source receiving a certain fraction of the TMDL. TMDL and respective WLA calculation procedures shall be in accordance with "Louisiana Total Maximum Daily Load Technical Procedures". The Louisiana technical procedures document follows EPA protocol expressed in the document, "Guidance for Water Quality-Based Decisions: The TMDL Process", EPA 440/4-91-001 to the extent that is appropriate for Louisiana's hydrologic conditions. Intermittent discharges will be handled on a best professional judgment basis.

¹Technical Support Document for Water Quality-based Toxics Control, EPA Pub. No. 505/2-90-001, PB91-127415, March 1991.

Herman Robinson, CPM
Executive Counsel

0612#028

Under the authority of the Louisiana 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 the department is seeking to incorporate substantive changes to the proposed amendments to the Air Quality regulations, LAC 33:I.3908, 3919, 3925 and 3931 (Log #OS071S), which were originally noticed as OS071 in the August 20, 2006, issue of the *Louisiana Register*.

The department has made substantive changes to address comments received during the public comment period of proposed rule OS071. The provisions relating to modeling of toxic air pollutants were removed from OS071. Language was added to OS071 in order to clarify written notification procedures for unauthorized discharges resulting in the contamination of the groundwater. Several other unrelated changes were also made to the Reportable Quantities Table.

A strikeout/underline/shaded version of the proposed rule that distinguishes original proposed language from substantively changed language is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

A public hearing on the substantive changes will be held on January 24, 2007, at 1:30 p.m. in the Galvez Building, Room 1051, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the substantive changes. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

Written comments regarding the substantive changes must be received no later than January 31, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Persons commenting should reference OS071S in their correspondence. Copies of this proposed regulation with substantive changes can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy.

This regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.:602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall

Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter A. General

§3908. Modeling

Repealed from proposed rule.

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

HISTORICAL NOTE: Repealed by the Office of the Secretary, Legal Affairs Division, LR 33:

Subchapter C. Requirements for Prompt Notification

§3919. Notification Requirements for Unauthorized Discharges with Groundwater Contamination Impact

A. In the event that any unauthorized discharge results in the contamination of the groundwaters of the state or otherwise moves in, into, within, or on any saturated subsurface strata, the discharger shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, within seven days.

B. Dischargers shall submit written notification in accordance with LAC 33:I.3925 or any permit or license terms and conditions issued under the Louisiana Environmental Quality Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2076(D), 2183(I), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August

1985), repealed LR 19:1022 (August 1993), repromulgated and amended LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:

Subchapter D. Notification Procedures

§3925. Written Notification Procedures

A. - A.2. ...

3. For information required by Subsection B of this Section that is not available at the time of submittal of the written notification report, updates of the status of ongoing investigations of the unauthorized discharge shall be submitted every 30 days until the investigation has been completed and the required information has been submitted.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C) and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:1669 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. - A.2. ...

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants.

Pollutant	Synonym	CAS No. ¹	RCRA ² Waste Number	Pounds
Acetaldehyde	Acetic aldehyde	75070	U001	700
Acrylamide	Acrylic amide	79061	U007	25 ⁶
Acrylic acid	Acroleic acid, propene acid	79107		400 ⁶
Acrylonitrile		107131	U009	35 ⁶
Allyl chloride	3-Chloropropene	107051		1000/10 ^{6a}
Aniline	Aminobenzene	62533	U012	5000/600 ^{6a}
Antimony*		7440360		5000/37.5 ^{6a}
Antimony compounds		20008		100/37.5 ^{6a}
Barium*		7440393		100/37.5 ^{6a}
Barium compounds		20020		100/37.5 ^{6a}
Biphenyl	1,1-biphenyl, xenene	92524		97.5 ⁶
n-Butyl alcohol	1-Butanol	71363	U031	5000/1000 ^{6a}
Carbonic dichloride	Phosgene	75445	P095	10/1 ^{6a}
Chlorinated dibenzo furans, all isomers				1/0.0001 ^{6a}
Chlorinated dibenzo-p-dioxins, TCDD and OCDD isomers				0.0001 ⁶
Chlorine dioxide	Chlorine oxide	10049044		1
Chlorobenzene	Benzene chloride	108907	U037	25 ⁶
Chromium ³ *		7440473		5000/25 ^{6a}
Chromium compounds		20064		100/25 ^{6a}
Copper ³		7440508		5000/25 ^{6a}
Copper compounds		20086		25
Cumene	Isopropyl benzene	98828	U055	5000/1000 ^{6a}
1,2-Dichloroethane	Ethylene dichloride, EDC	107062	U077	48.5 ⁶
Dichloromethane	Methylene chloride, DCM	75092	U080	540 ⁶
Ethyl acrylate	2-Propenoic acid, ethyl ester	140885	U113	1000/10 ^{6a}

Pollutant	Synonym	CAS No. ¹	RCRA ² Waste Number	Pounds
Ethylene	Ethene	74851		5000 [#] or 100 [†]
Glycol ethers **				100
Hexane	Hexyl hydride	110543		5000/1000 [@]
Hydrogen chloride	Hydrochloric acid	7647010		5000/500 [@]
Hydrogen fluoride	Hydrofluoric acid	7664393	U134	100/10 [@]
Maleic anhydride	Cis-Butenedioic anhydride	108316	U147	70 ⁶
Manganese*	Colloidal manganese	7439965		100/75 [@]
Manganese compounds				100/75 [@]
Methyl acrylate	2-Propenoic acid methyl ester	96333		10
Methyl ethyl ketone (MEK)	2-Butanone	78933	U159	5000/1000 [@]
Methyl isobutyl ketone	4-Methyl-2-pentanone	108101	U161	5000/1000 [@]
Methylmercaptan	Methanethiol	74931	U153	100/25 [@]
Methyl methacrylate	2-Methylacrylic acid methyl ester	80626	U162	1000/100 [@]
Methylene diphenyl diisocyanate	Methylene bisphenyl isocyanate	101688		1000
Nickel		7440020		25 ⁶
Nickel compounds				25 ⁶
Nitric acid	Hydrogen nitrate	7697372		1000/100 [@]
Nitrobenzene	Nitrobenzol	98953	U169	400 ⁶
Oil				1 barrel
Phthalic anhydride	1,3-Isobenzofurandione	85449	U190	5000/400 [@]
Polynuclear aromatic hydrocarbons ***				1
Produced water				1 barrel
Propionaldehyde	Propionic aldehyde	123386		1000/100 [@]
Propylene	Propene	115071		100 [†]
Selenium		7782492		25 ⁶
Sulfur dioxide				500
Sulfuric acid		7664939		75 ⁶
Sweet pipeline gas (Methane/Ethane)				42000 (1,000,000 scf)
Toluene-2,4-diisocyanate		584849	U223	25 ⁶
Toluene-2,6-diisocyanate		91087	U223	25 ⁶
Vinyl acetate	Vinyl acetate monomer	108054		5000/100 [@]
Zinc		7440666		200 ⁶
Zinc compounds				200 ⁶
Volatile organic compounds not otherwise listed ⁴				5000
Only those highly reactive volatile organic compounds listed below: ethylene and propylene ⁵				100 [†]
F003 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:			F003	100
Methyl isobutyl ketone		108101		5000/1000 [@]
n-Butyl alcohol		71363		5000/1000 [@]
F005 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:			F005	100
Methyl ethyl ketone		78933	U159	5000/1000 [@]

* No reporting of releases into the ambient air of this metal is required if the diameter of the pieces of solid metal released is equal to or exceeds 100 micrometers (0.004 inches).

** The emissions of all glycol ethers shall be totaled to determine if a reportable quantity has been exceeded.

*** The emissions of all Polynuclear Aromatic Hydrocarbons (PAHs), excluding any PAHs otherwise listed, shall be totaled to determine if a reportable quantity has been exceeded.

¹ Chemical Abstracts Service Registry Number.

² Resource Conservation and Recovery Act of 1976, as amended.

³ Prompt notification of releases of massive forms of these substances is not required if the diameter of the pieces of the substance released is equal to or exceeds 100 micrometers (0.004 inches).

⁴ The emissions of all volatile organic compounds (VOCs), excluding any VOCs otherwise listed, shall be totaled to determine if a reportable quantity has been exceeded. VOC is defined in LAC 33:III.111, and exempt compounds are listed in LAC 33:III.2117.

⁵ The emissions of these highly reactive VOC shall be totaled to determine if an RQ has been exceeded.

⁶ Only emissions to the atmosphere are applicable.

[@] The first RQ listed denotes the reportable quantity that will apply to unauthorized emissions based on total mass emitted into or onto all media within any consecutive 24-hour period. The second RQ listed denotes the reportable quantity that will apply to unauthorized emissions based on total mass emitted into the atmosphere.

[†] The RQ listed denotes the reportable quantity that will apply to unauthorized emissions based on total mass emitted into the atmosphere for facilities in the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, St. Charles, St. James, St. John the Baptist, Pointe Coupee, and West Feliciana.

[#] RQ for the state except the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, St. Charles, St. James, St. John the Baptist, Pointe Coupee, and West Feliciana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 33:

Herman Robinson, CPM
Executive Counsel

0612#027

POTPOURRI

Office of the Governor Office of Financial Institutions

2007 Judicial Interest Rate Determination

R.S. 13:4202(B), as amended by Acts 2001, No. 841, requires the Louisiana Commissioner of Financial Institutions to determine the rate of judicial interest. The commissioner has determined the judicial interest rate for the calendar year 2007 in accordance with § 4202(B)(1).

On October 2, 2006, the commissioner ascertained that the approved discount rate of the Federal Reserve Board of Governors was six and one-fourth (6.25%) percent and that the rate was approved June 29, 2006.

R.S. 13:4202(B) (1) mandates that "on and after January 1, 2002, the rate shall be equal to the rate as published annually ... by the Commissioner of Financial Institutions. The Commissioner of Financial Institutions shall ascertain, on the first business day of October of each year, the Federal Reserve Board of Governors' approved discount rate published daily in the Wall Street Journal. The effective judicial interest rate for the calendar year following the calculation date shall be three and one-quarter percentage points above the discount rate as ascertained by the commissioner." Thus, the effective judicial interest rate for the calendar year 2007 shall be nine and one-half (9.5 %) percent per annum.

As provided by R.S. 13:4202(B)(2), this determination and its publication in the *Louisiana Register* shall not be considered rule-making, within the intendment of R.S. 49:950 et seq., the Administrative Procedure Act (APA), particularly R.S. 49:953. Therefore, the general rule making requirements, as follows, are not required by the APA: (1) a Fiscal Impact Statement, (2) a Family Impact Statement, and (3) a Notice of Intent.

John Ducrest, CPA
Commissioner

0612#020

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Final Damage Assessment and Restoration Plan—East Lake Palourde Crude Oil

Action: Notice of Availability of a Final Damage Assessment and Restoration Plan (Final DARP).

Agencies: Louisiana Oil Spill Coordinator's Office, Office of the Governor (LOSCO); Louisiana Department of Environmental Quality (LDEQ); and the Louisiana Department of Wildlife and Fisheries (LDWF);

Summary: Notice is hereby given that a document entitled "Final Damage Assessment and Restoration Plan for two crude oil discharges reported on June 11, 2002 into the swamp of East Lake Palourde, Assumption Parish, Louisiana" is final and available to the public as of December 20, 2006. This document has been prepared by the agencies listed above (Trustees) to address injuries to natural resources and services following the June 11, 2002 reported discharges of crude oil into the swamp east of Lake Palourde, Louisiana (incident). The Final DARP presents the Trustees' assessment of injuries to natural resources and services attributable to the incident and their plan to restore, replace, or acquire natural resources or services equivalent to those lost, as a basis for compensating the public for the injuries resulting from the incident.

Interested members of the public are invited to request a copy of the Final DARP from Gina Muhs Saizan at the address given below.

For Further Information: Contact Gina Muhs Saizan at 225-219-5800, or by email at gina.saizan@la.gov. To view the Final DARP via the internet, please visit www.losco.state.la.us and look under News Flash for Lake Palourde Oil Spill.

Address: Requests for copies of the Final DARP should be sent to:

Gina Muhs Saizan
Louisiana Oil Spill Coordinator's Office
150 Third Street, Suite 405
Baton Rouge, LA 70801

Supplementary Information: The public was given an opportunity to review and comment on the Draft DARP during the public comment period, which extended from September 20, 2006 through October 20, 2006. Public review of the Draft DARP is consistent with all State and Federal laws and regulations that apply to the Natural Resource Damage Assessment (NRDA) process, including Section 1006 of the Oil Pollution Act (OPA), 33 U.S.C. § 2706; the regulations for NRDA under OPA, 15 C.F.R. Part 990; Section 2480 of the Louisiana Oil Spill Prevention and Response Act (OSPRA), R.S. 30:2480 et seq.; and the regulations for NRDA under OSPRA, LAC 43:XXIX.Chapter 1. The trustees did not receive comments during the public comment period and have prepared the Final DARP for implementation.

Roland Guidry
Oil Spill Coordinator

0612#039

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

Spring/Summer Examination Dates and Board Nominations

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows:

Test Window Date	Deadline to Apply
April 9 through April 21, 2007	Monday, January 8, 2007

The board will also accept applications for and administer the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians as follows:

Test Date	Deadline to Apply
Friday, January 19, 2007	Friday, December 8, 2006

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at atlbvm@eatel.net; application forms and information are also available on the website at www.lsbvm.org.

The Louisiana Board of Veterinary Medicine announces that nominations for the position of Board Member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held February 2007. Interested persons should submit the names of nominees directly to the LVMA as per La. R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

Wendy D. Parrish
Administrative Director

0612#015

POTPOURRI

**Department of Insurance
Office of the Commissioner**

**Commercial Property Insurance and Homeowners Insurance
Policy Disclosure Forms**

In accordance with R.S. 22:696 and 22:1477, the Louisiana Department of Insurance has developed the

following disclosure forms to be used by all property and casualty insurance companies issuing, delivering or renewing homeowners or commercial property insurance policies that provide coverage for damage to property in Louisiana.

Pursuant to R.S. 22:696 and 22:1477 the insurer shall present the appropriate disclosure form to the insured as an insert in the front of the policy at the time of issuance, delivery and at each renewal. Compliance with R.S. 22:696 and 22:1477 shall begin April 1, 2007.

These disclosure forms shall supersede the disclosure forms published in the Potpourri section of the October 2006 edition of the Louisiana Register.

**IMPORTANT INFORMATION REQUIRED BY THE
LOUISIANA DEPARTMENT OF INSURANCE**

**Homeowners Insurance Policy Coverage
Disclosure Summary**

This form was promulgated pursuant to LSA-R.S. 22:1477.

THIS IS ONLY A SUMMARY OF YOUR COVERAGE AND DOES NOT CHANGE, EXPAND, OR REDUCE THE COVERAGES OR ANY OTHER PROVISIONS CONTAINED IN YOUR POLICY. INSURANCE IS A CONTRACT. THE LANGUAGE IN YOUR POLICY CONTROLS YOUR LEGAL RIGHTS.

****READ YOUR INSURANCE POLICY FOR COMPLETE
POLICY TERMS AND PROVISIONS****

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

[INSERT PERSONAL PROPERTY COVERAGES]

Example:

- Coverage A - Dwelling
- Coverage B - Other Structures
- Coverage C - Personal Property
- Coverage D - Loss of Use
- Coverage E - Personal Liability
- Coverage F - Medical Payments

DEDUCTIBLES

This policy sets forth certain deductibles that will be applied to claims for damages. When applicable, a deductible will be subtracted from your total claim and you will be paid the balance subject to applicable coverage limits.

NOTICE: This policy [does/does not] set forth a deductible for covered losses caused by [*hurricane; named storm; wind*] as defined in the policy. Look at the Declaration Page of your policy to determine the amount of the deductible that will apply to any claim for damage caused by [*hurricane; named storm; wind*].

**** You may be able to reduce your premium by increasing your deductible. Contact your producer/agent or insurer for more details.**

LIMITATIONS OR EXCLUSIONS UNDER THIS POLICY

FLOOD - Flood damage [is/is not] covered, regardless of how caused, when flood is the peril that causes the loss. Flood water includes, but is not limited to, storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your dwelling and/or contents subject to the coverage limits and terms of the policy.

Excess Flood Insurance may be available under a separate policy, from this or another insurer, if the amount of the primary flood insurance is not enough to cover the value of your property.

- You may contact your producer or insurer for more information on the National Flood Insurance Program and Excess Flood Insurance.

MOLD - Damage caused solely by Mold [is/is not] covered under this policy.

****FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR POLICY FOR COMPLETE DETAILS ON TERMS AND PROVISIONS****

CLAIM FILING PROCESS

There may be time limitations for filing a claim and filing of a satisfactory proof of loss. There may also be time limitations for repairing and replacing damaged property that could cause you to not recover the replacement cost of your property, if applicable.

PAYMENT OF CLAIMS

Depending on the terms of the insurance policy, some losses may be paid based on actual cash value (ACV) and others based on replacement cost (RC).

- ACV is the amount needed to repair or replace the damaged or destroyed property, minus the depreciation.
- RC involves the initial payment of actual cash value (ACV) of a loss, and the subsequent payment of the additional amount that is actually and necessarily expended to repair or replace the damaged or destroyed property.

**** Refer to your policy for the terms and conditions describing how a particular loss is to be paid.**

PAYMENT AND ADJUSTMENT OF CLAIMS

Pursuant to LSA R.S. 22:658 and 22:1220, except in the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim and/or a claim for reasonable medical expenses within fourteen (14) days after notification of loss by the claimant.

In the case of a catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim within thirty (30) days after notification of loss by the claimant.

All insurers shall make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after the receipt of satisfactory proof of loss of that claim.

Failure to make such payment within thirty (30) days after receipt of such satisfactory written proofs and demand therefore or failure to make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after receipt of a satisfactory proof of loss of that claim may result in a late penalty

against the insurer in addition to the payment of the claim.

If the insurer is found to be arbitrary, capricious or without probable cause in settling any property damage claim, the insurer must pay the insured, in addition to the amount of the loss, fifty percent (50%) damages on the amount found to be due from the insurer to the insured, or one thousand (\$1,000.00) dollars, whichever is greater, as well as reasonable attorney fees and costs, if applicable.

EFFECTIVE APRIL 1, 2007

IMPORTANT INFORMATION REQUIRED BY THE LOUISIANA DEPARTMENT OF INSURANCE

Commercial Property Insurance Policy Coverage Disclosure Summary

This form was promulgated pursuant to LSA-R.S. 22:667.1 and 22:696.

THIS IS ONLY A SUMMARY OF YOUR COVERAGE AND DOES NOT CHANGE, EXPAND, OR REDUCE THE COVERAGE OR ANY OTHER PROVISIONS CONTAINED IN YOUR POLICY. INSURANCE IS A CONTRACT. THE LANGUAGE IN YOUR INSURANCE POLICY CONTROLS YOUR LEGAL RIGHTS.

****READ YOUR INSURANCE POLICY FOR COMPLETE POLICY TERMS AND PROVISIONS****

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

[INSERT COMMERCIAL PROPERTY COVERAGES]

Example:

Extra Expense
Business Interruption

DEDUCTIBLES

This policy sets forth certain deductibles that will be applied to claims for damages. When applicable, a deductible will be subtracted from your total claim and you will be paid the balance subject to applicable coverage limits.

NOTICE: This policy [does/does not] set forth a deductible for covered losses caused by [*hurricane; named storm; wind*] as defined in the policy. Look at the Declaration Page of your policy to determine the amount of the deductible that will apply to any claim for damage caused by [*hurricane; named storm; wind*].

****You may be able to reduce your premium by increasing your deductible. Contact your insurance producer/agent or insurance company for more details.**

LIMITATIONS OR EXCLUSIONS UNDER THIS POLICY

FLOOD - Flood damage [is/is not] covered, regardless of how caused, when flood is the peril that causes the loss. This may include, but is not limited to, storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your building and/or contents subject to the coverage limits and terms of the policy.

Excess Flood Insurance may be available under a separate policy from this or another insurer if the amount of the

primary flood insurance is not enough to cover the value of your property.

- You may contact your producer or insurer for more information on the National Flood Insurance Program and Excess Flood Insurance.

MOLD - Damage caused solely by Mold [is/is not] covered under this policy.

****FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR POLICY FOR COMPLETE DETAILS ON TERMS AND PROVISIONS****

EFFECTIVE APRIL 1, 2007

James J. Donelon
Commissioner

0612#056

POTPOURRI

**Department of Insurance
Office of the Commissioner**

Public Notice—Bulletin No. 01-05 Amended

Date: September 25, 2006
To: All Property and Casualty Insurance Companies Writing Automobile Liability Insurance in Louisiana
From: James J. Donelon, Commissioner
Re: Uninsured/Underinsured

Motorists Coverage (R.S. 22:680)

Bulletin 01-05—Amended is being issued by the Louisiana Department of Insurance (LDOI) to provide assistance to all Property and Casualty Insurance Companies writing automobile liability insurance in Louisiana. Bulletin 01-05 Amended hereby amends original Bulletin 01-05 relative to the Uninsured/Underinsured Motorist Bodily Injury Coverage Form. The purpose of Bulletin 01-05 Amended is to inform all property and casualty insurance companies writing automobile liability insurance in Louisiana that, pursuant to Act No. 456 of the 2003 Regular Legislative Session, the Uninsured/Underinsured Motorist Bodily Injury Coverage Form has been repealed in R.S. 22:1406(D) and re-designated as R.S. 22:680.

The LDOI amends and re-promulgates Uninsured/Underinsured Motorist Bodily Injury Coverage Form that is to be captioned as follows.

STATE OF LOUISIANA

This form is in compliance with R.S. 22:680. This form may not be altered or modified.

UNINSURED/UNDERINSURED MOTORIST BODILY INJURY COVERAGE FORM

Therefore, in accordance with the statutes referenced in original Bulletin 01-05, and Bulletin 01-05 Amended, the commissioner hereby gives notice to all property and casualty insurers writing automobile liability insurance in Louisiana to immediately use the prescribed form attached hereto and made a part hereof by reference as if set forth herein *in extenso*. The insurer shall allow the insured or his legal representative, in accordance with R.S. 22:680, to execute the form by rejecting the said coverage, selecting

lower limits, or selecting economic-only coverage thereby becoming conclusively presumed to become a part of the policy or contract when issued and delivered, irrespective of whether physically attached thereto. Use of the re-promulgated form is authorized for use beginning on September 25, 2006. The re-promulgated form is mandatory and shall be the exclusive form authorized for use in Louisiana as of January 1, 2007.

Questions regarding Bulletin 01-05 Amended should be directed to Rachelle Carter, Assistant Director of Policy Forms, at rcarter@ldi.state.la.us or by phone at 225-219-5100 or 225-342-1258.

James J. Donelon
Commissioner

0612#004

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
James D. Barber	South Monterey	M	Madison N	2	151736
Witt Oil Production Inc.	Tew Lake	M	Finlay	1	141398

James H. Welsh
Commissioner

0612#022

POTPOURRI

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

Temporary Assistance to Needy Families (TANF)—Caseload Reduction Report for Louisiana

The Department of Social Services, Office of Family Support, hereby gives notice that, in accordance with federal regulations at 45 CFR 261.40, the Temporary Assistance to Needy Families (TANF) Caseload Reduction Report for Louisiana is now available to the public for review and comment.

In order to receive a caseload reduction credit for minimum participation rates, the agency must submit a report based on data from the Family Independence Temporary Assistance Program (FITAP) and the Strategies to Empower People Program (STEP) containing the following information:

- a listing of, and implementation dates for, all state and federal eligibility changes, as defined at §261.42, made by the state after FY 2005;

2. a numerical estimate of the positive or negative impact on the applicable caseload of each eligibility change (based, as appropriate, on application denials, case closures, or other analyses);

3. an overall estimate of the total net positive or negative impact on the applicable caseload as a result of all such eligibility changes;

4. an estimate of the state's caseload reduction credit;

5. a description of the methodology and the supporting data that it used to calculate its caseload reduction estimates;

6. a certification that it has provided the public an appropriate opportunity to comment on the estimates and methodology, considered their comments, and incorporated

all net reductions resulting from federal and state eligibility changes; and

7. a summary of all public comments.

Copies of the TANF Caseload Reduction Report may be obtained by writing Tara Prejean, Department of Social Services, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065, by telephone at (225) 342-4096, or via E-mail at tprejean@dss.state.la.us.

Written comments regarding the report should also be directed to Ms. Prejean. These must be received by close of business on January 19, 2007.

Ann Silverberg Williamson
Secretary

0612#052

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