

**I. EXECUTIVE ORDERS**

MJF 00-36—Advisory Council on Disability Affairs ..... 2410  
 MJF 00-37—Interstate 49 Extension Feasibility and Funding Task Force ..... 2411  
 MJF 00-38—Cooperative Endeavor Agreements ..... 2412  
 MJF 00-39—State Partnership with the Baton Rouge Clean Air Coalition in the Ozone Action Program ..... 2413  
 MJF 00-40—Governor's Military Advisory Board ..... 2414  
 MJF 00-41—Saltwater Marsh Die-Off Action Plan ..... 2415  
 MJF 00-42—Continuation of Hiring Freeze ..... 2416  
 MJF 00-43—Bond Allocation—Jefferson Parish Economic Development and Port District ..... 2417  
 MJF 00-44—State Water Policy Advisory Task Force ..... 2417

**II. EMERGENCY RULES**

**Economic Development**

Racing Commission—Account Wagering (LAC 35:XIII.Chapter 120) ..... 2420

**Governor**

Board of the Trustees of the State Employees Group Benefits Program—EPO Plan of Benefits  
 (LAC 32:V.101-107, 301, 307-317, 325, 403, 501, 511-515, 601 and 701) ..... 2424  
 PPO Plan of Benefits (LAC 32:III.101-107, 301, 307-317, 325, 403, 501, 511-515, 601 and 701) ..... 2428

**Health and Hospitals**

Office of the Secretary, Bureau of Health Service Financing—Early and Periodic Screening, Diagnosis  
 and Treatment (EPSDT)—Hearing Aids ..... 2433  
 Mentally Retarded/Developmentally Disabled Waiver—Waiting List ..... 2433  
 Public Nursing Facilities—Reimbursement Methodology ..... 2435

**Social Services**

Office of Family Support—Family Independence Temporary Assistance (FITAP) Program—Increases in  
 Flat Grant Amounts (LAC 67:III.1229) ..... 2435  
 Kinship Care Subsidy Program—Grant Increase (LAC 67:III.5329) ..... 2436

**III. RULES**

**Agriculture and Forestry**

Office of Forestry—Seedling Prices (LAC 7:XXXIX.301) ..... 2437  
 Structural Pest Control Commission—Pesticide Restrictions (LAC 7:XXV.117, 119, 141 and 161) ..... 2437

**Environmental Quality**

Environmental Planning Division—Correct Organization Citations Resulting from Reengineering  
 of DEQ (LAC 33:I, III, V, VI, VII, IX, XI and XV)(OS036) ..... 2439  
 Incorporation by Reference of 40 CFR Part 60 (LAC 33:III.3003)(AQ210\*) ..... 2608  
 Solid Waste and Statewide Beautification (LAC 33:VII.115, 305, 707, 717, Chapter 13  
 and Chapter 101)(SW028) ..... 2609

**Governor**

Division of Administration, Office of Data Base Commission—Louisiana Data Base (LAC 4:XI.Chapter 1) ..... 2611

**Health and Hospitals**

Board of Examiners in Dietetics and Nutrition—Issuance and Renewal of License  
 (LAC 46:LXIX.111 and 119) ..... 2613  
 Board of Practical Nurse Examiners—Licensure; Education; Practice; and Fees (LAC 46:XLVII.101,  
 301-306, 501, 703, 901, 939, 953, 1305, 1707 and 1715) ..... 2614  
 Office of Public Health—Sanitary Code—Chapter XIII (Sewage Disposal) ..... 2618  
 Office of the Secretary, Bureau of Health Services Financing—Inpatient Psychiatric Services—Medicare  
 Part A Claims ..... 2621  
 Inpatient Hospital Services—Medicare Part A Claims ..... 2621  
 Laboratory and Portable X-Ray Services—Medicare Part B Claims ..... 2622  
 Outpatient Hospital Services—Medicare Part B Claims ..... 2622  
 Rehabilitation Services—Medicare Part B Claims ..... 2622

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**Public Safety and Corrections**

Corrections Services—Medical Reimbursement Plan (LAC 22:I.2105) ..... 2623  
Office of Adult Services—Adult Offenders (LAC 22:I.365) ..... 2623  
Office of State Police—Analysis of Blood and Urine for Alcohol and Drugs (LAC 55:I.555, 561, and 571-591)... 2623  
User Fees for Louisiana State Police Facility (LAC 55:I.301)..... 2626  
Weights and Standards Mobile Police Force (LAC 55:I.Chapter 23)..... 2627

**Revenue**

Office of Alcohol and Tobacco Control—Caterer's Permits (LAC 55:VII.325) ..... 2630  
Liquor Credit Regulations—Sampling (LAC 55:VII.317) ..... 2631

**Social Services**

Office of Community Services—Louisiana Children's Trust Fund (LAC 67:V.1001)..... 2632  
Adult Residential Care Facilities (LAC 48:I.8805)..... 2632

**Treasury**

State Employees' Retirement System—Trustee Election (LAC 58:I.301, 303, 307, 501 and 503)..... 2632

**Wildlife and Fisheries**

Wildlife and Fisheries Commission—Daily Take and Possession Limits of King Mackerel, Spanish  
Mackerel and Cobia (LAC 76:VII.327) ..... 2633  
Turkey Season—2001 (LAC 76:XIX.113)..... 2634

**IV. NOTICES OF INTENT**

**Agriculture and Forestry**

Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides—Restriction on  
Application of Certain Pesticides (LAC 7:XXIII.143 and 147) ..... 2638  
Boll Weevil Eradication Commission—Boll Weevil Eradication Zones: Continuation, Program  
Participation, Fee Payment and Penalties (LAC 7:XV.327) ..... 2639

**Economic Development**

Board of Architectural Examiners—Limited Liability (LAC 46:I.1505) ..... 2640  
Office of Financial Institutions—Residential Mortgage Lending—Continuing Education (LAC 10:XII.101-113) ... 2641

**Education**

Board of Elementary and Secondary Education—Bulletin 746—Louisiana Standards for State Certification  
of School Personnel—Alternative Certification of School Psychologists (LAC 28:I.903) ..... 2643  
Bulletin 746—Louisiana Standards for State Certification of School Personnel—Special Certificate for  
K-8 Foreign Language Teachers with Foreign Credentials (LAC 28:I.903)..... 2645  
Restructure of Board Committees (LAC 28:I.103) ..... 2646  
Student Financial Assistance Commission, Office of Student Financial Assistance—Authority  
Bylaws (LAC 28:VI.209) ..... 2647

**Health and Hospitals**

Board of Nursing—Alternative to Disciplinary Proceedings (LAC 46:XLVII.3419)..... 2648  
Office of Public Health—Genetic Diseases—Neonatal Screening (LAC 48:V.6303)..... 2650  
Office of the Secretary, Bureau of Health Services Financing—Early Periodic Screening, Diagnosis and  
Treatment—Dental Services ..... 2652  
Home Health Program—Extended Skilled Nursing Visits ..... 2653  
Home Health Program—Skilled Nursing Reimbursement Reduction..... 2654  
Medical Transportation Program—Emergency Ambulance Services ..... 2655  
Medical Transportation Program—Non-Emergency Ambulance Services ..... 2656

**Public Safety and Corrections**

Office of the Fire Marshal—National Fire Protection Code 101 (LAC 55:V.103)..... 2657  
Office of State Police—Approved Citation for Litter Enforcement (LAC 55:I.2101) ..... 2658  
Collection of DNA Samples for Convicted Offenders (LAC 55:I.Chapter 23) ..... 2659

**Revenue**

Office of the Secretary—Policy Statements (LAC 61:III.101) ..... 2661

**Social Services**

Office of Community Services—Residential Facilities Reimbursement Rates (LAC 67:V.3503)..... 2665  
Office of Rehabilitation Services—Vocational Rehabilitation Services (LAC 67:VII.Chapter 1) ..... 2666

**Treasury**

Office of the Treasurer—Time Certificates of Deposit (LAC 64:V.103) ..... 2670

**V. POTPOURRI**

**Agriculture and Forestry**

Horticulture Commission—Retail Floristry Examination..... 2674

**Environmental Quality**

Office of Environmental Assessment—Solicitation of comments on Fugitive Emission Reductions  
of Volatile Organic Compounds for Ozone Control (LAC 33:III.2122)..... 2674  
Solicitation of Comments on Revision of the Major Source Definition for Ozone Control..... 2674  
Solicitation of Comments on Louisiana's Triennial Visibility Projection Report..... 2675  
Solicitation of Comments on Volatile Organic Compound Emission Reductions as Contingency  
Measures to Support Ozone Control ..... 2675

**Health and Hospitals**

Board of Embalmers and Funeral Directors—Embalmer/Funeral Director Examinations ..... 2676  
Board of Veterinary Medicine—Board Meeting Dates..... 2676

**Natural Resources**

Office of Conservation—Hearing Notice—Docket No. Imd 2001-01 ..... 2677  
Orphaned Oilfield Sites ..... 2677  
Office of the Secretary—Fishermen's Gear Compensation Fund ..... 2678

**Public Safety and Corrections**

Vehicle Safety Equipment—Hearing Date and Family Impact Statement ..... 2678

**VI. INDEX** ..... 2679

# Executive Orders

## EXECUTIVE ORDER MJF 00-36

Advisory Council on Disability Affairs

WHEREAS, Executive Order No. MJF 99-27, signed on June 23, 1999,<sup>1</sup> reestablished and recreated the Advisory Council on Disability Affairs (hereafter "Council"); and

WHEREAS, it is necessary to amend the membership provisions of Executive Order No. MJF 99-27;

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

SECTION 1: Section 3 of Executive Order No. MJF 99-27 is amended to provide as follows:

1. The Council shall be composed of a maximum of forty-three (43) members.

2. The Council shall be composed of the following ex-officio voting members:

1. The governor, or the governor's designee;

2. The lieutenant governor, or the lieutenant governor's designee;

3. The secretary of state, or the secretary of state's designee;

4. The attorney general, or the attorney general's designee;

5. The treasurer, or the treasurer's designee;

6. The commissioner of insurance, or the commissioner's designee;

7. The commissioner of agriculture, or the commissioner's designee;

8. The commissioner of elections, or the commissioner's designee;

9. The commissioner of administration, or the commissioner's designee;

10. The secretary of the Department of Health and Hospitals, or the secretary's designee;

11. The secretary of the Department of Economic Development, or the secretary's designee;

12. The secretary of the Department of Labor, or the secretary's designee;

13. The secretary of the Department of Transportation and Development, or the secretary's of designee;

14. The secretary of the Department of Social Services, or the secretary's designee;

15. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

16. The superintendent of the Department of Education, or the superintendent's designee;

17. One member of the Louisiana House of Representatives designated by the speaker of the House of Representatives;

18. One member of the Louisiana Senate designated by the president of the Senate;

19. The state fire marshal, or the state fire marshal's designee;

20. The director of the Office of Elderly Affairs, Office of the Governor, or the director's designee;

21. The director of the Office of Facility Planning and Control, Division of Administration, or the director's designee;

22. The chair of the Developmental Disabilities Council, or the chair's designee;

23. The chair of the Advocacy Center, or the chair's designee;

24. The chair of the Louisiana Assistive Technology Access Network, or the chair's designee;

25. The chair of the Louisiana Rehabilitation Council, or the chair's designee;

26. The chair of the Statewide Independent Living Council, or the chair's designee; and

27. The chair of the Mental Health Planning Council, or the chair's designee.

3. The Council shall also be composed of voting members appointed by, and serving at the pleasure of, the governor selected as follows:

1. A disability service provider from a higher education institution; and

2. Fifteen at large members, ten of whom have disabilities or have family members with disabilities, evenly selected as far as practicable from the seven Louisiana congressional districts.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. MJF 99-27 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue 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 11th day of October, 2000.

<sup>1</sup> Executive Order No. MJF 99-27 replaced and rescinded Executive Order No. MJF 96-55, signed on October 17, 1996.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0011#001

### EXECUTIVE ORDER MJF 00-37

#### Interstate 49 Extension Feasibility and Funding Task Force

WHEREAS, due to Interstate 49 not extending north beyond the city of Shreveport, businesses and industries of the state of Louisiana are not directly linked by an interstate highway to our neighboring state of Arkansas and consumer markets in the midwest;

WHEREAS, The state of Louisiana's goals and objectives for economic development are inextricably intertwined with those for improving the infrastructure of the state's highways and roadways; and

WHEREAS, The interests of the citizens of the state of Louisiana would be best served by creating a task force charged with the duties of identifying adequate funding sources for a proposed project to extend Interstate 49 north to the Louisiana-Arkansas border, analyzing the feasibility and benefits of such an extension project, and evaluating the impact that such an extension would have on the citizens of the state of Louisiana, especially those who live and/or work in the northwest region of the state of Louisiana;

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

SECTION 1: The Interstate 49 North Extension Feasibility and Funding Task Force (hereafter "Task Force") is established within the executive department, Office of the Governor.

#### SECTION 2:

A. The primary duty of the Task Force shall be to identify funding sources and/or innovative financing alternatives to fully fund the proposed project to extend Interstate 49 north from the city of Shreveport to the Louisiana-Arkansas border (hereafter "I-49 Extension Project"), from the beginning of the project through its completion.

B. The secondary duties of the Task Force shall include, but are not limited to, the following:

1. Evaluating the feasibility of the I-49 Extension Project and the benefits the project would provide the state of Louisiana and communities in the northwest region of the state of Louisiana; and

2. Documenting and evaluating the level of support for the I-49 Extension Project from:

a) the citizens of the state of Louisiana living in the various geographical regions of the state;

b) the chambers of commerce of the communities located in the northwest region of the state of Louisiana; and

c) the members of the Louisiana Legislature and Louisiana's United States Congressional Delegation.

#### SECTION 3:

A. By April 1, 2001, the Task Force shall submit a comprehensive report on the issues set forth in Section 2 of this Order to the governor, the House Committee on Transportation, Highways, and Public Works, and the Senate Committee on Transportation, Highways, and Public Works.

B. The Task Force shall also submit documentation to the governor by April 1, 2001, suitable for submission to the members of the state of Louisiana's United States Congressional Delegation, supporting the reasons for extending Interstate 49 north to the Louisiana-Arkansas border.

SECTION 4: The Task Force shall be composed of a maximum of 23 members who, unless specified, shall be appointed by and serve at the pleasure of the governor, and selected as follows:

A. The governor, or the governor's designee;

B. The secretary of the Department of Transportation and Development, or the secretary's designee;

C. The commissioner of administration, or the commissioner's designee;

D. The chair of the House Transportation, Highways, and Public Works Committee, or the chair's designee;

E. The chair of the Senate Transportation, Highways, and Public Works Committee, or the chair's designee;

F. The chair of the Senate Committee on Commerce, or the chair's designee;

G. The chair of the House Committee on Commerce, or the chair's designee;

H. A member of the Senate, elected from the northwest region of the state of Louisiana, designated by the president of the Senate;

I. A member of the House of Representatives, elected from the northwest region of the state of Louisiana, designated by the speaker of the House of Representative;

J. Citizens of the state of Louisiana who reside in a community in the northwest region of the state of Louisiana; and

K. Representatives of businesses and/or industries that are located in the northwest region of the state of Louisiana.

SECTION 5: The governor shall appoint the chair from the membership of the Task Force. All other officers, if any, shall be elected from the membership of the Task Force.

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

SECTION 7: Support staff for the Task Force and facilities for its meetings shall be provided by the Department of Transportation and Development.

SECTION 8: Commission members shall not receive additional compensation or a per diem for serving on the Commission from the Office of the Governor and/or the Department of Transportation and Development. State officers and/or employees may seek reimbursement of travel expenses, in accordance with I-49, from their employing and/or elected department, agency, and/or office.

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

SECTION 10: This Order is effective upon signature and shall continue 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 19th day of October, 2000.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0011#004

### EXECUTIVE ORDER MJF 00-38

#### Cooperative Endeavor Agreements

WHEREAS, Act No. 998 of the 1997 Regular Session of the Louisiana Legislature enacted R.S. 39:1493.1-1493.3, for the purpose of creating the Commission for the Review and Improvement of Services Procurement (hereafter "Crisp") to review all professional, personal, consulting, and social services contracts of the departments, commissions, boards, agencies, and offices of the executive branch of the state of Louisiana (hereafter "department"), and the operations of the Office of Contractual Review, Division of Administration (hereafter "OCR"), R.S. 39:1493.3(D);

WHEREAS, Crisp issued a report on March 5, 1999, which included the recommendation that the director of OCR should "exercise her privilege of special delegation of authority under R.S. 39:1488, without limitation on contract value, for recurring and non-controversial services" when

- a) the contract is prepared in accordance with an OCR-approved format,
- b) the contracting department has a positive record of contract compliance,
- c) contract monitors are identified,
- d) the contract is approved by either the department secretary or undersecretary,
- e) the department submits monitoring reports to OCR and the Legislative Auditor as required by law,
- f) the department complies with a specific filing and/or reporting requirements, and
- g) the delegation of authority to the department is revocable at the will of the director of OCR at any time;

WHEREAS, the Crisp recommendation regarding delegation of authority may not be applied to cooperative endeavor agreements (hereafter "CEAs") due to provisions in Executive Order No. MJF 96-24, issued on August 9, 1996, which order each department to submit all CEAs requiring the expenditure of public funds to OCR for review and approval; and

WHEREAS, the best interests of the citizens of the state of Louisiana are served by amending the provisions of Executive Order No. MJF 96-24 to adopt the Crisp report recommendations;

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

SECTION 1: Section 1 of Executive Order No. MJF 96-24, issued on August 9, 1996, is amended to provide as follows:

Unless exempted by written delegation of authority granted by the director of the Office of Contractual Review, Division of Administration, with the approval of the commissioner of administration, each department, commission, board, agency, and/or office in the executive branch of the state of Louisiana (hereafter "department") shall submit all cooperative endeavor agreements (hereafter "agreements") which require the expenditure of public funds to the Office of Contractual Review for review and approval.

SECTION 2: Section 4 of Executive Order No. MJF 96-24 is amended to provide as follows:

All agreements shall contain a provision that conditions the agreement and/or continuation of the agreement on a) the availability of sufficient funds to fulfill the obligations of the department under the agreement and b) the approval of the director of the Office of Contractual Review and/or the commissioner of administration, unless exempt by written delegation of authority granted pursuant to Section 1 of this Order.

SECTION 3: All other sections, subsections, and/or paragraphs of Executive Order No. MJF 96-24 shall remain in full force and effect.

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

SECTION 5: This Order is effective upon signature and shall continue 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 19th day of October, 2000.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0011#002

## EXECUTIVE ORDER MJF 00-39

### State Partnership with the Baton Rouge Clean Air Coalition in the Ozone Action Program

WHEREAS, the Baton Rouge Clean Air Coalition, a voluntary civic organization that works on clean air initiatives in the Baton Rouge area, encompassing the five parishes of East Baton Rouge, West Baton Rouge, Ascension, Livingston, and Iberville (hereafter "Baton Rouge area"), has established a voluntary ozone action program (hereafter "program") for the purpose of reducing ozone-forming emissions caused by vehicles and other urban and commercial sources within the Baton Rouge area, particularly during the summer months;

WHEREAS, the Baton Rouge area has also been designated as the "Baton Rouge ozone non-attainment area" by the federal government based on criteria contained in the Clean Air Act Amendments of 1990, Pub. L. No. 101-549;

WHEREAS, pursuant to the Clean Air Act Amendments of 1990, the state of Louisiana is required to take primary responsibility for assuring air quality within the entire geographic area comprising the state, and submit an implementation plan for the state which will specify the manner in which national primary and secondary ambient air quality standards will be achieved within each air quality control region of the state, 42 U.S.C. §7407(a);

WHEREAS, the Baton Rouge Clean Air Coalition's program is a proactive and innovative approach for reducing ozone-forming emissions and achieving the national ambient air quality standard in the Baton Rouge area; and

WHEREAS, the best interests of the state of Louisiana are served by the departments, commissions, boards, agencies, and offices of the executive branch of the state of Louisiana located in the parishes of East Baton Rouge, West Baton Rouge, Ascension, Livingston, and Iberville becoming partners of the Baton Rouge Clean Air Coalition in the program, by taking a leadership role in the program and by adopting work-related behavior modifications to achieve the goals of the program and fulfill federal and state objectives for ambient air quality;

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

#### SECTION 1: State Partnership in the Baton Rouge Clean Air Coalition's Ozone Action Program

All departments, commissions, boards, agencies, and offices in the executive branch of the state of Louisiana, including all units of the public university system, that are located in the parishes of East Baton Rouge, West Baton Rouge, Iberville, Livingston, and Ascension, shall be state partners in the Baton Rouge Clean Air Coalition's Ozone Action Program (hereafter "program").

#### SECTION 2: Duties of State Partners

A. The head of each department, commission, board, agency, and/or office in the executive branch of the state of Louisiana referred to in Section 1 of this Order (hereafter "state partner" and/or "department") shall create and implement an ozone action plan for their department consistent with goals and/or objectives of the program (hereafter "plan"). The advice and/or technical assistance of the Office of Environmental Services, Department of

Environmental Quality, as set forth in subsection 3(B) of this Order, is available to each state partner for the creation, implementation, and/or amendment of their department plan which, at a minimum, shall include:

1. An education plan for educating the officers and/or employees of the department concerning the program's objectives, the manner in which the department will assist in achieving those objectives, and the manner in which the department's officers and/or employees will individually participate in the program;

2. The objectives and goals of the department for eliminating or substantially reducing activities that produce high levels of ozone-forming emissions; and

3. A strategy plan adapting the program to the activities and functions of the department.

B. By November 15, 2000, each state partner shall submit a copy of their department's plan to the governor, through the governor's special assistant for environmental affairs, the commissioner of administration, and the secretary of the Department of Environmental Quality.

C. Thereafter, each state partner shall annually, on November 15, submit to the governor, through the governor's special assistant for environmental affairs, the commissioner of administration, and the secretary of the Department of Environmental Quality, an updated department plan and a progress report on the department's level of participation in the program and/or attainment of the department's goals.

#### SECTION 3: Duties of the Department of Environmental Quality

In addition to the duties designated in Section 2 of this Order, the secretary of the Department of Environmental Quality shall:

A. Create and maintain the means to provide all state partners and all other participants in the program, advanced notification of ozone action days, i.e., those days in the parishes of East Baton Rouge, West Baton Rouge, Ascension, Livingston, and Iberville during summer months on which the formation of elevated levels of ground level ozone is more likely to occur and planned measures to reduce emissions of ozone precursor pollutants should be implemented;

B. Upon request, provide technical assistance to and provide information through the Office of Environmental Services to any state partner, or other participant in the program, regarding the program, including emission reduction strategies and/or alternatives, education, outreach assistance, and/or creating or updating a plan; and

C. Assist the Baton Rouge Clean Air Coalition in acquiring additional partners in the program from the private sector and from federal and local governmental agencies located within the parishes of East Baton Rouge, West Baton Rouge, Ascension, Livingston, and Iberville.

#### SECTION 4: Miscellaneous Provisions

A. All departments, commission, boards, agencies, and offices of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

B. This Order is effective upon signature and shall continue 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 October, 2000.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0011#003

### EXECUTIVE ORDER MJF 00-40

Governor's Military Advisory Board

WHEREAS, the state of Louisiana has a vital interest in the installations and/or units of the armed forces of the United States located within the state, in the Louisiana Military Department, and in the concerns of the active, reserve, and/or retired military personnel, and their families, who reside in Louisiana (hereafter "military");

WHEREAS, the Governor's Military Advisory Commission, recreated by Executive Order No. MJF 96-12, issued on May 22, 1996, (hereafter "commission") was designed to serve as a coordinating body and a forum for the military regarding state government related issues and to act as a liaison between the military and civilians regarding local government, private business, and civilian concerns; and

WHEREAS, it is in the best interest of the citizens of the state of Louisiana to abolish the commission by rescinding Executive Order No. MJF 96-12, and replace it with a board assigned expanded duties and objectives;

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

SECTION 1: The Governor's Military Advisory Board (hereafter "Board") is established within the executive department, Office of the Governor.

SECTION 2: The duties and objectives of the Board include, but shall not be limited to, the following:

1. Providing a public forum for issues concerning the installations and/or units of the armed forces of the United States located within the state, the Louisiana Military Department, and/or the active, reserve, and/or retired military personnel and their families who reside in Louisiana (hereafter "the military");

2. Formulating goals and objectives to enhance cooperation, coordination, communication, and understanding between the military, the Louisiana Congressional Delegation, the communities in the state interfacing with the military, and/or state and local government agencies;

3. Strengthening and/or increasing the state of Louisiana's role in securing defense related business contracts for Louisiana businesses and/or selling Louisiana products to the installations and/or units of the armed forces of the United States located in the state;

4. Studying and determining the means to increase and/or strengthen the presence of the armed forces of the United States located within the state;

5. Reviewing and/or disseminating information about proposed legislation related to and/or directly impacting on the military and/or military communities within the state;

6. Proposing and/or sponsoring activities, legislation, initiatives, programs, and/or projects which increase, support, and/or enhance the military's presence in the state and/or which enhance and/or improve the quality of life for the active, reserve, and/or retired military personnel and their families who reside in the state;

7. Sponsoring Louisiana Department of Military and/or United States Department of Defense initiatives which are mutually beneficial to state and federal interests; and

8. Coordinating the prevention of base realignments and/or closures in the state.

SECTION 3: The Board shall submit semi-annual reports to the governor, on January 1st and July 1st, regarding the status of and/or progress achieved on the issues addressed in Section 2 of this Order.

#### SECTION 4:

A. The Board shall be composed of a maximum of 21 members.

B. The Board shall be composed of the following ex-officio voting members:

1. The adjutant general of Louisiana, or the adjutant general's designee;

2. The president of the Louisiana Senate, or the president's designee;

3. The speaker of the Louisiana House of Representatives, or the speaker's designee;

4. The executive director of the Office of Community Programs, Office of the Governor, or the executive director's designee;

5. The executive director of the Office of Veterans Affairs, Office of the Governor, or the executive director's designee; and

6. The secretary of the Department of Economic Development, or the secretary's designee.

C. The Board shall also be composed of the following voting members, appointed by and serving at the pleasure of the governor, selected as follows:

1. One representative each from the Greater New Orleans, Ft. Polk-Central Louisiana, and the Barksdale/Bossier/Shreveport areas;

2. One representative each for Louisiana businesses, farmers, and industries; and

3. Two representatives of local governments.

D. The Board shall also be composed of the following ex-officio non-voting members:

1. The commander, Joint Readiness Training Center (JRTC) and Ft. Polk, or the commander's designee;

2. The commander, Eighth Air Force, or the commander's designee;

3. The commander, Naval Reserve Force, or the commander's designee;

4. The commander, Marine Forces Reserve, or the commander's designee;

5. The commander, Eighth Coast Guard District, or the commander's designee;



6. The commander, 377th Theater Army Area Command, or the commander's designee; and

7. The chair of the Louisiana Employer Support of Guard and Reserve, or the chair's designee.

E. The Board may create subcommittees composed of Board members, non-Board members, and/or both Board members and non-Board members, which meet in accordance with the open meetings law, R.S. 42:4.1-13.

SECTION 5: The governor shall appoint the chair and vice-chair of the Board from its membership. All other officers, if any, shall be elected by the membership of the Board.

SECTION 6: The Board shall meet at regularly scheduled quarterly meetings, and at the call of the chair.

SECTION 7: Support staff for the Board and facilities for its meetings shall be provided by the Louisiana Department of the Military.

SECTION 8: Board members shall not receive additional compensation, a per diem, or travel expenses from the Office of the Governor for their service on the Board.

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

SECTION 10: Executive Order Nos. MJF 96-12, signed on May 22, 1996, and MJF 2000-30, signed on September 1, 2000, are terminated and rescinded.

SECTION 11: This Order is effective upon signature and shall continue 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 25th day of October, 2000.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0011#008

### EXECUTIVE ORDER MJF 00-41

#### Saltwater Marsh Die-Off Action Plan

WHEREAS, 40 percent of the saltwater marshes in the contiguous United States are found in the state of Louisiana; nonetheless, Louisiana has lost more than 1,500 square miles of marsh since 1930, which is the highest rate of land loss in the nation, and Louisiana is continuing to lose marsh land at a rate of 25 to 35 square miles a year;

WHEREAS, saltwater marshes are vital to the state of Louisiana as both a critical component of the state's coastal wetland ecosystem and a first line of defense in the state's coordinated system to protect coastal communities against harm from storm surges and hurricanes;

WHEREAS, during the spring of 2000, state and federal officials made the alarming discovery of the "brown marsh phenomenon," also referred to as "saltwater marsh

die-off," an unusually extensive browning and/or die-off of the normally lush green saltwater marsh grass *Spartina alterniflora*, known more commonly as oyster grass or smooth cordgrass (hereafter "marsh grass");

WHEREAS, a collaborative team of state and federal officials and university scientists, coordinated by the governor's executive assistant for coastal activities, promptly mobilized to determine:

- a) the extent of the affected saltwater marsh area,
- b) whether the browning and/or die-off is spreading,
- c) the causes of the browning and/or die-off,
- d) the possible short-term protective measures and long-term remediation and/or recovery strategies, and
- e) the possible funding sources for research and remediation to prevent the reoccurrence of the browning and/or die-off;

WHEREAS, the collaborative team determined that the saltwater marsh area in the state of Louisiana primarily affected is located between the deltas of the Atchafalaya River and the Mississippi River in the parishes of Lafourche, Terrebonne, Jefferson, and Plaquemines, centering in the *Barataria-Terrebonne National Estuary* (hereafter "Estuary"), a fragile wetland area containing approximately 390,000 acres of saltwater marsh, of which about 110,000 acres is severely impacted and about 150,000 acres is moderately impacted;

WHEREAS, of the severely impacted saltwater marsh acreage in the Estuary, at least 17,000 acres of marsh grasses have already converted from dense vegetation to open mud flats with little or no vegetation and without roots to hold the land together and prevent erosion; consequently, it is likely that Louisiana's already staggering rate of annual land loss will be greatly exacerbated;

WHEREAS, although the investigations of the collaborative team are still on-going, preliminary findings indicate the likely cause of the browning and/or die-off is a lack of fresh water flow resulting from record drought, record high temperatures, abnormally low water levels in the Mississippi River during the spring, and unusually low summer tides, the combination of which severely compounded the long-term effects of the nation's extensive levee system which limits natural fresh water flow to Louisiana's saltwater marshes;

WHEREAS, the combination of recent events and the nation's levee system has caused a lack of fresh water and/or periodic flooding essential to saltwater marshes for replenishing the water table and maintaining the normal salinity levels of the marshes;

WHEREAS, because the browning and/or die-off of the saltwater marshes constitutes a natural disaster that has created an immediate threat to public health and safety, the environment, and public and private property, on October 23, 2000, the governor issued Proclamation No. 55 MJF 2000, which declares a state of emergency to exist in the parishes of Lafourche, Terrebonne, Jefferson and Plaquemines; and

WHEREAS, the Wetlands Conservation and Restoration Authority (hereafter "Authority") is the entity legislatively mandated to provide aggressive state leadership and direction in the development and implementation of the state of Louisiana's Wetlands Conservation and Restoration

Plan and its wetlands related policies, the best interests of the citizens of the state of Louisiana shall be served by the Authority and the governor's executive assistant for coastal activities immediately performing duties specifically related to saltwater marsh browning and/or die-off;

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

SECTION 1: In conjunction with its statutory duties set forth in R.S. 49:213.1, et seq., the Wetlands Conservation and Restoration Authority (hereafter "Authority"), under the direction of the governor's executive assistant for coastal activities (hereafter "executive assistant"), shall immediately take all feasible and necessary action to respond to and/or remediate the unusual saltwater marsh browning and/or die-off of the normally lush green saltwater marsh grass *Spartina alterniflora*, in the parishes of Lafourche, Terrebonne, Jefferson, and Plaquemines. This remedial and/or responsive action shall include, but is not limited to, completing the following actions by January 31, 2001:

1. Developing a prioritization plan for stabilizing the saltwater marsh areas in the parishes of Lafourche, Terrebonne, Jefferson, and Plaquemines (hereafter "affected parishes"), which are most severely affected by browning and/or die-off and giving priority ranking to the marsh areas considered severely or moderately impacted that are located in the vicinity of coastal communities, fresh water drinking sources, emergency evacuation routes, and/or flood protection systems;

2. Developing an emergency contingency plan for reintroducing a sufficient amount of freshwater to the saltwater marshes in the affected parishes to achieve normal water salinity levels, and identifying factors and/or events that would occur prior to the institution of such an emergency contingency plan;

3. Evaluating the feasibility of expediting the construction and early operation of the Davis Pond Diversion Project;

4. Evaluating the feasibility of expanding the operational functions of existing structures, such as the Old River Control Structure, pump stations, and/or navigational locks, to include non-traditional wetland restoration uses;

5. Evaluating the feasibility of expediting proposed projects to divert additional fresh water from the Mississippi and Atchafalaya Rivers; and

6. Evaluating the potential for utilizing satellite remote sensing and computer modeling technology to monitor wetland conditions and optimize management of available fresh water.

SECTION 2: As far as practicable, the executive assistant and the Authority shall collaborate and work in conjunction with the executive director of the Barataria-Terrebonne National Estuary Program to fulfill the duties set forth in Section 1 of this Order.

SECTION 3: On or before January 31, 2001, the Authority and the executive assistant shall jointly submit to the governor, through the governor's special assistant for environmental affairs, a comprehensive report which addresses the issues set forth in Section 1 of this Order.

SECTION 4: All departments, commissions, boards, agencies, and offices of the state, or any political subdivision

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

SECTION 5: This Order is effective upon signature and shall continue in effect until January 31, 2001, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of October, 2000.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0011#005

#### EXECUTIVE ORDER MJF 00-42

Continuation of Hiring Freeze

WHEREAS, pursuant to Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, Act No. 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature, Act No. 2 of the 2000 Second Extraordinary Session of the Louisiana Legislature, and/or R.S. 42:375, the governor may issue executive orders which prohibit the filling of any new or existing employment vacancies in the executive branch of state government (hereafter "hiring freeze"); and

WHEREAS, to ensure that the state of Louisiana will not suffer a budget deficit due to 2000-2001 appropriations exceeding actual revenues, prudent money management practices dictate that the best interests of the citizens of the state of Louisiana will be served by continuing until December 1, 2000, throughout the executive branch of state government, the hiring freeze which was ordered through June 30, 2000, by Executive Order No. MJF 2000-18, issued May 4, 2000; continued until September 30, 2000, by Executive Order No. MJF 2000-21, issued June 30, 2000; and continued until November 1, 2000, by Executive Order No. MJF 2000-35, issued October 5, 2000;

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

SECTION 1: Unless specifically exempted by Section 2 of this Order, no vacancy in an existing or new position of employment within the executive branch of state government in a budget unit and/or activity funded by Act No. 2 of the 2000 Second Extraordinary Session of the Louisiana Legislature (hereafter "Act No. 2") and/or Act No. 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature (hereafter "Act No. 11"), which existed on or occurred after May 4, 2000, the date of issuance of Executive Order No. MJF 2000-18, shall be filled without the express written approval of the commissioner of administration (hereafter "hiring freeze").

SECTION 2: All budget activities funded by Act No. 11 which were exempt from the hiring freeze ordered in Executive Order No. MJF 2000-18 continue to be exempt from the provisions of this Order. None of the budget activities funded by Act No. 2 are exempt from the provisions of this Order.

SECTION 3: Each department, agency, office, board, and/or commission shall file with the commissioner of administration, on the tenth day of each month, a monthly report reflecting projected savings that the department, agency, office, board or commission will generate through the implementation of this Order. Such reports shall reflect a full accounting of personnel changes within the department, agency, office, board or commission for the reporting period covered, including an accounting of employment figures at the beginning and end of the reporting period and the number of vacancies filled and/or not filled during the reporting period, pursuant to the provisions of this Order. The reports shall include a categorized summary of transactions which resulted pursuant to the exemption granted in Section 2 of this Order and/or permitted pursuant to Section 4 of this Order.

SECTION 4: The provisions of Section 4 of Executive Order No. MJF 2000-18 are continued in effect.

SECTION 5: This Order is effective upon signature and shall remain in effect through December 1, 2000, or until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

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

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0011#007

#### EXECUTIVE ORDER MJF 00-43

Bond AllocationCJefferson Parish Economic  
Development and Port District

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

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2000 (hereafter "the 2000 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

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

WHEREAS, the Jefferson Parish Economic Development and Port District has requested an allocation from the 2000 Ceiling to be used in connection with the

acquisition and installation of three printing presses at the Walle Corporation manufacturing facility located at 600 Elmwood Park Boulevard, parish of Jefferson, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2000 as follows:

| Amount of Allocation | Name of Issuer  | Name of Project   |
|----------------------|---|-------------------|
| \$8,500,000          | Jefferson Parish Economic Development and Port District | Walle Corporation |

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before December 27, 2000.

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

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

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 2nd day of November, 2000.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0011#031

#### EXECUTIVE ORDER MJF 00-44

State Water Policy Advisory Task Force

WHEREAS, the objectives of *Louisiana: Vision 2020*, the state of Louisiana's master plan for economic development adopted by the Louisiana Legislature in 1999,

recognize that the economic development and well-being of the state is inextricably connected to the use of freshwater from the state of Louisiana's surface and aquifer sources;

WHEREAS, even though one of the primary natural resources of the state of Louisiana is its bounty of surface and ground water which sustains both the environmental ecosystems of the state and the freshwater needs of domestic, public, agricultural, industrial, commercial, farming, aquacultural, and recreational users throughout the state, some freshwater users have begun to experience freshwater shortages and/or supply depletion, saltwater intrusion, and/or ground subsidence;

WHEREAS, as freshwater use demands continue to rise as a result of new uses and increasing demands from existing users, consideration must be given to factors such as the sufficiency of water availability for the future needs of existing users and/or the environment, the protection and conservation of the freshwater resources of the state, and/or the viable options for optimum or more efficient use of the state's freshwater resources;

WHEREAS, recent events, including saltwater marsh browning or die-back resulting from a lack of freshwater which caused seventeen thousand (17,000) acres of salt marsh to be converted into vegetation-less mud flats, have generated statewide interest and public concern about the protection and conservation of the state of Louisiana's freshwater resources, particularly, about the type and/or quantity of water use, and whether uses are appropriate and/or do not optimize our vital freshwater resources; and

WHEREAS, the interests of the citizens of the state of Louisiana will be best served by the creation of an advisory task force charged with the duty of compiling available regulations, policies and laws pertaining to freshwater resource management, development, maintenance, protection and/or conservation in the states, districts, and territories of the United States (hereafter "freshwater policies"); evaluating the suitability of adapting such freshwater policies to the state of Louisiana in light of the state's general and economic policy goals and objectives; recommending a ground and surface water policy plan to the governor which is suitable to the needs, goals, and objectives of the state of Louisiana; and advising the governor regarding all issues relevant to the state of Louisiana's freshwater resources, particularly its use, development, protection, conservation, and/or management;

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

SECTION 1: The State Water Policy Advisory Task Force (hereafter "Task Force") is established within the executive department, Office of the Governor.

SECTION 2: The duties of the Task Force shall include, but are not limited to, the following:

A. Evaluating the policy considerations, goals, and/or objectives relevant to the development, maintenance, and/or implementation of a comprehensive policy for the state of Louisiana on surface and ground water management, particularly addressing the enhancement and/or development of agriculture, industry, commerce, public and domestic consumption, recreation, and fish and wildlife; the maintenance of a balanced environmental ecosystem; and

the achievement of the objectives of *Louisiana: Vision 2020*, the state of Louisiana's master plan for economic development;

B. Evaluating the state of Louisiana's current and projected future groundwater resources, current and projected future demands on those resources, and potential alternatives for meeting current and projected future groundwater use needs;

C. Evaluating the maximum sustainable yields in each of the aquifers underlying the state of Louisiana;

D. Compiling the regulations, policies and laws pertaining to the development, maintenance, protection, use, management, and/or conservation of freshwater in the other states, districts and/or territories of the United States; evaluating the suitability of its application to the state of Louisiana considering pertinent policy considerations, goals, and/or objectives referred to in subsection 2(A) of this Order; and outlining a potential freshwater development, management, and conservation policy plan for the state of Louisiana (hereafter "water policy");

E. Preparing a comprehensive emergency water policy contingency plan for the state of Louisiana addressing freshwater quality and/or quantity problems which may occur as a result of drought, hurricanes, and/or other emergency or crisis events;

F. Analyzing whether existing freshwater programs and/or projects may be used and/or adapted to achieve greater, or more enhanced, environmentally beneficial effects and, if so the additional projected costs of such uses and/or adaptations;

G. Analyzing the potential for utilizing technologies such as satellite remote sensing and computerized modeling to improve and/or optimize management of the state of Louisiana's freshwater resources;

H. Recommending and outlining the long and short term water policy actions that may be implemented and/or instituted in the state of Louisiana, including potential legislation addressing groundwater management for the 2001 Regular Session of the Louisiana Legislature; and

I. Recommending a time-line for completely developing and implementing the state of Louisiana's water policy, and setting forth the resources necessary to fully implement the water policy.

SECTION 3: By February 15, 2001, the Task Force shall submit to the governor a final report on the issues set forth in Section 2 of this Order.

SECTION 4: The Task Force shall be composed of twenty-six (26) members who, unless otherwise specified, shall be appointed by, and serve at the pleasure of, the governor. The membership of the Task Force shall be selected as follows:

A. The governor, or the governor's designee;

B. The executive assistant of the Office of Coastal Activities, Office of the Governor, or the executive assistant's designee;

C. The secretary of the Department of Environmental Quality, or the secretary's designee;

D. The secretary of the Department of Transportation and Development, or the secretary's designee;

E. The secretary of the Department of Natural Resources, or the secretary's designee;

F. The secretary of the Department of Health and Hospitals, or the secretary's designee;

G. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

H. The commissioner of the Department of Agriculture and Forestry, or the commissioner's designee;

I. The president of the Louisiana Senate, or the president's designee;

J. The speaker of the Louisiana House of Representatives, or the speaker's designee;

K. The chair of the Senate Committee on Environmental Quality, or the chair's designee;

L. The chair of the House Committee on Environment, or the chair's designee;

M. The chair of the Governor's Task Force on Environmental Protection and Preservation;

N. The chancellor of the Louisiana State University Agricultural Center, or the chancellor's designee;

O. The district chief, United States Geological Survey, Water Resources Division, or the district chief's designee;

P. The district engineer of the United States Army Corps of Engineers, New Orleans District, or the district engineer's designee;

Q. The director of the Louisiana Geological Survey, or the director's designee;

R. The executive director of the Louisiana Wildlife Federation, or the executive director's designee;

S. The president of the Louisiana Farm Bureau, or the president's designee;

T. The president of the Louisiana Chemical Association, or the president's designee;

U. The executive director of the Coalition to Restore Coastal Louisiana, or the executive director's designee;

V. One (1) representative of the Louisiana Rural Water Association;

W. Two (2) representatives of ground water conservation districts;

X. One (1) representative of the Louisiana Rice Grower's Association; and

Y. One (1) representative of suppliers of water to municipalities operating within the state of Louisiana.

SECTION 5: The governor shall appoint the chair and vice-chair of the Task Force. All other officers, if any, shall be elected by the membership of the Task Force.

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

SECTION 7: Task Force members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Task Force. However, state officers and/or employees may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency, and/or office.

SECTION 8: Facilities for the meetings of the Task Force shall be arranged by the Office of the Governor. Support staff for the Task Force shall be provided by the departments and/or agencies of the executive branch as requested by the chair of the Task Force.

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

SECTION 10: This Order is effective upon signature and shall continue 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 6th day of November, 2000.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0011#037

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Economic Development Racing Commission

Account Wagering (LAC 35:XIII.Chapter 120)

Editor's Note: The Effective Date on this Emergency Rule is August 31, 2000.

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule (chapter) effective August 31, 2000, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to adopt this rule chapter to provide for account wagering at Louisiana race tracks, off-track wagering facilities and other locations which may have the potential of increasing the handle by allowing patrons to set up an account whereby wagers will be placed in lieu of cash transactions.

#### Title 35 HORSE RACING Part XIII. Wagering

#### Chapter 120. Account Wagering

##### §12001. Definitions

*Account Holder*Ca person authorized by the licensee to place wagers via account wagering.

*Account Wager*Ca wager placed by means of account wagering.

*Account Wagering*Ca form of pari-mutuel wagering in which an individual may deposit money in an account with a licensee and use the account balance to pay for pari-mutuel wagering authorized by R.S. 4:149.5 to be conducted by the licensee. An account wager may be made by the account holder in person, via telephonic device or by communication through other electronic media.

*Account Wagering Center*Cthe facility or facilities for maintaining and administering the account wagering system.

*Wagering Account* or *Account*Cthe account maintained and administered through an account wagering center for account holders who wish to place account wagers and otherwise participate in account wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

##### §12003. Authorization

A. A system of account wagering may be operated only by a licensee, or employees or agents of such licensee, who is/are authorized to do so pursuant to R.S. 4:149.5(B)(1). The authorized licensee may, subject to applicable state and federal laws, conduct account wagering on any races conducted at its facility and on any races conducted at other facilities, within or outside of this state. Wagering accounts

may be established for an individual whose principal residence is outside this state if the racing association complies with all applicable provisions of federal and state law. All wagers placed through the licensee's system of account wagering shall be considered to have been made in this state.

B. An authorized licensee may not accept wagers from residents located in proximity to the racing facility of another licensee as provided for in R.S. 4:214(A)(3), without having provided the commission with sufficient evidence of how the authorized licensee intends to identify such account holders and pay to such other licensee the source market percentage required to be paid pursuant to R.S. 4:149.5(B)(2).

C. A licensee of race meetings shall provide the commission with written evidence of its consent to the acceptance, by an operator of a system of account wagering located outside this state, of wagers placed with such account wagering system by residents or other persons located within or outside of this state on races conducted in this state by that licensee. In the absence of such written evidence, no system of account wagering located outside this state may accept such wagers.

D. A licensee of race meetings authorized pursuant to R.S. 4:149.5(B)(1) to conduct account wagering in this state shall provide the commission with written evidence of its consent to the acceptance, by an operator of a system of account wagering located outside this state, of wagers placed with such account wagering system by residents or other persons located within this state on races conducted outside this state. In the absence of such written evidence, no system of account wagering located outside this state may accept such wagers.

E. A licensee, as defined in R.S. 4:149.5, may conduct account wagering made in person, by telephonic device or by communication through other electronic media. The maintenance and operation of account wagering shall be in accordance with the *Rules of Racing* and R.S. 4:149.5. The licensee shall request authorization and receive approval from the commission before a system of account wagering is offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

##### §12005. Establishment

A. The licensee may offer a system of account wagering to its patrons whereby wagers are debited in, and payouts credited to, an account in the name of the patron, that is held by the licensee. The licensee shall notify the patron, at the time of opening the account, of any rules or procedures the licensee has adopted concerning deposits, withdrawals, average daily balances, user or service fees, interest payments, hours of operation, and any other aspect of the operation of the account. The licensee shall notify the patron whenever the rules governing the account are changed and shall endeavor to provide such notification before the new

rules are applied to the account and including the opportunity to close or cash-in the account. The patron shall be deemed to have accepted the rules of account operation upon opening or not closing the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

#### **§12007. Compliance**

A. Account wagering shall be conducted in compliance with the *Rules of Racing* and all applicable state and federal laws. Unless elsewhere specifically set forth, an account wager shall be subject to the statutory provisions and rules and regulations which govern all pari-mutuel wagers placed within the enclosure at which the licensee is authorized to conduct race meetings. From each account wager, there shall be deducted the same percentage as is deducted on a wager if made in person in the same wagering pool at the licensee's race track.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

#### **§12009. Wagering Pools**

A. The total amount of all account wagers shall be included in the respective pools for each race and shall be combined into the licensee's pools or, with approval of the commission, directly into the corresponding pools of a host track in another jurisdiction. The amount wagered in such pools from wagering accounts shall be debited accordingly, and any winnings shall be automatically credited to such accounts upon the race being declared official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

#### **§12011. Hours of Operation**

A. Account wagers shall be accepted during such times and on such days as designated by the licensee, subject to state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

#### **§12013. Service Fees**

A. As part of its rules, the licensee may, with the approval of the commission and prior notice to the account holder, impose user or service fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

#### **§12015. Account Wagering Center**

A. The licensee shall operate an account wagering center(s) for the purpose of keeping wagering accounts, recording wagers, maintaining records of credits and debits to the accounts, and otherwise administering the account wagering system. The location of such account wagering center(s) shall be subject to the approval of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

#### **§12017. Licensee's Employees and Agents**

A. The licensee shall appoint officers, employees or agents of the licensee to have management and control of the various aspects of the account wagering system for the licensee, including the account wagering center. As used herein, "licensee" includes the officers, directors and employees of the licensee, and persons, agents or other entities with the authority to accept deposits and wagers on behalf of the licensee and otherwise maintain and administer the system of account wagering. Such persons or entities may also provide services linking transactions from an account holder to a totalizator company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

#### **§12019. Wagering Accounts**

A. Only those persons who have a wagering account with an account wagering center shall be permitted to wager through account wagering. An account may be established at an account wagering center, at a racetrack or off-track wagering facility within the state, by mail, or by other means approved by the commission.

B. The licensee shall accept accounts in the name of a natural person only. The licensee shall not accept any corporate, partnership, limited liability company, joint, trust, estate, beneficiary or custodial account. The account is nontransferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

#### **§12021. Account Holder's Responsibilities**

A. Wagering accounts are for the personal use of the account holder. Account holders are responsible for all bets placed through their accounts by any person using the account. The account holder bears full responsibility for maintaining the secrecy of his/her account number and confidential identification code.

B. Except as otherwise set forth herein, no person shall in any manner place any account wager on behalf of an account holder, or otherwise directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for an account holder. The licensee is not prohibited from conducting account wagering through employees or agents. Nothing in §2021 is intended to prohibit the use of credit or debit cards or other means of electronic funds transfer, or the use of checks, money orders or negotiable orders of withdrawal.

C. Neither the licensee nor any officer, director, employee or agent of the licensee shall be responsible for any loss arising from the use of or access to a wagering account by any person or persons other than the account holder, except where the licensee or its employees or agents act without good faith or fail to exercise ordinary care. The account holder must immediately notify the account wagering center of a breach of the account's security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

### **§12023. Minors Prohibited**

A. No person below the age of 18 shall be permitted to open an account or place a wager, directly or indirectly, through account wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

### **§12025. Others Prohibited**

A. No officer, director or employee of any firm, entity or agency which is retained by the licensee with responsibility for the operation or maintenance of the account wagering system or of the account wagering center shall be permitted to place a wager, directly or indirectly, through the licensee's system of account wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

### **§12027. Opening Wagering Account**

A. An applicant for a wagering account shall make application in writing on the appropriate form supplied by the licensee at an account wagering center, at a racetrack or off-track wagering facility within the state, by mail, or by other means approved by the commission. The applicant shall provide his/her full name, current address and telephone number, social security number, and such additional information as the licensee may require. It is the account holder's responsibility to keep his/her mailing address current with the account wagering center. The application shall be signed by the applicant or otherwise authorized in a manner acceptable to the commission. Applicants must state in their application whether they are below the age of 18.

B. Each account shall have a unique identification account number (and such other methods of identification as the licensee may require). Such number may be changed at any time provided the licensee informs the account holder in writing of the change.

C. At the time of applying for an account, each applicant shall select a confidential identification code to be used as further identification when wagering. Both the licensee and the account holder have the right to change this code at any time without explanation by informing the other party in writing of such change and the effective date thereof.

D. An account holder shall receive at the time the account is opened a unique identification account number; an identification card; a summary of the rules; an explanation of the procedures then in force for depositing to, withdrawing from and closing the account; a telephone number to be utilized by the account holder; a description of the mechanics of wagering; and such other information as the licensee or commission may deem appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

### **§12029. Deposits and Withdrawals**

A. Deposits to and withdrawals from existing accounts shall be permitted in such form and by such procedures as the licensee may require, provided that any requirements set forth in these rules shall be included therein.

B. Deposits made to a wagering account may be made as follows:

1. Deposits made to a wagering account by the account holder shall be submitted or mailed by the account holder to the staff or agents of the licensee at such locations and addresses as the licensee may designate from time to time, and shall be in the form of one of the following:

a. cash given to the staff at an account wagering center, or a racetrack or off-track wagering facility within the state; or

b. check, money order or negotiable order of withdrawal; or

c. charges made to an account holder's credit or debit card or other means of electronic funds transfer, upon the direct and personal instruction of the account holder, which may be given by telephone or other electronic device (or other means approved by the commission) to the licensee by the account holder if the use of the card or other means of funds transfer has been approved by the account wagering center.

2. Credit for winnings from wagers placed with funds in a wagering account, credit for account wagers on horses that are scratched, and other payments or refunds to which the account holder is entitled shall be posted to the account by the account wagering center.

3. The account wagering system shall not accept wagers or information assisting in the placement of wagers in excess of the amount posted to the credit of an account at the time the wager is placed.

C. Debits to a wagering account may be made as follows.

1. Upon receipt by a licensee of a wager or information assisting in the placement of wagers properly placed under applicable statutes and the *Rules of Racing*, the licensee shall debit the account holder's account in the amount of the wager.

2. A licensee may authorize a withdrawal from a wagering account when one of the following exists:

a. The holder of a wagering account applies in person at an account wagering center, or a racetrack or off-track wagering facility within the state, and provides proper identification, the correct personal identification account number, and a properly completed and signed withdrawal form.

b. The account holder has authorized the licensee to make such a withdrawal. Where there are sufficient funds in the account to cover the withdrawal, the account wagering center shall, within five business days of receipt, send a check to the account holder at the current address on record for the wagering account. The check shall be payable to the holder of the account and in the amount of the requested withdrawal, subject to compliance with the *Rules of Racing*, the licensee's rules, and federal and state laws (including but not limited to compliance with federal rules concerning the reporting or withholding of federal income tax). If funds are not sufficient to cover the withdrawal, or the full amount requested is otherwise not being sent, the account holder will be notified in writing and those funds in the account, subject to compliance with the *Rules of Racing*, the licensee's rules, and federal and state laws, will be withdrawn and sent to the account holder within five business days. Electronic transfers may be used for withdrawals in lieu of a check at



the discretion of the account holder and the account wagering center.

3. A licensee may debit an account for fees for service or other transaction-related charges.

D. Checks offered for deposit shall not be posted to the credit of the account holder until the "hold" period established by the licensee has elapsed. Holding periods will be determined by the licensee and advised to the account holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

#### **§12031. Deceased Account Holder**

A. In the event an account holder is deceased, funds accrued in the account shall be released to the decedent's legal representative upon receipt of a copy of a court order or judgment of possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

#### **§12033. Licensee's Rights and Responsibilities**

A. Notwithstanding any other rules, the licensee, through its managing employee of the account wagering center, or other employee or agent designated by the licensee, shall have the following rights and responsibilities.

1. The licensee has the right to refuse the establishment or maintenance of accounts for what it deems good and sufficient reason.

2. The licensee has the right to refuse deposits to accounts for what it deems good and sufficient reason.

3. The licensee has the right at any time to refuse to accept all or part of any wager for what it deems good and sufficient reason.

4. The licensee has the right at any time to declare the account wagering system closed for receiving wagers on any pari-mutuel pool, race, group of races, or closed for all wagering.

5. The licensee has the right to suspend or close any account at any time. When an account is closed, the licensee shall, within five business days, return to the account holder such monies as are on deposit at the time of said action, subject to compliance with the *Rules of Racing*, the licensee's rules, and federal and state laws, by sending a check to the account holder's current address.

6. The licensee has the right to close any account when the holder thereof attempts to operate with an insufficient balance or when the account is dormant for a period established by the licensee. In either case, the licensee shall refund the remaining balance of the account, subject to compliance with the *Rules of Racing*, the licensee's rules, and federal and state laws.

7. No employee or agent of the licensee employed or engaged at the account wagering center shall divulge any confidential information related to the placing of any wager or any confidential information related to the operation of the account wagering center, except to the account holder or the commission, as required by these rules, and as otherwise required by federal or state law, or the *Rules of Racing*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

#### **§12035. Account Operations and Procedures**

A. Account wagers shall be accepted during such times and on such days as designated by the licensee, subject to state law.

B. The account holder shall provide the licensee with the correct personal identification account number previously assigned by the licensee to the holder of the wagering account, as well as the account holder's confidential identification code.

C. Any account wagering system must provide for the account holder's review and finalization of a wager or information assisting in the placement of a wager before it is accepted by the licensee. The wager shall not be changed after the account holder has reviewed and finalized the wager, and the conversation or wagering transaction has been concluded.

D. Payment on winning account wagers shall be posted as a credit to the account of the account holder as soon as practicable after the race is declared official.

E. No licensee may accept an account wager, or series of account wagers, in an amount in excess of funds on deposit in the account of the account holder placing the wager. Funds on deposit include amounts credited and in the account at the time the account wager or account wagers are placed. Account wagers will not be accepted which would exceed the available balance in the account.

F. When an account holder is entitled to a payout or refund, such monies will be credited to the respective accounts, thus increasing the credit balance. It is the responsibility of the account holder to verify proper credits and, if in doubt, notify the licensee within the agreed upon time frame for consideration. Unresolved disputes may be forwarded to the commission by the licensee or the account holder. No claim will be considered by the commission unless submitted in writing and accompanied by supporting information or evidence.

G. Monies deposited with the licensee for account wagering shall not bear any interest to the account holder.

H. The licensee shall maintain equipment capable of recording all wagering conversations and transactions conducted through the account wagering system. The recording device must be used at all times when wagering communications are received.

I. For wagers made by voice telephone, the licensee shall make a voice recording of the entire transaction and shall not accept any such wager if the voice recording system is inoperable. The voice recording of the transaction shall be deemed to be the actual wager, regardless of what was recorded by the pari-mutuel system.

J. All wagering conversations, transactions or other wagering communications through the account wagering system, verbal or electronic, shall be recorded by means of the appropriate electronic media, and the tapes or other records of such communications kept by the account wagering center for a period of time which the commission may establish. These tapes and other records shall be made available to commissioners, employees and/or designees of the commission in accordance with the *Rules of Racing*.

K. The address provided in writing by the account holder to the account wagering center is deemed to be the proper

address for the purposes of mailing checks, account statements, account withdrawals, notices, or any other appropriate correspondence. It is the account holder's responsibility to maintain a current address of record with the account wagering center. The mailing of checks or other correspondence to the address given by the account holder shall be at the sole risk of the account holder.

L. The account wagering center shall, from time to time, but not less than once per year, provide written statements of account activity during the period to all account holders. In addition, an account holder has the right to request and be provided a statement at any time. Unless written notice to the contrary is received by the licensee within 30 days of the date that any such statement is rendered to an account holder, said statement shall be deemed accepted as correct in any and all particulars.

M. Subject to commission approval, the licensee may implement procedures for the use of wagering accounts for wagering while at facilities in this state where pari-mutuel wagering is permitted and for wagering by any other electronic means.

N. The commission may review and audit the account wagering system's equipment configuration and account wagering center. Any telephone communications system, whether touch tone, voice response, or operator controlled, and all other electronic media utilized for account wagers, shall be linked to a totalizator system in a manner approved by the commission. For the purposes of account wagering, totalizator equipment utilized by or linked to the licensee shall be capable of accounting for all wagering and other transactions which may affect customer accounts. The licensee must maintain complete records of every deposit, withdrawal, wager, refund and winning payout for each account. These records shall be made available to the commission in accordance with the *Rules of Racing*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:

Charles A. Gardiner III  
Executive Director

0011#016

## DECLARATION OF EMERGENCY

### Office of the Governor Board of the Trustees of the State Employees Group Benefits Program

Exclusive Provider Organization (EPO)C Plan of Benefits  
(LAC 32:V.101-107, 301, 307-317,  
325, 403, 501, 511-515, 601 and 701)

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

The board finds that it is necessary to revise and amend the EPO Plan Document. Failure to adopt this Rule on an

emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, is effective October 29, 2000 through December 31, 2000 and shall remain in effect, revising and amending the EPO Plan of Benefits in the following particulars.

### Title 32

### EMPLOYEE BENEFITS

#### Part V. Exclusive Provider (EPO)C Plan of Benefits

#### Chapter 1. Eligibility

#### §101. Persons to be Covered

Eligibility requirements apply to all participants in the Program, whether in the PPO Plan, the EPO Plan or an HMO plan.

##### A. Employee Coverage

1. - 2. ...

3. Effective Dates of Coverage, New Employee, Transferring Employee. Coverage for each employee who completes the applicable enrollment form and agrees to make the required payroll contributions to his participant employer is to be effective as follows:

a. - b. ...

c. Employee coverage will not become effective unless the employee completes an enrollment form within 30 days following the date of employment. An employee who completes an enrollment form after 30 days following the date of employment will be considered an overdue applicant.

d. An employee that transfers employment to another participating employer must complete a Transfer Form within 30 days following the date of transfer in order to maintain coverage without interruption. An employee who completes a Transfer Form after 30 days following the date of transfer will be considered an overdue applicant.

A.4. - G.3. ...

H. Medicare Risk HMO Option for Retirees (Effective July 1, 1999)

H.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1804 (October 1999), LR 27:

#### §103. Continued Coverage

A. - B.2. ...

C. Surviving Dependents/Spouse. The provisions of this section are applicable to surviving dependents who elect to continue coverage following the death of an employee or retiree. On or after July 1, 1999, eligibility ceases for a covered person who becomes eligible for coverage in a group health plan other than Medicare. Coverage under the group health plan may be subject to HIPAA.

1. Benefits under the plan for covered dependents of a deceased covered employee or retiree will terminate on the last day of the month in which the employee's or retiree's death occurred unless the surviving covered dependents elect to continue coverage.

a. ...

b. The surviving unmarried (never married) children of an employee or retiree may continue coverage until they are eligible for coverage under a group health plan

other than Medicare, or until attainment of the termination age for children, whichever occurs first;

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

E. Family and Medical Leave Act (F.M.L.A.) Leave of Absence. An employee on approved F.M.L.A. leave may retain coverage for the duration of such leave. The participant employer shall pay the employer's share of the premium during F.M.L.A. leave, whether paid leave or leave without pay. The participant employer shall pay the employees share of the premium during unpaid F.M.L.A. leave, subject to reimbursement by the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1806 (October 1999), LR 27:

### **§107. Change of Classification**

A. Adding or Deleting Dependents. The plan member must notify the program whenever a dependent is added to, or deleted from, the plan member's coverage that would result in a change in the class of coverage. Notice must be provided within 30 days of the addition or deletion.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1809 (October 1999), LR 27:

## **Chapter 3. Medical Benefits**

### **§301. Medical Benefits Apply When Eligible Expenses are Incurred by a Covered Person**

A. Eligible expenses are the charges incurred for the following items of service and supply. These charges are subject to the applicable deductibles, limits of the Fee Schedule, Schedule of Benefits, exclusions and other provisions of the Plan. A charge is incurred on the date that the service or supply is performed or furnished. Eligible expenses are:

1. - 8.l. ...

9. Services of licensed speech therapist when prescribed by a physician and pre-approved through outpatient procedure certification for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy, accidental injuries or other similar structural or neurological disease;

10. - 11.c. ...

d. Accidental injury means a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

12. durable medical equipment, subject to the lifetime maximum payment limitation as listed in the Schedule of Benefits [The program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used. The purchase of durable medical equipment will be considered an eligible expense only upon showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of durable medical equipment exceed the purchase price of such item].

13. - 18. ...

19. Acupuncture when rendered by a medical doctor licensed in the state in which the services are rendered;

20. - 20.d. ...

21. Services of a Physical Therapist and Occupational Therapist licensed by the state in which the services are rendered when:

a. - e. ...

f. approved through case management when rendered in the home;

22. - 23.c.iii. ...

24. Not subject to the annual deductible:

a. ...

b. mammographic examinations performed according to the following schedule:

i. one mammogram during the five-year period a person is 35-39 years of age;

24.b.ii. - 26. ...

27. Services rendered by the following, when billed by the supervising physician:

a. Perfusionists and Registered Nurse Assistants assisting in the operating room;

b. Physician's Assistants and Registered Nurse Practitioners.

28. - 32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1810 (October 1999), LR 27:

### **§307. Utilization Review - Pre-Admission**

#### **Certification, Continued Stay Review**

A. - A.2. ...

B. For a routine vaginal delivery, PAC is not required for a stay of 2 days or less. If the mother's stay exceeds or is expected to exceed 2 days, PAC is required within 24 hours after the delivery or the date on which any complications arose, whichever is applicable. If the baby's stay exceeds that of the mother, PAC is required within 72 hours of the mother's discharge and a separate pre-certification number must be obtained for the baby. In the case of a Caesarian Section, PAC is required if the mother's stay exceeds or is expected to exceed 4 days;

C. No benefits will be paid under the Plan:

1. ...

2. Unless PAC is requested within two business days following admission in the case of an emergency;

C.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1812 (October 1999), LR 27:

### **§309. Outpatient Procedure Certification**

A. - A.2. ...

B. OPC is required on the following procedures:

1. - 6. ...

7. Speech Therapy;

7.a. - d. ...

C. No benefits will be paid for the facility fee in connection with outpatient procedures, or the facility and professional fee in connection with speech therapy:

C.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1812 (October 1999), LR 27:

### §311. Case Management

A. - E.8. ...

9. Physical and occupational therapy rendered in a home setting.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1812 (October 1999), LR 27:

### §313. Dental Surgical Benefits

A. ...

B. Eligible expenses incurred in connection with the removal of impacted teeth, including pre-operative and post-operative care, anesthesia, radiology, and pathology services, and facility charges are subject to the deductible, co-insurance and the maximum benefit provisions of the Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1813 (October 1999), LR 27:

### §315. Medicare Reduction

A. ...

B. Retiree 100-Medicare COB - Upon enrollment and payment of the additional monthly premium, a plan member and dependents who are covered under Medicare, both parts A and B, may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare or within 30 days of retirement if already eligible for Medicare and at the annual open enrollment.

### §317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this Plan for:

1. - 24. ...

25. repealed

26. - 40. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1813 (October 1999), LR 26:488 (March 2000), LR 27:

### §325. Prescription Drug Benefits

A. This plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription, and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a covered person as an inpatient Hospital patient or an outpatient hospital patient, including insulin, Retin-A dispensed for covered persons under the age of 26, Vitamin B12 injections, prescription Potassium Chloride, and over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs.

A.1. - 2. ...

B. The following drugs, medicines, and related services are not covered:

1. - 10. ...

11. Drugs for Treatment of impotence.

C. ...

1. Upon presentation of the group benefits program health benefits identification card at a network pharmacy, the Plan Member will be responsible for copayment of \$6.00 per prescription when a generic drug is dispensed, \$20 per prescription when a preferred brand name drug is dispensed, and \$30 per prescription when a non-preferred brand name drug is dispensed. The copayment cannot exceed the actual charge by the pharmacy for the drug.

2. - 5.c. ...

6. *Acute or Non-maintenance Drug* covered drug other than a maintenance drug as define herein.

7. *Brand Drug* the trademark name of a drug approved by the U. S. Food and Drug Administration.

8. *Generic Drug* chemically equivalent copy of a brand name drug.

9. *Maintenance Drug* covered drug that is determined by the Program's contracted prescription benefits management firm, using standard industry reference materials, to be routinely taken over a long period of time for certain chronic medical conditions. The drug must be listed on the established maintenance drug list as an approved drug for the patient's condition

10. *Non-Preferred Brand Drug* brand drug for which there is an equally effective, less costly therapeutic alternative available, as determined by the *Pharmacy and Therapeutic Committee*.

11. *Pharmacy and Therapeutic Committee* committee created by the program's contracted prescription benefits management firm to advise its various plans on whether a drug has been accepted as safe and effective or investigations as well as whether a drug will be classified as a *Preferred Brand Drug* or a *Non-Preferred Brand Drug*. In making these determinations, the *Pharmacy and Therapeutic Committee* relies on the United States Food and Drug Administration as well as peer reviewed medical journals.

12. *Preferred Brand Drug* brand name drug that has received a classification of *Preferred Brand* from the *Pharmacy and Therapeutic Committee* based on the following criteria:

a. clinical uniqueness of the medication;

b. positive efficacy profile;

c. good side effect, safety, and drug interaction profile;

d. positive quality of the implications;

e. clinical experience with the medication; and

f. cost (only considered when clinical parameters are equal to other products in its class).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), LR 27:

## Chapter 4. Uniform Provisions

### §403. Properly Submitted Claim Form

A. For plan reimbursements, all bills must show:

1. employee's name;

2. name of patient;

3. name, address, and telephone number of the provider of care;

4. diagnosis;

5. type of services rendered, with diagnosis and/or procedure codes;
6. date of service;
7. charges;
8. employee's member number;
9. provider Tax Identification number;
10. medicare explanation of benefits, if applicable.

B. The program can require additional documentation in order to determine the extent of coverage or the appropriate reimbursement. Failure to furnish the requested information within 90 days of the request will constitute reason for the denial of benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1816 (October 1999), LR 27:

## **Chapter 5. Claims Review and Appeal**

### **§501. Claims Review Procedures and Appeals**

A. ...

B. The request for review must be directed to Attention: Appeals and Grievances within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review, pharmacy benefit or mental health contractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1818 (October 1999), LR 27:

### **§511. Subpoena of Witnesses; Production of Documents**

A. - B. ...

C. No subpoena will be issued requiring the attendance and giving of testimony by witnesses unless a written request therefor is received in the office of the program, Attention: Appeals and Grievances no later than 15 calendar days before the date fixed for the hearing. The request for subpoenas must contain the names of the witnesses and a statement of what is intended to be proved by each witness. No subpoenas will be issued until the party requesting the subpoena deposits with the program a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled.

D. No subpoena for the production of books, papers and other documentary evidence will be issued unless written request therefor is received in the office of the program, Attention: Appeals and Grievances no later than 15 calendar days before the date fixed for the hearing. The request for subpoena for books, papers, and other documentary evidence must contain a description of the items to be produced in sufficient detail for identification and must contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1819 (October 1999), LR 27:

### **§513. Appeals Decisions**

A. ...

B. Appeals Heard by Referee: At the conclusion of the hearing, the referee will take the matter under submission

and, as soon as is reasonably possible thereafter, prepare a recommended decision in the case which will be based on the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain findings of fact and statement of reasons. The recommended decision will be submitted to the committee for review.

C. The committee may adopt or reject the recommended decision. In the case of adoption, the referee's decision becomes the decision of the committee. In the case of rejection, the committee will render its decision, which will include a statement of reasons for disagreement with the referee's decision. The decision of the committee will be final. A copy will be mailed by certified mail to the covered person and any representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1819 (October 1999), LR 27:

### **§515. Rehearing**

A. - B. ...

C. The request for rehearing must be filed with the program, Attention: Appeals and Grievances on or before 30 calendar days after the mailing of the appeal decision of the committee. The request will be deemed filed on the date it is received in the office of the program.

D. ...

E. When the committee grants a rehearing, an order will be issued setting forth the grounds. A copy of the order will be sent, along with notice of the time and place fixed for the rehearing, to the appealing party and any representative by certified mail.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1819 (October 1999), LR 27:

## **Chapter 6. Definitions**

### **§601. Definitions**

\* \* \*

*Accidental Injury*Ca condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

\* \* \*

*Acute or Non-maintenance Drug*Ca covered drug other than a maintenance drug as define herein.

\* \* \*

*Brand Drug*Cthe trademark name of a drug approved by the U. S. Food and Drug Administration.

\* \* \*

*Children:*

1. any legitimate, duly acknowledged, or legally adopted Children of the Employee and/or the Employee's legal spouse dependent upon the Employee for support;

2. - 4. ...

\* \* \*

*Generic Drug*Ca chemically equivalent copy of a brand name drug.

\* \* \*

**Maintenance Drug** Covered drug that is determined by the program's contracted prescription benefits management firm, using standard industry reference materials, to be routinely taken over a long period of time for certain chronic medical conditions. The drug must be listed on the established maintenance drug list as an approved drug for the patient's condition.

\*\*\*

**Non-Preferred Brand Drug** Ca brand drug for which there is an equally effective, less costly therapeutic alternative available, as determined by the *Pharmacy and Therapeutic Committee*.

\*\*\*

**Pharmacy and Therapeutic Committee** Ca committee created by the Program's contracted prescription benefits management firm to advise its various plans on whether a drug has been accepted as safe and effective or investigations as well as whether a drug will be classified as a *Preferred Brand Drug* or a *Non-Preferred Brand Drug*. In making these determinations, the *Pharmacy and Therapeutic Committee* relies on the United States Food and Drug Administration as well as peer reviewed medical journals.

\*\*\*

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1. clinical uniqueness of the medication;
2. positive efficacy profile;
3. good side effect, safety, and drug interaction profile;
4. positive quality of the implications;
5. clinical experience with the medication; and
6. cost (only considered when clinical parameters are equal to other products in its class).

\*\*\*

**Well-Baby Care** Croutine care to a well newborn infant from the date of birth until age 1. This includes routine physical examinations, active immunizations, check-ups, and office visits to a physician and billed by that physician, except for the treatment and/or diagnosis of a specific illness. All other health services coded with wellness procedures and diagnosis codes are excluded.

**Well-Child Care** Croutine physical examinations, active immunizations, check-ups and office visits to a physician, and billed by a health care provider that has entered into a contract with the State Employees Benefits Program, except for the Treatment and/or diagnosis of a specific illness, from age 1 to age 16. All other health services coded with wellness procedures and diagnosis codes are excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1820 (October 1999), LR 27:

**Chapter 7. Schedule of Benefits – EPO**

**§701 Comprehensive Medical Benefits**

A. - A.3. ...

4. Prescription Drugs (no deductible) 50% non-Network in state

\$6 copayment for generic drugs, 80% non-Network out of state  
 \$20 copayment for preferred brand name drugs, and  
 \$30 copayment for non-preferred brand name drugs purchased at a network pharmacy

B. - E. ...

F. Physical/Occupational Therapy<sup>1</sup> See % payable after deductible \$15 copay for outpatient services

Speech Therapy<sup>2</sup> See % payable after deductible \$15 copay for outpatient services

G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1820 (October 1999), LR 26:488 (March 2000), LR 27:

<sup>1</sup> ...

<sup>2</sup> Subject to Case Management Guideline if rendered in a home setting

<sup>3</sup> Subject to Outpatient Procedure Certification Guidelines

A. Kip Wall  
 Chief Executive Officer

0011#011

**DECLARATION OF EMERGENCY**

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

Preferred Provider Organization (PPO)  
 Plan of Benefits  
 (LAC 32:III.101-107, 301, 307-317,  
 325, 403, 501, 511-515, 601 and 701)

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

The board finds that it is necessary to revise and amend the PPO Plan Document. Failure to adopt this rule on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, is effective October 29, 2000 through December 31, 2000 and shall remain in effect, revising and amending the PPO Plan of Benefits in the following particulars.

## Title 32

### EMPLOYEE BENEFITS

#### Part III. Exclusive Provider (PPO) Plan of Benefits

##### Chapter 1. Eligibility

###### §101. Persons to be Covered

Eligibility requirements apply to all participants in the Program, whether in the PPO Plan, the EPO Plan or an HMO plan.

###### A. Employee Coverage

1. - 2. ...

3. Effective Dates of Coverage, New Employee, Transferring Employee. Coverage for each employee who completes the applicable enrollment form and agrees to make the required payroll contributions to his Participant Employer is to be effective as follows:

a. - b. ...

c. Employee coverage will not become effective unless the employee completes an enrollment form within 30 days following the date of employment. An employee who completes an enrollment form after 30 days following the date of employment will be considered an overdue applicant;

d. An employee that transfers employment to another participating employer must complete a Transfer Form within 30 days following the date of transfer in order to maintain coverage without interruption. An employee who completes a Transfer Form after 30 days following the date of transfer will be considered an overdue applicant.

A.4. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1825 (October 1999), LR 27:

###### §103. Continued Coverage

A. - B.2. ...

C. Surviving Dependents/Spouse. The provisions of this section are applicable to surviving dependents who elect to continue coverage following the death of an employee or retiree. On or after July 1, 1999, eligibility ceases for a covered person who becomes eligible for coverage in a group health plan other than Medicare. Coverage under the group health plan may be subject to HIPAA.

1. Benefits under the plan for covered dependents of a deceased covered employee or retiree will terminate on the last day of the month in which the employee's or retiree's death occurred unless the surviving covered dependents elect to continue coverage.

a. ...

b. The surviving unmarried (never married) children of an employee or retiree may continue coverage until they are eligible for coverage under a group health plan other than Medicare, or until attainment of the termination age for children, whichever occurs first;

C.1.c - D.3. ...

E. Family and Medical Leave Act (F.M.L.A.) Leave of Absence. An employee on approved F.M.L.A. leave may retain coverage for the duration of such leave. The participant employer shall pay the employer's share of the premium during F.M.L.A. leave, whether paid leave or leave without pay. The participant employer shall pay the employee's share of the premium during unpaid F.M.L.A. leave, subject to reimbursement by the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1827 (October 1999), LR 27:

###### §107. Change of Classification

A. Adding or Deleting Dependents. The plan member must notify the program whenever a dependent is added to, or deleted from, the plan member's coverage that would result in a change in the class of coverage. Notice must be provided within 30 days of the addition or deletion.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1829 (October 1999), LR 26:

##### Chapter 3. Medical Benefits

###### §301. Medical Benefits Apply When Eligible Expenses are Incurred by a Covered Person.

A. Eligible expenses are the charges incurred for the following items of service and supply. These charges are subject to the applicable deductibles, limits of the Fee Schedule, Schedule of Benefits, exclusions and other provisions of the plan. A charge is incurred on the date that the service or supply is performed or furnished. Eligible expenses are:

1. - 8.1. ...

9. Services of licensed speech therapist when prescribed by a physician and pre-approved through outpatient procedure certification for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy, accidental injuries or other similar structural or neurological disease;

10. - 11.c. ...

d. Accidental injury means a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

12. durable medical equipment, subject to the lifetime maximum payment limitation as listed in the Schedule of Benefits; [The program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used. The purchase of durable medical equipment will be considered an eligible expense only upon showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of durable medical equipment exceed the purchase price of such item.]

13. - 18. ...

19. acupuncture when rendered by a medical doctor licensed in the state in which the services are rendered;

20. - 20.d. ...

21. services of a physical therapist and occupational therapist licensed by the state in which the services are rendered when:

a. - e. ...

f. Approved through case management when rendered in the home;

22. - 23.c.iii. ...

24. not subject to the annual deductible:

a. ...

b. Mammographic examinations performed according to the following schedule:

i. One mammogram during the five-year period a person is 35-39 years of age;

ii. - iii. ...

c. ...

25. - 26. ...

27. services rendered by the following, when billed by the supervising physician:

a. Perfusionists and Registered Nurse Assistants assisting in the operating room;

b. Physician's Assistants and Registered Nurse Practitioners;

28. - 32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), LR 27:

**§307. Utilization Review****C pre-admission Certification, Continued Stay Review**

A. - A.2. ...

B. For a routine vaginal delivery, PAC is not required for a stay of 2 days or less. If the mother's stay exceeds or is expected to exceed 2 days, PAC is required within 24 hours after the delivery or the date on which any complications arose, whichever is applicable. If the baby's stay exceeds that of the mother, PAC is required within 72 hours of the mother's discharge and a separate pre-certification number must be obtained for the baby. In the case of a Caesarean Section, PAC is required if the mother's stay exceeds or is expected to exceed 4 days;

C. No benefits will be paid under the Plan:

1. ...

2. unless PAC is requested within two business days following admission in the case of an emergency;

C.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1832 (October 1999), LR 27:

**§309. Outpatient Procedure Certification (OPC)**

A. OPC certifies that certain outpatient procedures and therapies are Medically Necessary. OPC is required on the following procedures:

1. - 6. ...

7. Speech Therapy;

C. No benefits will be paid for the facility fee in connection with outpatient procedures, or the facility and professional fee in connection with speech therapy:

C.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1832 (October 1999), LR 27:

**§311. Case Management**

A. - E.8. ...

9. Physical and occupational therapy rendered in a home setting.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1833 (October 1999), LR 27:

**§313. Dental Surgical Benefits**

A. ...

B. Eligible expenses incurred in connection with the removal of impacted teeth, including pre-operative and post-operative care, anesthesia, radiology, and pathology services, and facility charges are subject to the deductible, co-insurance and the maximum benefit provisions of the Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1833 (October 1999), LR 27:

**§315. Medicare Reduction**

A. ...

B. Retiree 100-Medicare COB - Upon enrollment and payment of the additional monthly premium, a plan member and dependents who are covered under Medicare, both parts A and B, may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare or within 30 days of retirement if already eligible for Medicare and at the annual open enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1833 (October 1999), LR 27:

**§317. Exceptions and Exclusions for All Medical Benefits**

A. No benefits are provided under this Plan for:

1. - 24. ...

25. repealed

26. - 40. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1834 (October 1999), LR 26:488 (March 2000), LR 27:

**§323. Prescription Drug Benefits**

A. This Plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription, and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a covered person as an inpatient hospital patient or an outpatient hospital patient, including insulin, Retin-A dispensed for covered persons under the age of 26, Vitamin B12 injections, prescription Potassium Chloride, and over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs.

B. The following drugs, medicines, and related services are not covered:

1. - 10. ...

11. drugs for treatment of impotence.

C. ...

1. Upon presentation of the group benefits program health benefits identification card at a network pharmacy, the plan member will be responsible for copayment of \$6 per prescription when a generic drug is dispensed, \$20 per prescription when a preferred brand name drug is dispensed, and \$30 per prescription when a non-preferred brand name



drug is dispensed. The copayment cannot exceed the actual charge by the pharmacy for the drug.

2. - 5.c. ...

6. *Acute or Non-maintenance Drug* Ca covered drug other than a maintenance drug as define herein.

7. *Brand Drug* C the trademark name of a drug approved by the U. S. Food and Drug Administration.

8. *Generic Drug* Ca chemically equivalent copy of a brand name drug.

9. *Maintenance Drug* C covered drug that is determined by the Program's contracted prescription benefits management firm, using standard industry reference materials, to be routinely taken over a long period of time for certain chronic medical conditions. The drug must be listed on the established maintenance drug list as an approved drug for the patient's condition

10. *Non-Preferred Brand Drug* Ca brand drug for which there is an equally effective, less costly therapeutic alternative available, as determined by the *Pharmacy and Therapeutic Committee*.

11. *Pharmacy and Therapeutic Committee* Ca committee created by the Program's contracted prescription benefits management firm to advise its various plans on whether a drug has been accepted as safe and effective or investigations as well as whether a drug will be classified as a *Preferred Brand Drug* or a *Non-Preferred Brand Drug*. In making these determinations, the *Pharmacy and Therapeutic Committee* relies on the United States Food and Drug Administration as well as peer reviewed medical journals.

12. *Preferred Brand Drug* Ca brand name drug that has received a classification of *Preferred Brand* from the *Pharmacy and Therapeutic Committee* based on the following criteria:

- a. clinical uniqueness of the medication;
- b. positive efficacy profile;
- c. good side effect, safety, and drug interaction profile;
- d. positive quality of the implications;
- e. clinical experience with the medication; and
- f. cost (only considered when clinical parameters are equal to other products in its class).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1835 (October 1999), LR 27:

#### **Chapter 4. Uniform Provisions**

##### **§403. Properly Submitted Claim Form**

- A. For Plan reimbursements, all bills must show:
  1. employee's name;
  2. name of patient;
  3. name, address, and telephone number of the provider of care;
  4. diagnosis;
  5. type of services rendered, with diagnosis and/or procedure codes;
  6. date of service;
  7. charges;
  8. employee's member number;
  9. provider Tax Identification number;
  10. Medicare explanation of benefits, if applicable.

B. The Program can require additional documentation in order to determine the extent of coverage or the appropriate

reimbursement. Failure to furnish the requested information within 90 days of the request will constitute reason for the denial of benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1836 (October 1999), LR 27:

#### **Chapter 5. Claims Review and Appeal**

##### **§501. Claims Review Procedures and Appeals**

A. ...

B. The request for review must be directed to Attention: Appeals and Grievances within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review, pharmacy benefit or mental health contractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1838 (October 1999), LR 27:

##### **§511. Subpoena of Witnesses; Production of Documents**

A. - B. ...

C. No subpoena will be issued requiring the attendance and giving of testimony by witnesses unless a written request therefor is received in the office of the Program, Attention: Appeals and Grievances no later than 15 calendar days before the date fixed for the hearing. The request for subpoenas must contain the names of the witnesses and a statement of what is intended to be proved by each witness. No subpoenas will be issued until the party requesting the subpoena deposits with the Program a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled.

D. No subpoena for the production of books, papers and other documentary evidence will be issued unless written request therefor is received in the office of the Program, Attention: Appeals and Grievances no later than 15 calendar days before the date fixed for the hearing. The request for subpoena for books, papers, and other documentary evidence must contain a description of the items to be produced in sufficient detail for identification and must contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1839 (October 1999), LR 27:

##### **§513. Appeals Decisions**

A. ...

B. Appeals Heard by Referee. At the conclusion of the hearing, the referee will take the matter under submission and, as soon as is reasonably possible thereafter, prepare a recommended decision in the case which will be based on the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain findings of fact and statement of reasons. The recommended decision will be submitted to the Committee for review.

C. The Committee may adopt or reject the recommended decision. In the case of adoption, the referee's decision becomes the decision of the committee. In the case of

rejection, the committee will render its decision, which will include a statement of reasons for disagreement with the referee's decision. The decision of the committee will be final. A copy will be mailed by certified mail to the covered person and any representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1839 (October 1999), LR 27:

**§515. Rehearing**

A. - B ...

C. The request for rehearing must be filed with the program, Attention: Appeals and Grievances on or before 30 calendar days after the mailing of the appeal decision of the committee. The request will be deemed filed on the date it is received in the office of the program.

D. ...

E. When the committee grants a rehearing, an order will be issued setting forth the grounds. A copy of the order will be sent, along with notice of the time and place fixed for the rehearing, to the appealing party and any representative by certified mail.

F. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1840 (October 1999), LR 27:

**Chapter 6. Definitions**

**§601. Definitions**

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*Accidental Injury*Ca condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

\*\*\*

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\*\*\*

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\*\*\*

*Children*C

1. any legitimate, duly acknowledged, or legally adopted Children of the Employee and/or the Employee's legal spouse dependent upon the Employee for support;

2. - 4. ...

\*\*\*

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*Well-Child Care*Croutine physical examinations, active immunizations, check-ups and office visits to a Physician, and billed by a health care provider that has entered into a contract with the State Employees Group Benefits Program, except for the treatment and/or diagnosis of a specific illness, from age 1 to age 16. All other health services coded with wellness procedures and diagnosis codes are excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1840 (October 1999), LR 27:

**Chapter 7. Schedule of Benefits – PPO**

**§701 Comprehensive Medical Benefits**

A. - A.3. ...

4. Prescription Drugs

|                                    |                            |
|------------------------------------|----------------------------|
| (No deductible)                    | 50% non-Network in state   |
| \$8 copayment for generic drugs,   | 80% non-Network for out of |
| \$25 copayment preferred brand     | state                      |
| name drugs, and \$40 copayment for |                            |
| non-preferred brand name drugs     |                            |
| purchased at a network pharmacy    |                            |

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:

A. Kip Wall  
Chief Executive Officer

0011#010

**DECLARATION OF EMERGENCY**

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

Early and Periodic Screening, Diagnosis  
and Treatment (EPSDT)C Hearing Aids

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) hearing aid services under the Medicaid Program. The criteria for prior authorization of hearing aids was promulgated by reference in a rule that adopted the state and federal requirements and procedures governing the determination of Medicaid eligibility as contained in the Medicaid Eligibility Manual (*Louisiana Register*, Volume 22, Number 5). As a result of a change in the policy of the Office of Public Health on providing hearing aid services, the bureau has determined that it is necessary to amend the May 20, 1996 rule by replacing the existing prior authorization criteria for hearing aids. In addition to establishing new prior authorization criteria for hearing aids, the bureau proposes to remove the criteria from the Medicaid Eligibility Manual and to place it under the EPSDT Program.

This action is being taken to promote the health and welfare of EPSDT recipients by increasing access to medically necessary hearing aid services. It is estimated that implementation of this emergency rule will increase expenditures for EPSDT hearing aid services by approximately \$182,988 for state fiscal year 2000-2001.

**Emergency Rule**

Effective for dates of service on or after November 21, 2000, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the May 20, 1996 Rule to establish the following prior authorization criteria for hearing aids. In addition, the prior authorization criteria for hearing aids is removed from the Medicaid Eligibility Manual and placed under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

**Prior Authorization Criteria**

Hearing aids and related services are only covered for EPSDT recipients up to the age of 21. Approval is granted only when there is a significant hearing loss as documented by audiometric or eletrophysiologic data from a licensed audiologist and medical clearance and prescription from an ear specialist (otologist).

The audiologist must furnish a report including an audiogram, if applicable, all test results and the degree and type of hearing loss. A hearing loss greater than 20 decibels average hearing level in the range 250-2000 Hz is considered significant. Additional required medical and social information shall include:

- 1) the recipient's age;
- 2) expected benefit of the hearing aid;
- 3) previous and current use of a hearing aid;
- 4) additional disabilities expected to influence the use of a hearing aid; and
- 5) referrals made on the recipient's behalf to early intervention programs, special education programs or other habilitative services.

Hearing aid repairs, batteries, and ear molds shall no longer require prior authorization. However, ear molds must be prescribed by a physician. Limitations on the purchase of ear molds are established as follows: One ear mold will be allowed every 90 days for EPSDT recipients form birth to age 4. One ear mold per year will be allowed for EPSDT recipients from age 5 to up to 21.

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

David W. Hood  
Secretary

0011#065

**DECLARATION OF EMERGENCY**

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

Mentally Retarded/Developmentally  
Disabled WaiverCWaiting List

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

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule governing the allocation of waiver slots, admission criteria and discharge criteria for the Mentally Retarded/Developmentally Disabled (MR/DD) Home and Community Based Services Waiver in

June, 1997 (*Louisiana Register*, Volume 23, Number 6). The rule was amended in March, 1998 to allow some slots allocated for the deinstitutionalization of Pinecrest and Hammond Developmental Centers residents to be alternatively used for the benefit of residents of private ICF/MR facilities (*Louisiana Register*, Volume 24, Number 3). The provisions governing the allocation of waiver slots contained in the March 20, 1998 rule were subsequently amended by a rule adopted to allow any slots vacated during the waiver year to be made available to residents leaving any publicly operated ICF-MR facility (*Louisiana Register*, Volume 25, Number 9). Certain slots for foster children in the custody of the Office of Community Services (OCS), and for the deinstitutionalization of residents of designated developmental centers or private ICF-MR facilities continued to be reserved under the September, 1999 rule.

The department now proposes to transfer responsibility for the waiting list to the Bureau of Community Supports and Services and to set forth provisions for the orderly transition from regional waiting lists to a single state-wide waiting list to be maintained in the state office. The department further proposes to adopt policy specifying the point of entry for the MR/DD waiver waiting list and the criteria for inclusion on and removal from the waiting list. Provisions contained in the previously cited rules that are not related to the MR/DD waiver waiting list are not affected by adoption of this Emergency Rule.

This action is being taken to protect the health and welfare of persons with mental retardation or developmental disabilities by providing an orderly process by which consideration for waiver services will be accomplished. It is estimated that the implementation of this Emergency Rule has no fiscal impact other than the administrative cost of promulgating the rule.

#### **Emergency Rule**

Effective October 27, 2000, the Department of Health and Hospitals transfers responsibility for the waiting list for the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver to the Bureau of Community Supports and Services (BCSS). Regional MR/DD Waiver waiting lists shall be consolidated into a single state-wide list arranged in order of the date of the initial request. Those persons on regional waiting lists prior to the date of the transfer of responsibility to BCSS shall remain on the waiting list in the order of the date on record when the candidate initially requested a slot in the waiver, subject to a subsequent determination that he/she meets the criteria for inclusion on the waiting list. When a candidate is listed on more than one regional waiting list, the earliest date on record shall be considered the date of initial request. Persons who wish to be added to the waiting list shall contact a toll-free telephone number maintained by BCSS. In addition, the department adopts the following regulations regarding the waiting list for the MR/DD Waiver.

##### **I. Inclusion Criteria**

A. **Persons Currently on the Waiting List.** Persons on the waiting list prior to October 27, 2000, shall be screened to determine whether they are legitimate candidates for

waiver eligibility. Only persons found to meet the criteria for candidacy shall remain on the waiting list. However, if a waiver slot becomes available before the next person on the waiting list has been screened, that person shall be allowed to make application for the slot.

B. **Entry to the Waiting List.** On or after October 27, 2000, persons who wish to be entered on the waiting list shall be screened to determine whether they are legitimate candidates for waiver eligibility prior to their name being placed on the waiting list. Only persons who meet the criteria for candidacy shall be added to the waiting list for waiver services.

C. **Waiver Candidacy.** The candidate must provide documentation that there is a reasonable expectation that he/she meets the state's definition of being mentally retarded or developmentally disabled. In addition, the candidate must appear to meet the financial, disability, non-financial and ICF-MR level of care criteria for Medicaid eligibility, according to his/her own statement or the statement of a responsible party.

##### **II. Exclusion Criteria**

A. **Failure to Cooperate.** Potential candidates who fail to provide requested documentation or otherwise fail to cooperate within a reasonable length of time shall be excluded from the waiting list. The potential candidate shall be informed of the time limits involved when the information is requested.

B. **Insufficient Documentation of Disability.** Documentation of the type and degree of disability must support the contention that the potential candidate meets the state's definition of mentally retarded or developmentally disabled.

C. **Ineligibility Determined During Pre-screening.** Persons who do not meet the eligibility criteria for an ICF-MR level of care according to their own statement on a pre-screening tool devised by BCSS shall be eliminated from the MR/DD waiver waiting list.

D. **Subsequent Determination of Ineligibility.** BCSS may exercise its authority to eliminate a potential candidate from the waiting list when information provided about the potential candidate's situation indicates that he/she would not be eligible if he/she were to apply at the present point in time. For example, a candidate could not become eligible for a waiver slot if the candidate moved out of state with the intent to become a resident of that state, or was incarcerated and placed under the jurisdiction of the penal authorities, courts, or state juvenile authorities.

Interested persons may submit written comments to: Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0011#067

## DECLARATION OF EMERGENCY

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

#### Public Nursing Facilities Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage under the Medicaid Program for nursing facility services. Payments for nursing facility services are made in accordance with the prospective reimbursement methodology adopted effective August 1, 1984 (*Louisiana Register*, Volume 10, Number 6). This rule was subsequently amended by a rule adopted to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 6). As a result of a budgetary shortfall, an Emergency Rule was adopted to reduce the prospective per diem rates for private nursing facilities by 7 percent (*Louisiana Register*, Volume 26, Number 2). The March 1, 2000 Emergency Rule was later replaced by an Emergency Rule to restore the 7 percent reduction previously made to the prospective per diem rates for private nursing facilities (*Louisiana Register*, Volume 26, Number 8).

In compliance with the provisions of Act 143 of 2000 First Extraordinary Session of the Louisiana Legislature, the Bureau proposes to amend the reimbursement methodology for parish-owned nursing facilities in order to increase reimbursement to these facilities in proportion to their share of Medicaid days provided during the reporting period used to set rates. This action is being taken to enhance federal revenues in the Medicaid Program.

It is estimated that the implementation of this proposed Rule will increase annual aggregate expenditures for qualified nursing facilities by up to \$600 million for state fiscal year 2000-01.

#### Emergency Rule

Effective October 13, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing creates an enhanced payment pool for qualifying nursing facilities, subject to the availability of funds and to the payment limits as set forth in 42 CFR 447.272.

Qualifying nursing facilities are parish-owned nursing facilities that meet the following criteria:

- 1) have an annual Medicaid occupancy level at or above 60 percent;
- 2) provide 12,000 or more Medicaid days of care annually; and
- 3) have entered into, or be part of a parish government that has entered into, a transfer agreement with the department to provide for an intergovernmental transfer of funds.

The nursing facility payment differential for any year shall be the difference between the upper limit of aggregate payments to nursing facilities as defined in 42 CFR §447.272 and the aggregate Medicaid per diem reimbursement paid to nursing facilities for the year. This is determined for all nursing facilities participating in the state's Medicaid Program, or for a subset of these facilities that includes parish-owned nursing facilities for which a separate upper payment limit calculation as in effect in that year is required by 42 CFR §447.272.

Total payments from the pool in any year shall not exceed a percentage of the nursing facility payment differential that will be determined by the department for each payment year. The enhancement pool payment amount shall be distributed to qualifying parish-owned nursing facilities based on their pro-rata share of the total annual Medicaid days of care of all qualifying parish-owned nursing facilities. Determination of annual Medicaid occupancy level and Medicaid days of care shall be based on the most recently filed cost reports on file with the department. Implementation of this emergency rule is subject to approval by the United States Department of Health and Human Services, Health Care Financing Administration.

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

David W. Hood  
Secretary

0011#066

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

#### Family Independence Temporary Assistance (FITAP) Program Increases in Flat Grant Amounts (LAC 67:III.1229)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following change in the Family Independence Temporary Assistance Program (FITAP), effective November 12, 2000. This declaration is necessary to extend the original Emergency Rule of July 12, 2000, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect.

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

increase is the federal Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 2. Family Independence Temporary Assistance Program (FITAP)**

**Chapter 12. Application, Eligibility, and Furnishing Assistance**

**Subchapter B. Conditions of Eligibility**

**§1229. Income**

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

| Number of Persons | Flat Grant Amount |
|-------------------|-------------------|
| 1                 | \$122             |
| 2                 | 188               |
| 3                 | 240               |
| 4                 | 284               |
| 5                 | 327               |
| 6                 | 366               |
| 7                 | 402               |
| 8                 | 441               |
| 9                 | 477               |
| 10                | 512               |
| 11                | 551               |
| 12                | 590               |
| 13                | 630               |
| 14                | 670               |
| 15                | 712               |
| 16                | 757               |
| 17                | 791               |
| 18                | 839               |
| 18+               | See note 1        |

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

- E. - G ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 27:

J. Renea Austin-Duffin  
Secretary

0011#047

**DECLARATION OF EMERGENCY**

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

**Kinship Care Subsidy Program Grant Increase  
(LAC 67:III.5329)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following change in the Kinship Care Subsidy Program (KCSP), effective November 24, 2000. This declaration is necessary to extend the original Emergency Rule of July 26, 2000, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect.

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

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 13. Kinship Care Subsidy Program (KCSP)  
Chapter 53. Application, Eligibility, and Furnishing Assistance**

**Subchapter B. Conditions of Eligibility**

**§5329. Income**

- A. - B. ...
- C. Income After Pretest

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

- D. Payment Amount

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 27:

J. Renea Austin-Duffin  
Secretary

0011#048

# Rules

## RULE

### Department of Agriculture and Forestry Office of Forestry

#### Seedling Prices (LAC 7:XXXIX.301)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:4303, the Commissioner of Agriculture and Forestry adopts the attached rules and regulations

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXXIX. Forestry

#### Chapter 3. Tree Seedlings

#### §301. Seedling Prices

A. The Louisiana Forestry Commission adopts the following prices for forest tree seedlings:

1. Improved Pine Seedlings \$ 32 per thousand
2. Advanced Generation Pine Seedlings \$ 42 per thousand
3. Special Pine Seedlings \$ 52 per thousand
4. Hardwood Seedlings \$ 185 per thousand
5. Baldcypress Seedlings \$ 175 per thousand

B.1 - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1503, redesignated R.S. 3:4303.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, Forestry Commission, LR 8:285 (June 1982), amended LR 10:458 (June 1984), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 13:432 (August 1987), LR 19:610 (May 1993), LR 21:671 (July 1995), LR 22:1210 (December 1996), LR 26:2437 (November 2000).

Bob Odom  
Commissioner

0011#054

## RULE

### Department of Agriculture and Forestry Structural Pest Control Commission

#### Pesticide Restrictions (LAC 7:XXV.117, 119, 141 and 161)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, adopts regulations regarding obligations of a licensee and minimum specifications for termite control.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to

further define the record keeping requirements of the licensee, increase the distance between stiff legs and the ground, decrease the distance between drill holes, to better define the waiver requirements, to require monitoring of bait stations in the pilot project, and to change the listing of commission-approved termiticides.

These rules comply with and are enabled by R.S. 3:3203.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXV. Structural Pest Control

#### Chapter 1. Structural Pest Control Commission

#### §117. Obligations of the Licensee

A. - H. ...

I. Any person applying pesticides for a fee and the licensee must maintain records according to LAC 7:XXV.117.I, at the physical address listed on the place of business permit of all applications of pesticides on a record keeping form or in a format approved by the director of Pesticide and Environmental Programs of LDAF. These records must be retained for a period of two years after the date of the pesticide application for ship and commodity fumigation, general pest control and commercial vertebrate control and a period of two years after the expiration of applicable contracts for termite and other wood destroying insect control. The licensee must make a copy of these records available to any employee of the Louisiana Department of Agriculture and Forestry for inspection at a reasonable time during normal working hours.

I.1. - P. ...

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:954 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000).

#### §119. Contracts for Termite Control Work

A. - E. ...

F. Copies of contracts for termite and other wood destroying insect control must be retained for a period of two years after the expiration of applicable contracts.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000).

#### §141. Minimum Specifications for Termite Control Work

A. Chemicals approved for termite control work which shall remain in full force and effect until superseded by a publication of a subsequent full listing.

1. All chemicals registered by the U.S. Environmental Protection Agency and the Louisiana Department of Agriculture and are approved by the commission, but only at

the chemical compositions approved by the U.S. Environmental Protection Agency.

2. The commission will issue an annual listing of chemicals approved by the commission for termite control work. The listing shall become effective upon publication in the Potpourri section of the *Louisiana Register* and shall remain in effect until changed by the commission. The commission may supplement its listing whenever any new chemical is approved for termite control work and may also remove a previously approved chemical from its approved listing by publication in the Potpourri section of the *Louisiana Register*. Upon publication of the listing of chemicals approved for termite control work, all previous listings shall be replaced repealed. The commission delegates to the State Entomologist Department's Assistant Commissioner of Agricultural and Environmental Sciences the responsibility for publication of the list of chemicals approved by the commission.

3. - B. 1. ...

### C. Treatment of Existing Pier Type Construction

#### 1. Access Openings

a. Provide suitable access openings to all crawl-space areas and to all other areas requiring inspection and/or treatment for termites.

b. A minimum clearance of 12 inches from the bottom of the sill.

#### 2. Required Clean-up

a. Remove all cellulose-bearing debris, such as scrap wood, wood chips, paper, etc., from underneath buildings.

b. Trench, rod and treat any large stumps or roots that are too sound to be removed, provided that such stumps or roots are at least 12 inches from the foundation timbers. Stumps or roots located less than 12 inches from foundation timbers must be cut off to provide at least 12 inches clearance.

c. Remove all form boards that are not embedded in concrete.

#### 3. Elimination of Direct Contact of Wood with Ground

a. Piers and stiff legs must have concrete or metal-capped bases extending at least three inches above the ground. Creosote or penta pressure-treated piling foundations are exempt from this requirement but should be drilled and pressure treated to the center of the piling.

b. Wood parts which extend through concrete or masonry (such as posts, door frames or stair carriages) must be cut off and set on metal or concrete bases at least three inches above ground level.

c. Wood steps must be placed on concrete or masonry bases which extend at least one inch above ground level, and beyond the steps in all directions. Multiple-course masonry step supports must be treated as required in §141.C.7.a, b, c and d.

#### 4. Pipes

a. Remove all packing around pipes for a distance of three inches above ground level and/or trench and treat according to label and labeling.

#### 5. Skirting and Lattice-work

a. All cellulose skirting and lattice-work must rest on solid concrete or brick extending at least three inches above the outside grade. This base will be trenched and treated.

b. There must be at least three inches clearance above outside grade if skirting or lattice-work is suspended.

#### 6. Stucco

a. Where stucco extends to or below grade, dig trenches below and under the edge of the stucco and apply chemical as required by label and labeling.

b. Where ground slabs prevent treatment as required in Subparagraph a above, drill and treat slab as required by label and labeling. Where slab is drilled the holes must be no more than 18 inches apart (unless label requires closer distance).

7. - 8.b. ...

#### 9. Dirt Filled Porches

a. Where the sill or other wood extends to, or below, the under side of the concrete slab, the dirt must be excavated so as to leave a horizontal tunnel at the junction of slab and foundation wall. The tunnel shall extend the full length of the fill and be at least 12 inches deep (or down to grade) and 12 inches wide. Soil in the tunnel shall be treated with chemical at all points of contact with wall and slab. Supports for the slab shall be erected in the tunnel if necessary. Tunnel shall be well ventilated, but care shall be taken to assure that water does not run into those tunnels. (See Figure 1 [in appendix])

i. Exception: If, due to construction, it is impractical to break into and excavate dirt-filled areas, a method of drilling, rodding and flooding as outlined in 141.C.9.b.ii below, may be employed. The secretary of the Structural Pest Control Commission shall be notified in these cases and permission requested prior to treatment.

b. Where the sill or other wood does not extend to or below the underside of the concrete slab, the fills may be drilled, rodded and flooded as follows.

i. Drill floor slab at intervals of not more than 18 inches (unless label requires closer distance) along the junction of the porch and the buildings: rod and treat the fill along the foundation wall of the building.

9.b.ii. - D. 3. a. ...

b. Rod under or drill through the slab and treat all areas beneath expansion joints and cracks in the slab as per label and labeling instructions. When the slab is drilled, the holes must be no more than 18 inches (unless label requires closer distance) apart along the above stated areas.

c. All other openings (plumbing, etc.) must be treated as required by label and labeling.

E. - H.2. ...

I. Waiver of Requirements of Minimum Specifications for Termite Control Work. Whenever it is impossible or impractical to treat any structure in accordance with these minimum specifications, the pest control operator may request a waiver of these requirements. A waiver must be on a form approved by secured from the Department of Agriculture prior to any treatment in any instance where all requirements of these minimum specifications cannot be complied with. A waiver shall be signed by the owner/agent of the property treated and shall be sent to the department with the company's monthly eradication report.

J. - 8.c. ...

d. monitoring may shall be used to detect the presence of subterranean termites in the soil. Monitoring may include the use of toxicant delivery systems. All



delivery systems shall be inspected at regular intervals, not less than once monthly and data shall be recorded;

e. baits and baiting systems may be used as a stand-alone termite treatment only with written approval by LDAF;

f. baits and baiting systems may be used as a supplement to traditional ground termiticide treatments.

g. monitoring stations shall be placed, where soil is available a maximum of 20 feet apart around the perimeter of the structure.

h. toxicant delivery following label and labeling shall be placed in or in close proximity to each monitoring station that are infested with live termites.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 26:2437 (November 2000).

Bob Odom  
Commissioner

0011#055

### RULE

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

Correct Organization Citations  
Resulting From Reengineering of DEQ  
(LAC 33:I, III, V, VI, VII, IX, XI and XV)(OS036)

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 Environmental Quality regulations, LAC 33:I, III, V, VI, VII, IX, XI, XV (Log #OS036).

The recent reengineering of the department resulted in the elimination of media-based offices and divisions to create a process-oriented organization. This Rule revises existing references to non-existent offices and divisions in the regulations to reflect the new organization structure of the department. Additional minor revisions are being made to clean up grammatical errors and eliminate outdated forms. This action is required by Act 303 of the 1999 Regular Session of the Legislature effective June 15, 1999. The basis and rationale for this Rule are to correct the division and office names cited in the regulations to correspond to the new divisions and offices created when the department was reorganized.

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

## Title 33 ENVIRONMENTAL QUALITY

### Part I. Office of the Secretary

#### Subpart 1. Departmental Administrative Procedures Chapter 5. Confidential Information Regulations

##### §501. Scope

A. Department of Environmental Quality records and information obtained under the Louisiana Environmental Quality Act, (hereinafter called "the Act"), or by any rule, regulation, order, license, registration, or permit term or condition adopted or issued thereunder, or by any investigation authorized thereby, shall be available to the public, unless confidentiality is requested by writing to the Office of the Secretary, Legal Affairs Division, and such information is determined by the administrative authority to require confidentiality. Such information may be classified as confidential by the administrative authority, unless otherwise provided by law or regulation, if the secretary makes a written determination that confidentiality is necessary to:

\* \* \*

[See Prior Text in A.1-2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000).

##### §502. Definitions

*Administrative Authority* Cthe secretary of the Department of Environmental Quality or his designee, or the appropriate assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000).

#### Chapter 9. Petition for Rulemaking

##### §905. Definitions

*Administrative Authority* Cthe secretary of the Department of Environmental Quality or his designee, or the appropriate assistant secretary or his designee.

\* \* \*

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000).

##### §907. Content of a Rulemaking Petition

Any interested person may petition the administrative authority in writing to issue, amend, or rescind any regulation.

A. The petition shall be addressed to the Office of Environmental Assessment, Environmental Planning Division.

\* \* \*

[See Prior Text In B – D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March

1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000).

### §909. Processing a Rulemaking Petition

\* \* \*

[See Prior Text In A]

B. Within 90 days of receipt of the petition for rulemaking, the administrative authority shall deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking by providing the petitioner with a completed Regulatory Agenda Form as provided in the department's Policy Number 0003-88, "Rule Development Procedure."

1. If the administrative authority decides to proceed with rulemaking, the department procedures for processing a proposed regulation shall be followed. In addition, a notice of the initiation of rulemaking shall be published in a major newspaper of general circulation within the area affected by the petition for rulemaking or in the official journal of the state, if the impact of the proposed rule is statewide.

2. If the administrative authority decides not to proceed with rulemaking, the decision to deny the petition, stating reasons for the denial, shall be published in a major newspaper of general circulation within the area affected by the petition for rulemaking or in the official journal of the state, if the impact of the petition denial is statewide, and in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000).

## Chapter 11. Declaratory Rulings

### §1103. Definitions

The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular section:

*Administrative Authority* Cthe secretary of the Department of Environmental Quality, or his designee, or the appropriate assistant secretary or his designee.

\* \* \*

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1141 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000).

### §1109. Declaratory Rulings Officer

\* \* \*

[See Prior Text in A – B]

C. The declaratory rulings officer shall have the authority to regulate all matters concerning a request for declaratory ruling and to issue the declaratory ruling after concurrence as to legal sufficiency by the Office of the Secretary, Legal Affairs Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1141 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000).

### §1111. Duty to Maintain List

The secretary shall maintain, in a place accessible to the public in the Office of the Secretary, Legal Affairs Division, a list of all petitions for declaratory rulings and declaratory rulings and an index to the list. The list shall identify the petitioner, the matter to be decided, and when applicable, the location of the activity or facility that is the subject of the petition. The list shall also include the date on which the petition is received, the date the secretary decides whether a declaratory ruling will be issued, the date the secretary sets for issuance of the ruling, the date the ruling issues, and the date of any request for modification or appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1141 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000).

### §1113. Declaratory Rulings Clerk

A. The administrative authority shall designate a person in the Office of the Secretary, Legal Affairs Division to serve as the declaratory rulings clerk, who shall be the official custodian of declaratory rulings records. The clerk shall maintain these records separately from other records of the department.

\* \* \*

[See Prior Text In B – B.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1142 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000).

### §1117. Petition Contents and Form

\* \* \*

[See Prior Text In A – A.9]

B. A petition for declaratory ruling shall be filed with the Office of the Secretary, Legal Affairs Division by either of the following methods:

1. personal delivery to the General Counsel or the declaratory rulings clerk at department headquarters; or

2. United States Mail as certified mail, return receipt requested to Declaratory Rulings Clerk, Office of the Secretary, Legal Affairs Division.

\* \* \*

[See Prior Text In C – D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1142 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000).

## Chapter 13. Risk Evaluation/Corrective Action Program

### §1302. Definitions

*Department* Cthe Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000).

### **§1307. Adoption by Reference**

The document entitled, "Louisiana Department of Environmental Quality Risk Evaluation/Corrective Action Program (RECAP)" dated June 20, 2000, is hereby adopted and incorporated herein in its entirety. The RECAP document is available for purchase or inspection from 8 a.m. until 4:30 p.m., Monday through Friday from the department's Office of Environmental Assessment, Environmental Planning Division. For RECAP document availability at other locations, contact the department's Environmental Planning Division. The RECAP document may also be reviewed on the Internet at [www.deq.state.la.us](http://www.deq.state.la.us).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2441 (November 2000).

## **Chapter 14. Groundwater Fees**

### **§1405. Applicability**

A. These rules and regulations apply to facilities which are required under Solid Waste Regulations or Hazardous Waste Regulations to produce annual reports concerning the groundwater condition at their sites, to facilities which have installed groundwater monitoring systems, and to facilities conducting assessment and/or remediation of groundwater contamination (regardless of whether said contamination originated from a regulated waste management unit or from a non-regulated facility) for which the department is providing oversight. These rules and regulations do not apply:

1. to sites over which other departments, such as the Department of Natural Resources, are legitimately exercising oversight and to which the department provides no assistance or technical guidance;

2. to sites regulated under the Underground Storage Tank Regulations; or

3. to facilities billed under the authority of another part or chapter of Title 33 for the same activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Division in LR 18:729 (July 1992), repromulgated LR 21:796 (August 1995), repromulgated by the Office of the Secretary, LR 24:2204 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000).

## **Chapter 15. Permit Review**

### **§1505. Review of Permit Applications for New Facilities and Substantial Permit Modifications**

\* \* \*

[See Prior Text In A - A.3.b]

4. Within 30 days after receipt of a letter of completeness, the applicant shall publish a notice, provided by the department, of the completeness determination in a major local newspaper of general circulation and submit proof of publication to the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text In A.5 - F]

1. An applicant may voluntarily withdraw an application during the review process, without prejudice, provided notice of withdrawal is submitted to the Office of Environmental Services, Permits Division in writing with the appropriate signatory authority, and:

\* \* \*

[See Prior Text In F.1.a - 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), repromulgated LR 19:742 (June 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000).

## **Chapter 17. Permit Qualifications and Requirements**

### **§1701. Requirements for Obtaining a Permit**

\* \* \*

[See Prior Text In A - B.2]

C. The applicant shall provide to the Office of Environmental Services, Permits Division a list of the state(s) where he or she has federal or state environmental permits identical to, or of a similar nature to, the permit for which application is being made. This information shall be provided for all individuals, partnerships, corporations, or other entities who own a controlling interest (50 percent or more) in the company or who participate in the environmental management of the facility for an entity applying for a permit or an ownership interest.

D. In addition to providing the information required in Subsection C of this Section, the applicant shall submit a written statement to the Office of Environmental Services, Permits Division, as part of the permit application, to certify that:

\* \* \*

[See Prior Text In D.1 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000).

## **Chapter 20. Records of Decision for Judicial Review**

### **§2005. Responsibility for Assembly of Record of Decision**

A. When the department is served with notice of an appeal or other request for judicial review, such notice shall be immediately forwarded to the department's Office of the Secretary, Legal Affairs Division, which shall be responsible for assembling a complete and legible copy of the record of decision and transmitting it to the court.

B. Upon receipt of such notice, the Legal Affairs Division shall promptly notify the decision maker and other appropriate agency personnel, each of whom shall be responsible for promptly transmitting to the Legal Affairs Division complete and legible copies of any portions of the record of decision that may be in his/her possession or control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, R.S. 30:2050.20.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:858 (May

1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000).

**Chapter 23. Procedures for Public Record Requests**

**§2305. Standard Operating Procedures**

A. All requests for copies of public records, including subpoenas duces tecum for production of original public records, shall be made using DEQ Form FSD-0005-01. A certification on DEQ Form FSD-0005-02 shall be submitted with the request if free or reduced rate copies are requested. Completed forms may be submitted in person, by mail, or by facsimile. No other request (e.g., e-mail, telephone, telegram) will be honored. Completion of the DEQ Form FSD-0005-01 is waived only if the records requested are prepared by the department specifically for sale to the public (e.g., *Environmental Regulatory Code*). Copies of the forms may be obtained through the DEQ website at www.deq.state.la.us or from the Office of Management and Finance, Custodian of Records.

\* \* \*

[See Prior Text In B-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000).

**§2307. Exceptions to Standard Operating Procedures**

The following procedures shall apply to persons requesting copies of public records under an exception to standard operating procedures.

\* \* \*

[See Prior Text in A]

B. Requests for exceptions to standard operating procedures must be approved in advance by the Custodian of Records in the Office of Management and Finance.

\* \* \*

[See Prior Text in C – C.2]

D. When payment of an invoice for copies of public records provided by facsimile, as an exception to standard operating procedure, is not received in the Office of Management and Finance, Financial Services Division within 10 working days, the requester’s name will appear on an Accounts Receivable Past Due report maintained by the Financial Services Division. No copies shall be provided to any requester who appears on the Accounts Receivable Past Due report until all past due amounts have been paid. Custodian of Records approval is required, and credit approval may be required, prior to providing copies by facsimile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000).

**Chapter 37. Regulatory Innovations Programs**

**§3703. Definitions**

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

\* \* \*

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2197 (November 1999), repromulgated LR 25:2399 (December 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000).

**§3705. Application for a Demonstration Project**

A. An application for a demonstration project (DP) shall be submitted to the Office of the Secretary, Deputy Secretary. The application shall, at a minimum, include:

\* \* \*

[See Prior Text In A.1 – B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2197 (November 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000).

**Subpart 2. Notification Regulations**

**Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges**

**Subchapter A. General**

**§3905. Definitions**

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

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

*Air Contaminant*—particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combination thereof produced by other than natural processes.

\* \* \*

[See Prior Text]

*Division*—the appropriate division within the Department of Environmental Quality.

\* \* \*

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000).

**Subchapter B. Requirements for Emergency Notification**

**§3915. Notification Requirements for Unauthorized Discharges Which Cause Emergency Conditions**

A. Notification to the DPS 24-hour Louisiana Emergency Hazardous Materials Hotline

1. In the event of an unauthorized discharge that does cause an emergency condition, the discharger shall notify the hotline by telephone at (225) 925-6595 (collect calls accepted 24 hours a day) immediately (a reasonable period of time after taking prompt measures to determine the nature, quantity, and potential off-site impact of a release, considering the exigency of the circumstances), but in no case later than one hour after learning of the discharge. (An

emergency condition is any condition which could reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the land, water, or air environment, or cause severe damage to property.) Notification required by this Subsection will be made regardless of the amount of the discharge.

\* \* \*

[See Prior Text in A.2- B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000).

### **Subchapter C. Requirements for Prompt Notification**

#### **§3917. Notification Requirements for Unauthorized Discharges Which Do Not Cause an Emergency Condition**

A. In the event of an unauthorized discharge which exceeds a reportable quantity specified in Subchapter E of this Chapter but which does not cause an emergency condition, the discharger shall notify the Office of Environmental Compliance by telephone within 24 hours after learning of the discharge. Notification should be made to the Office of Environmental Compliance at (225) 763-3908 during office hours; (225) 342-1234 after office hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance).

B. Dischargers are not relieved from any requisite written notification procedures in LAC 33:I.3925 or of any permit or license terms and conditions issued under the Louisiana Environmental Quality Act.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), repromulgated LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000).

#### **§3919. Notification Requirements for Unauthorized Discharges With Groundwater Contamination Impact**

In the event that any unauthorized discharge results in the contamination of the groundwaters of the state or otherwise moves in, into, within, or on any saturated subsurface strata, the discharger shall notify the department in writing in accordance with LAC 33:I.3925 within seven calendar days after obtaining knowledge of groundwater contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), R.S. 30:2076(D), 30:2183(I), and 30:2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), repealed LR 19:1022 (August 1993), repromulgated and amended LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000).

### **Subchapter D. Notification Procedures**

#### **§3925. Written Notification Procedures for the Department of Environmental Quality**

A. Written reports for any unauthorized discharge that requires verbal notification under LAC 33:I.3915.A or 3917, or that requires written notification under LAC 33:I.3919, will be submitted by the discharger to the department in accordance with this Section within seven calendar days after the telephone notification required by LAC 33:I.3915.A or 3917, or within seven calendar days after obtaining knowledge of groundwater contamination as required by LAC 33:I.3919, unless otherwise provided for in a valid permit or other department regulation.

\* \* \*

[See Prior Text In A.1. - B.13]

C. Written notification reports should be submitted to the Office of Environmental Compliance by mail or fax. The transmittal envelope and report or fax cover page and report should be clearly marked "UNAUTHORIZED DISCHARGE NOTIFICATION REPORT."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000).

#### **Subpart 3. Laboratory Accreditation Chapter 47. Program Requirements §4705. Categories of Accreditation**

A. At the time of application each applicant must clearly identify both the fields of testing and the test categories for which accreditation is sought. A copy of the relevant test method documentation and the requisite equipment for the method must be available at the laboratory. A current list of approved methodologies for each parameter/analyte will be maintained by the Office of Management and Finance, Laboratory Services Division and a copy of the list will become a part of the application package. In cases where the methodology used by the laboratory is not listed, the laboratory shall submit documentation that will verify that the results obtained from the method in use are equal to or better than those results obtained from the approved methodology. The department will review the data submitted by the laboratory and will notify the laboratory in writing within 60 calendar days if the method is acceptable or unacceptable as an alternate method of analysis.

\* \* \*

[See Prior Text In B- B.10]

C. An accredited laboratory may request the addition of field(s) of testing and test category(ies) to its scope of accreditation at any time. Such a request must be submitted in writing to the Office of Management and Finance, Laboratory Services Division. Unless the previous on-site inspection can verify the competence of the laboratory to perform the additional tests, another on-site inspection may be required.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:1435 (July 2000), LR 26:2443 (November 2000).

**Chapter 57. Maintenance of Accreditation**

**§5707. Changes in Laboratory Operation**

Changes in laboratory name, ownership, location, personnel, facilities, methodology, or any factors significantly affecting the performance of analyses for which the laboratory was originally accredited shall be reported to the Office of Management and Finance, Laboratory Services Division within 30 days.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:933 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000).

**Subpart 4. Emergency Response Regulations**

**Chapter 69. Emergency Response Regulations**

**§6905. Definitions**

The following terms as used in this Chapter shall have the meaning listed below:

\* \* \*

[See Prior Text]

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

\* \* \*

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:977 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000).

**§6921. Reporting Requirements**

No later than 30 days after material from the cleanup and/or abatement of an off-site emergency condition is removed from an emergency response storage facility, the owner or operator of the facility shall submit a written report detailing the ultimate disposition of the material, by mail or fax to the Office of Environmental Compliance. The report shall be clearly marked "WASTE DISPOSITION REPORT." The report shall reference the department-issued incident number. Other information in the report may include location and date of the emergency incident, name and address of the company transporting the pollutant that resulted from the emergency incident, name and location of the facility where the pollutant is/was stored, and name and location of the facility accepting the pollutant for disposal, recycling, or reuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:979 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000).

**Part III. Air**

**Chapter 1. General Provisions**

**§101. Authority**

A. By virtue of R.S. 30:2011 the Air Quality program within the Department of Environmental Quality was established with the intent and purpose of maintaining the

purity of the air resources of the state of Louisiana consistent with the protection of the health and physical property of the people, maximum employment and the full industrial development of the state. R.S. 30:2011 sets forth the powers of this administrative authority and by R.S. 30:2019 authorizes the promulgation by this administrative authority of rules and regulations consistent with said intent and purpose in the manner and in accordance with the provisions of R.S. 30:2001 et seq. which was enacted by the legislature as the law of this state by Act 449 of 1979.

\* \* \*

[See Prior Text in B - C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000).

**§111. Definitions**

When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below:

\* \* \*

[See Prior Text]

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

\* \* \*

[See Prior Text]

*DEQ*—the Department of Environmental Quality.

*Department*—the Department of Environmental Quality.

\* \* \*

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000).

**Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs**

**§211. Methodology**

\* \* \*

[See Prior Text in A - B.9]

10. When a permanent shutdown occurs and a company properly notifies the Office of Environmental Services, Permits Division, by official change in the Emission Inventory Questionnaire (EIQ) and permit, then the maintenance fee would be dropped for that shutdown portion of the process/plant. This fee reduction or cancellation shall apply only in the fiscal years in which the shutdown portion of the plant or process did not operate at all. The EIQ and permit shall also need to be changed to delete the emissions from the shutdown portion of the plant or process before the start of the fiscal year in which the fee would have been charged.

\* \* \*

[See Prior Text in B.11 - 15.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1373 (October 1993), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:2444 (November 2000).

**Chapter 5. Permit Procedures**

**§501. Scope and Applicability**

\* \* \*

[See Prior Text in A - B.5.Note 1]

6. Grandfathered Status. Those facilities which were under actual construction or operation as of June 19, 1969, and granted grandfathered status by DEQ may maintain such grandfathered status, provided a current and accurate Emissions Inventory Questionnaire is maintained on file with the permitting authority and provided the owner or operator of such facility is not required or requested to submit a permit application in accordance with this Paragraph. Grandfathered status shall be maintained until final action is taken by the permitting authority on the permit application, provided such application is submitted in a timely manner. A permit application shall be submitted in accordance with LAC 33:III.517.A if any of the following criteria are met or will be met by a planned change at the facility:

\* \* \*

[See Prior Text in B.6.a - C]

1. For each source to which this Chapter applies, the owner or operator shall submit a timely and complete permit application to the Office of Environmental Services, Permits Division as required in accordance with the procedures delineated herein. Permit applications shall be submitted prior to construction, reconstruction, or modification unless otherwise provided in this Chapter.

\* \* \*

[See Prior Text in C.2 - 10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000).

**§502. Definitions**

Except where specifically provided in another Section herein, the following definitions apply to terms used in this Chapter. Except as provided in this Chapter, terms used in this Chapter retain the definition provided them in LAC 33:III.111 or the Louisiana Air Quality regulations. Wherever provisions related to the Acid Rain Program are

concerned, the definitions provided in 40 CFR part 72 shall apply.

\* \* \*

[See Prior Text]

DEQCthe Department of Environmental Quality.

\* \* \*

[See Prior Text]

Permitting AuthorityCthe secretary, or designee, of the Department of Environmental Quality.

Potential to EmitCthe maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if:

\* \* \*

[See Prior Text in a]

b. the limitation is enforceable by the department when the potential to emit is being considered with regard to state applicable requirements.

\* \* \*

[See Prior Text]

State-Only ChangeCany change that is not addressed or prohibited under the federally enforceable terms and conditions of the permit, and for which a permit revision is not required under 40 CFR part 70, but for which a permit revision is required by the department under this Chapter.

\* \* \*

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000).

**§504. Nonattainment New Source Review Procedures**

\* \* \*

[See Prior Text in A - B.5]

C. Source Information. The owner or operator of a proposed major stationary source or major modification shall submit all information necessary to the Office of Environmental Services, Permits Division in order to perform any analysis or make any determination required under this regulation. Information shall include, but is not limited to:

\* \* \*

[See Prior Text in C.1 - F.6]

7. The owner or operator desiring to utilize emission reductions as an offset shall submit to the Office of Environmental Services, Permits Division the following information:

\* \* \*

[See Prior Text in F.7.a - G.Table 1.Note 4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental

**§505. Acid Rain Program Permitting Requirements**

\* \* \*

[See Prior Text in A - B.1]

2. Exemption. The designated representative, authorized in accordance with 40 CFR part 72, subpart B, of a source that includes a unit under Subsection B.1 of this Section may petition the Office of Environmental Services, Permits Division for a written exemption or to renew a written exemption for the unit from certain requirements of the Acid Rain Program. The petition shall contain the following elements:

\* \* \*

[See Prior Text in B.2.a - 4.c]

i. Notwithstanding Subsection D.2 and 3, the designated representative of the source that includes the unit shall submit a complete acid rain permit application to the Office of Environmental Services, Permits Division on the latter of January 1, 1998, or the date the unit is no longer exempted under this Section; and

\* \* \*

[See Prior Text on B.4.c.ii - C.2.a]

b. A petition under this Subsection shall be submitted to the Office of Environmental Services, Permits Division on or before:

\* \* \*

[See Prior Text in C.2.b.i - C.4.b]

c. A unit exempted under this Subsection shall not resume operation unless the designated representative of the source that includes the unit submits an acid rain permit application for the unit to the department not less than 24 months prior to the latter of January 1, 2000, or the date the unit is to resume operation. On the earlier of the date the written exemption expires or the date an acid rain permit application is submitted or is required to be submitted under this Paragraph, the unit shall no longer be exempted under this Subsection and shall be subject to all requirements of this Section and 40 CFR part 72.

**D. Requirement to Apply**

1. Duty to Apply. The designated representative of any source with an affected unit shall submit a complete acid rain permit application to the Office of Environmental Services, Permits Division by the applicable deadline in Subsection D.2 and 3 of this Section and the owners and operators shall not operate the source without a permit that states its Acid Rain Program requirements.

**2. Deadlines**

a. Phase II. For any source with an existing unit under Subsection A.1.a or b of this Section, the designated representative shall submit a complete acid rain permit application governing such unit during phase II to the department on or before January 1, 1996.

b. For any source with a new unit under Subsection A.1.c.i of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department at least 24 months before the latter of January 1, 2000, or the date on which the unit commences operation.

c. For any source with a unit under Subsection A.1.c.ii of this Section, the designated representative shall submit a complete acid rain permit application governing

such unit to the department at least 24 months before the latter of January 1, 2000, or the date on which the unit begins to serve a generator with a nameplate capacity greater than 25 MWe.

d. For any source with a unit described in Subsection A.1.c.iii of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department at least 24 months before the latter of January 1, 2000, or the date on which the auxiliary firing commences operation.

e. For any source with a unit described under Subsection A.1.c.iv of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department before the latter of January 1, 1998, or March 1 of the year following the three calendar year period in which the unit sold to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than 219,000 MWe-hrs actual electric output (on a gross basis).

f. For any source with a unit described in Subsection A.1.c.v of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department before the latter of January 1, 1998, or March 1 of the year following the calendar year in which the facility fails to meet the definition of qualifying facility.

g. For any source with a unit described in Subsection A.1.c.vi of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department before the latter of January 1, 1998, or March 1 of the year following the calendar year in which the facility fails to meet the definition of an independent power production facility.

h. For any source with a unit described in Subsection A.1.c.vii of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department before the latter of January 1, 1998, or March 1 of the year following the three calendar year period in which the incinerator consumed 20 percent or more fossil fuel (on a Btu basis).

3. Duty to Reapply. The designated representative shall submit a complete acid rain permit application to the Office of Environmental Services, Permits Division for each source with an affected unit at least six months prior to the expiration of an existing acid rain permit governing the unit during phase II, or such longer time as may be approved under 40 CFR part 70 that ensures that the term of the existing permit will not expire before the effective date of the permit for which the application is submitted.

4. Four copies of all permit applications shall be submitted to the Office of Environmental Services, Permits Division .

\* \* \*

[See Prior Text in D.5 - G.3]

a. To activate a conditionally-approved acid rain compliance option, the designated representative shall notify the Office of Environmental Services, Permits Division in writing that the conditionally-approved compliance option will actually be pursued beginning January 1 of a specified year. If the conditionally-approved compliance option includes a plan described in Subsection G.2.a of this Section,



the designated representative of each source governed by the plan shall sign and certify the notification. Such notification shall be subject to the limitations on activation under Subsections G and H of this Section and regulations implementing section 407 of the Clean Air Act.

\*\*\*

[See Prior Text in G.3.b - 4]

a. The designated representative for a unit may terminate an acid rain compliance option by notifying the Office of Environmental Services, Permits Division in writing that an approved compliance option will be terminated beginning January 1 of a specified year. If the compliance option includes a plan described in Subsection G.2.a of this Section, the designated representative for each source governed by the plan shall sign and certify the notification. Such notification shall be subject to the limitations on termination under Subsection H of this Section and regulations implementing section 407 of the Clean Air Act.

\*\*\*

[See Prior Text in G.4.b - S.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2446 (November 2000).

**§507. Part 70 Operating Permits Program**

\*\*\*

[See Prior Text in A - C.2]

3. Newly Regulated Sources. The owner or operator of any source which becomes subject to the requirements of this Section after the effective date of the Louisiana Part 70 program due to regulations promulgated by the administrator or by the Department of Environmental Quality shall submit an application to the Office of Environmental Services, Permits Division in accordance with the requirements established by the applicable regulation. In no case shall the required application be submitted later than one year from the date on which the source first becomes subject to this Section.

\*\*\*

[See Prior Text in D - H.3]

4. a requirement for progress reports to be submitted to the Office of Environmental Compliance, Surveillance Division at least semiannually, or at a more frequent period if specified in the applicable requirement. Such progress reports shall contain the following:

\*\*\*

[See Prior Text in H.4.a - 5.c.v]

d. a requirement that all compliance certifications be submitted to the administrator as well as to the Office of Environmental Compliance, Surveillance Division; and

\*\*\*

[See Prior Text in H.5.e - J.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the

Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000).

**§509. Prevention of Significant Deterioration**

\*\*\*

[See Prior Text in A - A.2]

B. Definitions. For the purpose of this Part the terms below shall have the meaning specified herein as follows:

\*\*\*

[See Prior Text]

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

\*\*\*

[See Prior Text in B.Adverse Impact on Visibility - O.2]

3. Where the air quality impact analysis required under this Section indicates that the issuance of a permit for any major stationary source or major modification would result in the consumption of more than 50 percent of any available annual increment or 80 percent of any available short term increment, the applicant may be required by the administrative authority to submit to the Office of Environmental Services, Permits Division a report covering the following factors:

\*\*\*

[See Prior Text in O.3.a - Q.6]

7. The administrative authority shall make all comments available for public inspection at the Headquarters of the Department of Environmental Quality. In accordance with 40 CFR 51.166 (g)(2)(ii-vii), the regional office having jurisdiction for the parish in which the permit or permit modification is being sought will be the regional location of all materials. In addition, the administrative authority may elect to provide certain parts of permits or permit modifications at other locations in the region.

\*\*\*

[See Prior Text in Q.8 - 8.a]

b. notify the applicant in writing of the final determination and make such notification available for public inspection at the Headquarters of the Department of Environmental Quality. In accordance with 40 CFR 51.166 (g)(2)(ii-vii), the regional office having jurisdiction for the parish in which the permit or permit modification is being sought will be the regional location of all materials. In addition, the administrative authority may elect to provide certain parts of permits or permit modifications at other locations in the region.

\*\*\*

[See Prior Text in R - S.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000).

**§513. General Permits, Temporary Sources, and Relocation of Portable Facilities**

\* \* \*

[See Prior Text in A - C]

1. The permitting authority may issue, on behalf of the department, a certificate of approval to relocate an asphalt plant or other transportable facility that is presently operating under a certificate of approval from the department provided the facility does not constitute a Part 70 source and would not constitute a Part 70 source upon relocation. Prior to issuance of any such certificate, the permitting authority shall receive adequate assurance from the petitioner that the following conditions are met:

\* \* \*

[See Prior Text in C.1.a - 3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2448 (November 2000).

**§517. Permit Applications and Submittal of Information**

\* \* \*

[See Prior Text in A - C]

D. Contents of Application. Applications for permits shall be submitted in accordance with forms and guidance provided by the permitting authority. In addition, forms can be obtained through the department's website at www.deq.state.la.us. At a minimum, each permit application submitted under this Chapter shall contain the following:

\* \* \*

[See Prior Text in D.1 - F]

G Change of Ownership. Notification of any change in ownership must be given to the permitting authority within 90 days after the change. Such notification need not require a complete permit application submittal, but shall be provided in accordance with forms or guidance from the permitting authority and in accordance with requirements of LAC 33:I.1701. In addition, forms can be obtained through the department's website at www.deq.state.la.us. The administrative authority is authorized to amend the permit to reflect such changes in accordance with LAC 33:III.521. Failure to disclose such changes of ownership within 90 days after the event will be grounds for invalidation of the permit. Based on review of the compliance history of the new owner, the administrative authority has the right to deny the transfer of the permit in accordance with provisions of LAC 33:I.1701. Changes in ownership of a source holding grandfathered status will require that a permit application be submitted in accordance with LAC 33:III.501.B.6 and Subsection A.3 of this Section.

\* \* \*

[See Prior Text in H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR

23:405 (April 1997), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2448 (November 2000).

**Chapter 6. Regulations on Control of Emissions Through the Use of Emission Reduction Credits Banking**

**§605. Definitions**

The terms used in this Chapter are defined in LAC 33:III.111 of these regulations except as defined within the separate subchapters or as follows:

*Actual Emissions* the actual rate of emissions of an air contaminant from a source operation, equipment, or control apparatus. Actual emissions shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the selected time period. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal major stationary source operation. A different time period shall be allowed upon a determination by the department that it is more representative of normal major stationary source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Acceptable methods for estimating the actual emissions may include, but are not limited to, any one or a combination of the following:

\* \* \*

[See Prior Text in a]

b. fuel usage records, production records, purchase records, material balances, engineering calculations (approved by the department), source tests (only if suitable emission factors are not available), waste disposal records, emission reports previously submitted to the department such as emission inventory reports, SARA Title III, or MACT compliance certifications, and other methods specifically approved by the administrative authority.

\* \* \*

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:874 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:2448 (November 2000).

**§611. Mobile Sources Emission Reductions**

\* \* \*

[See Prior Text in A - C.2]

D. Vehicle Visual Inspection. In order to be eligible for MERCs, each vehicle to be scrapped shall be subjected to a visual inspection prior to scrapping. Inspections shall be conducted by a licensed automobile crusher and information recorded on a form designed by and submitted to the Office of Environmental Services, Permits Division. The physical presence of the following elements shall be included in the inspection and shall be required for approval:

\* \* \*

[See Prior Text in D.1-E.12]

F. Recordkeeping Requirements. The following information shall be recorded on a form prepared by the participating automobile crusher and submitted to the Office of Environmental Services, Permits Division in duplicate:

\* \* \*

[See Prior Text in F.1- I]

1. Point-source Facilities Obtaining MERCs. Any stationary point-source facility in ozone nonattainment areas designated marginal and above may request the purchase of MERCs. The department will develop and maintain a directory of automobile year models/types available and the owners wishing to scrap their vehicles. The facility wishing to purchase MERCs will contact the department and indicate the amount of VOC and/or NO<sub>x</sub> emission reduction credits they are seeking. The department will release to that facility the names and telephone numbers of owners sufficient to meet all or part of the desired number of emission reduction credits. It will be the responsibility of the facility to negotiate a fair market value, a minimum of \$450, with the owner of the vehicle. A written statement of that negotiation shall be provided to the Office of Environmental Services, Permits Division signed by both the facility agent and the owner(s) of the vehicle(s) to be scrapped. A check from the facility to the vehicle owner will be submitted with the written statement of negotiation to the department. Upon receipt of the written statement of negotiation and the facility's check to the vehicle owner, the department will arrange for a licensed and certified automobile crusher to accept the designated vehicles for destruction. A department representative will witness the destruction of the vehicle(s) and will release the facility's check to the vehicle owner. The purchased MERCs will be transferred to the facility's ERC bank balance. In the event that vehicle scrappage does not take place after the written statement of negotiation and the check are forwarded to the department, the department will return to the facility the facility's check upon demand.

2. Private Entities. (Any private entity wishing to participate in the mobile source emission reduction program without benefit of a list of owners wishing to scrap their vehicles.) It will be the responsibility of the private entity to negotiate a fair market value, a minimum of \$450, with the owner of the vehicle. A written statement of that negotiation shall be provided to the department signed by both the private entity agent and the owner(s) of the vehicle(s) to be scrapped. A check from the private entity to the vehicle owner will be submitted with the written statement of negotiation to the Office of Environmental Services, Permits Division. Upon receipt of the written statement of negotiation and the private entity's check to the vehicle owner, the department will arrange for a licensed and certified automobile crusher to accept the designated vehicles for destruction. A department representative will witness the destruction of the vehicle(s) and will release the private entity's check to the vehicle owner. In the event that vehicle scrappage does not take place after the written statement of negotiation and the check are forwarded to the department, the department will return to the private entity the private entity's check upon demand.

\* \* \*

[See Prior Text in J - K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:881 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2448 (November 2000).

### **§613. ERC Bank Balance Sheet**

\* \* \*

[See Prior Text in A - C]

D. Schedule. All applications for banking ERCs in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge where the emission reductions occurred before August 20, 1994, must have been submitted prior to February 20, 1995. First-time applications for banking ERCs for attainment parishes may be submitted at any time. If a parish is redesignated as ozone nonattainment by the EPA, applications for banking ERCs for those parishes must be submitted within six months after the effective date of the EPA designation. All applications for banking ERCs where the emission reductions occurred after the date this banking rule was adopted for an area shall be submitted by March 1 following the year in which the reduction occurred. The balances (i.e., the balance available for netting and the balance available for offsets) from the ERC bank balance sheets of Subsection A of this Section shall be submitted to the department by March 1 of each year together with the certification specified in Subsection E of this Section. All submittals required by this Subsection must be submitted to the Office of Environmental Services, Permits Division. All emission reductions must meet the timing restrictions set forth in LAC 33:III.607.D in order to be eligible for banking as ERCs.

\* \* \*

[See Prior Text in E - F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:486 (March 2000), LR 26:2449 (November 2000).

### **§619. Registration of Emission Reduction Credit Certificates**

\* \* \*

[See Prior Text in A - B.2]

3. be signed by the administrative authority;

\* \* \*

[See Prior Text in B.4 - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2449 (November 2000).

### **§623. Withdrawal, Use, and Transfer of Emission Reduction Credits**

A. Withdrawal of ERCs. An ERC certificate may be withdrawn in whole or in part. The ERC owner must submit a written request to withdraw and use the ERCs. The administrative authority shall have 30 calendar days to review the request. Upon such request to withdraw ERCs from the bank, the department shall be responsible for recalculating the quantity of available ERCs for that entity

and for providing that entity with an adjusted bank balance sheet. In the case of a partial withdrawal, the assistant secretary shall issue a new certificate reflecting the available credits remaining.

\* \* \*

[See Prior Text in B- B.4]

C. Transfer of ERCs. An ERC certificate may be transferred in whole or in part. The role of the department in the transfer of an ERC certificate shall be limited to providing information to the public, documenting ERC transfers, and registering ERC certificates. The administrative authority shall be notified within 30 days of any transfer of the credit to another party. The old certificate shall be submitted to the assistant secretary who shall then issue a new certificate within 30 days indicating the new owner. In the case of a partial transfer, the assistant secretary shall issue a new certificate to the new owner as well as a revised certificate within 30 days to the current owner reflecting the available credits to each owner. The original ERC certificate shall be canceled. The banking register/database shall indicate the transfer to the new owner (and reduction of credits when a partial transfer takes place) and the invalidation of the original ERC certificate.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:880 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2449 (November 2000).

## **Chapter 9. General Regulations on Control of Emissions and Emission Standards**

### **§918. Recordkeeping and Annual Reporting**

Data for emission reports should be captured annually. These reports are to be submitted to the Office of Environmental Assessment, Environmental Evaluation Division by March 31st of each year (for the period January 1 to December 31 of the previous year) unless otherwise directed by the department. The report should include all data applicable to the emission source or sources which may be required under LAC 33:III.919.A.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000).

### **§919. Emission Inventory**

Emission inventory data shall be submitted to the Department of Environmental Quality on magnetic media in the format specified by the Office of Environmental Assessment, Environmental Evaluation Division. Facilities with less than five point sources, may elect to submit Emission Inventory Coding (EIC) forms in lieu of the magnetic media. Facilities are defined as all emission points, fugitive, area, mobile, under common control on contiguous property. Point source is defined as the point of emission which should have a Source Classification Code. Stationary source is defined as a group of point sources. Detailed instructions are provided on an annual basis for completing and submitting emissions inventories which define

requirements applicable to facilities, point sources, area sources and mobile sources.

A. Applicability. The owner or operator of the following facilities in the State of Louisiana shall submit emissions inventories to the Office of Environmental Assessment, Environmental Evaluation Division.

\* \* \*

[See Prior Text in A.1 - B.3]

4. Special Inventories. Upon request by the administrative authority, any facility subject to any rule of the Air Quality regulations, LAC 33: Part III shall file additional emissions data with the department. The request shall specify a reasonable time for response, which shall not be less than 60 days from receipt of the request.

\* \* \*

[See Prior Text in B.5-C]

D. After data processing and inventory update, the department will submit the revised inventory to the facility for final verification and signature. The certified inventory shall then be submitted to the Office of Environmental Assessment, Environmental Evaluation Division, within 60 days from the date of receipt of the data from the department.

\* \* \*

[See Prior Text in E - F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:184 (February 1993), repromulgated LR 19:485 (April 1993), amended LR 19:1418 (November 1993), LR 20:1101 (October 1994), LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000).

## **Chapter 11. Control of Emissions of Smoke**

### **§1105. Smoke from Flaring Shall Not Exceed 20**

#### **Percent Opacity**

The emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity (LAC 33:III.1503.Table 4) for a combined total of six hours in any 10 consecutive days. If it appears the emergency cannot be controlled in six hours, the Office of Environmental Compliance shall be notified by the emitter as soon as possible by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance) after the start of the upset period. Such notification does not imply the administrative authority will automatically grant an exemption to the source(s) of excessive emissions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 25:656 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000).

**§1107. Exemptions**

Exemptions from the provisions of LAC 33:III.1105 may be granted by the administrative authority during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment. A report in writing, explaining the conditions and duration of the start-up or shutdown and listing the steps necessary to remedy, prevent and limit the excess emission, shall be submitted to the Office of Environmental Compliance, Surveillance Division within seven calendar days of the occurrence. In addition, the flaring must be minimized and no ambient air quality standard may be jeopardized.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000).

**Chapter 14. Conformity**  
**Subchapter A. Determining Conformity of General Federal Actions to State or Federal Implementation Plans**

**§1404. Definitions**

Terms used, but not defined in this part, shall have the meaning given them by the CAA and LAC 33:III, in that order of priority.

\*\*\*

[See Prior Text]

*Department* the Department of Environmental Quality.

\*\*\*

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1269 (November 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000).

**§1410. Criteria for Determining Conformity of General Federal Actions**

\*\*\*

[See Prior Text in A - A.5.a]

i. the total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the department to result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed the emissions budgets specified in the applicable SIP. As a matter of policy, should the department make such determination or commitment, the federal agency must provide to the Office of Environmental Assessment, Environmental Planning Division information on all known projects or other actions which may affect air quality or emissions in any area to which this rule is applicable, regardless of whether such project or action is determined to be subject to this rule under LAC 33:III.1405. The department may charge the federal agency requesting such determination a reasonable fee based on the number of manhours required to perform and document the determination; or

\*\*\*

[See Prior Text in A.5.a.ii - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1274 (November 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000).

**Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act**

**§1434. Consultation**

\*\*\*

[See Prior Text in A-B.6.a]

b. DEQC assistant secretary of the Office of Environmental Assessment, or his designee,

\*\*\*

[See Prior Text in B.6.c - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repromulgated LR 24:1280 (July 1998), amended LR 24:1684 (September 1998), repromulgated LR 24:1925 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000).

**Chapter 15. Emission Standards for Sulfur Dioxide**

**§1507. Exceptions**

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[See Prior Text in A]

1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A may be authorized by the administrative authority for plants not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, that have been shut down. A report in writing explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the Office of Environmental Compliance, Surveillance Division within seven calendar days of the occurrence.

\*\*\*

[See Prior Text in A.2 - B]

1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A may be extended by the administrative authority to plants not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the Office of Environmental Compliance, Surveillance Division within seven calendar days of the occurrence.

\*\*\*

[See Prior Text in B.2 - C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the

Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:1284 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000).

## **Chapter 21. Control of Emission of Organic Compounds**

### **Subchapter A. General**

#### **§2103. Storage of Volatile Organic Compounds**

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[See Prior Text in A - D.4]

a. Controls for non-slotted guide poles and stilling wells shall include pole wiper and gasketing between the well and sliding cover. Controls for slotted guide poles shall include a float with wiper, pole wiper, and gasketing between the well and sliding cover. The description of the method of control and supporting calculations based upon the Addendum to American Petroleum Institute Publication Number 2517 Evaporative Loss from External Floating Roof Tanks, (dated May 1994) shall be submitted to the Office of Environmental Assessment, Environmental Technology Division for approval prior to installation.

\*\*\*

[See Prior Text in D.4.b - I.5]

6. records of the type(s) of VOC stored and the length of time stored for any storage tank exempted under Subsection G.5 of this Section. Verbal notification to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance) is required in advance, if possible, but no later than 24 hours after the tank starts filling.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:27 (January 1990), LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000).

#### **§2108. Marine Vapor Recovery**

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[See Prior Text in A - F]

1. The results of any testing done in accordance with LAC 33:III.2108.E shall be reported to the Office of Environmental Assessment, Environmental Technology Division within 45 days of the test.

\*\*\*

[See Prior Text in F.2 - H.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December

1996), LR 23:1678 (December 1997), LR 24:20 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000).

#### **§2113. Housekeeping**

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[See Prior Text in A - A.3]

4. Each facility shall develop a written plan for housekeeping and maintenance that places emphasis on the prevention or reduction of volatile organic compound emissions from the facility. This plan shall be submitted to the Office of Environmental Services, Permits Division upon request. A copy shall be kept at the facility, if practical, or at an alternate site approved by the department.

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[See Prior Text in A.5]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:361 (April 1991), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000).

#### **§2116. Glycol Dehydrators**

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[See Prior Text in A - G]

1. The owner or operator of a facility shall submit to the Office of Environmental Services, Permits Division a permit application after installation of controls unless exempt from permitting pursuant to LAC 33:III.Chapter 5.

2. If no permit is required pursuant to LAC 33:III.Chapter 5, the owner or operator of a facility shall submit to the Office of Environmental Services, Permits Division a new or updated emission inventory questionnaire after installation of controls.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1107 (October 1994), repromulgated, LR 20:1279 (November 1994), amended LR 21:941 (September 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000).

#### **§2121. Fugitive Emission Control**

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[See Prior Text in A - E.3]

F. Reporting Requirements. The operator of the affected facility shall submit to the Office of Environmental Assessment, Environmental Technology Division a report semiannually containing the information below for each calendar quarter during the reporting period. The reports are due by the last day of the month (January and July) following the monitoring period or by a date approved by the department. The reports shall include the following information for each quarter of the reporting period:

\*\*\*

[See Prior Text in F.1 - G.Liquid Service]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:654 (July 1991), LR 21:1330 (December 1995), LR 22:1128 (November 1996), LR 22:1212 (December 1996), LR 24:22 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:433 (July 2000), LR 26:2452 (November 2000).

**§2122. Fugitive Emission Control for Ozone Nonattainment Areas**

\* \* \*

[See Prior Text in A - F.3]

G. Reporting Requirements. The operator of the affected facility shall submit a report semiannually to the Office of Environmental Assessment, Environmental Technology Division containing the information below for each calendar quarter during the reporting period. The reports are due by the last day of the month (January and July) following the monitoring period or by a date approved by the department. The reports shall include the following information for each quarter of the reporting period:

\* \* \*

[See Prior Text in G.1 - G.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000).

**Subchapter B. Organic Solvents**

**§2123. Organic Solvents**

\* \* \*

[See Prior Text in A - D]

1. If add-on controls such as incinerators or vapor recovery systems are used to comply with the emission limitation requirements, in terms of pounds per gallon of solids as applied (determined in accordance with LAC 33:III.2123.D.8), the volatile organic compound capture and abatement system shall be at least 80 percent efficient overall. All surface coating facilities shall submit to the Office of Environmental Services, Permits Division, for approval, design data for each capture system and emission control device which is proposed for use. The effectiveness of the capture system (i.e., capture efficiency) shall be determined using the procedure specified in LAC 33:III.2123.E.6.

\* \* \*

[See Prior Text in D.2 - G.Repair and Maintenance Thermoplastic Coating]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:2453 (November 2000).

**Subchapter F. Gasoline Handling**

**§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities**

\* \* \*

[See Prior Text in A - B.5]

6. The regulated facility shall submit the following application information to the Office of Environmental Compliance, Surveillance Division prior to installation of the Stage II Vapor Recovery System:

\* \* \*

[See Prior Text in B.6.a - 7]

8. Upon request by the Department of Environmental Quality, the owner or operator of a facility that claims to be exempt from the requirements of this Section shall submit supporting records to the Office of Environmental Compliance, Surveillance Division within 30 calendar days from the date of the request. The Department of Environmental Quality shall make a final determination regarding the exemption status of a facility.

\* \* \*

[See Prior Text in C - D]

1. The owner/operator of the facility shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the Office of Environmental Compliance, Surveillance Division at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for Stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

\* \* \*

[See Prior Text in D.1.a - 2]

3. The department reserves the right to confirm the results of the aforementioned testing at its discretion and at any time. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the Office of Environmental Compliance, Surveillance Division the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

\* \* \*

[See Prior Text in E - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000).

**Subchapter M. Limiting Volatile Organic Compound Emissions from Industrial Wastewater**

**§2153. Limiting Volatile Organic Compound Emissions from Industrial Wastewater**

\* \* \*

[See Prior Text in A - G.4.a]

b. in order to maintain exemption status under this Subsection, the owner or operator shall submit an annual report no later than March 31 of each year, starting in 1997, to the Office of Environmental Assessment, Environmental Technology Division, which demonstrates that the overall control of VOC emissions at the affected source category from which wastewater is generated during the preceding calendar year is at least 90 percent less than the 1990 baseline emissions inventory. At a minimum, the report shall include the EPN; the PIN; the throughput of wastewater from affected source categories; a plot plan showing the location, EPN, and PIN associated with a wastewater storage, handling, transfer, or treatment facility; and the VOC emission rates for the preceding calendar year. The emission rates for the preceding calendar year shall be calculated in a manner consistent with the 1990 baseline emissions inventory; and

c. all representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions, unless the owner or operator of the wastewater component submits a revised control plan to the Office of Environmental Assessment, Environmental Technology Division within 30 days of the change. All control plans and reports shall include documentation that the overall reduction of VOC emissions from wastewater at the affected source categories continues to be at least 90 percent less than the 1990 baseline emissions inventory. The emission rates shall be calculated in a manner consistent with the 1990 baseline emissions inventory.

\* \* \*

[See Prior Text in G.5]

a. each request for an exemption determination shall be submitted to the Office of Environmental Assessment, Environmental Technology Division. Each request shall demonstrate that the overall control of VOC emissions from wastewater at the affected source categories will be at least 80 percent less than the 1990 baseline emissions inventory. The request shall include the applicable EPN; the PIN; the calendar year throughput of wastewater from affected source categories; the VOC emission rates; and a plot plan showing the location, EPN, and PIN associated with a wastewater storage, handling, transfer, or treatment facility. The emission rates shall be calculated in a manner consistent with the 1990 baseline emissions inventory;

\* \* \*

[See Prior Text in G.5.b]

c. all representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the wastewater component submits a revised control plan to the Office of Environmental Assessment, Environmental Technology Division within 30 days of the change. All control plans and reports shall include documentation that the overall reduction of VOC emissions at the plant from

wastewater affected source categories continues to be at least 80 percent less than the 1990 baseline emissions inventory.

\* \* \*

[See Prior Text in G.6 - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000).

#### **Subchapter N. Method 43C Capture Efficiency Test Procedures**

##### **§2159. Recordkeeping and Reporting**

A. All affected facilities must maintain a copy of the capture efficiency protocol on file. All results of appropriate test methods and CE protocols must be reported to the Office of Environmental Assessment, Environmental Technology Division within 60 days of the test date. A copy of the results must be kept on file with the source.

B. If any changes are made to capture or control equipment, the source is required to notify the Office of Environmental Assessment, Environmental Technology Division of these changes and a new test may be required.

C. The source must notify the Office of Environmental Assessment, Environmental Technology Division 30 days prior to performing any capture efficiency and/or control efficiency tests.

\* \* \*

[See Prior Text in D - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2454 (November 2000).

#### **Chapter 23. Control of Emissions for Specific Industries<sup>1</sup>**

##### **Subchapter A. Chemical Woodpulping Industry**

##### **§2301. Control of Emissions from the Chemical Woodpulping Industry**

\* \* \*

[See Prior Text in A - D.4]

a. Compliance. Owner or operators shall conduct source tests of recovery furnaces pursuant to the provisions in Table 4, Chapter 15 to confirm particulate emissions are less than that specified in LAC 33:III.2301.D.1. The results shall be submitted to the Office of Environmental Assessment, Environmental Technology Division as specified in LAC 33:III.919 and 918. The testing should be conducted as follows:

\* \* \*

[See Prior Text in D.4.a.i - ii]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1564 (December 1993), amended by the Office of



**Subchapter B. Aluminum Plants**  
**§2303. Standards for Horizontal Stud Soderberg Primary Aluminum Plants and Prebake Primary Aluminum Plants**

\*\*\*

[See Prior Text in A - D.4]

E. Monitoring. Each horizontal stud Soderberg process primary aluminum plant and prebake process primary aluminum plant shall submit a detailed monitoring program subject to revision and approval by the Office of Environmental Assessment, Environmental Technology Division. The program shall include regularly scheduled monitoring for emissions of total particulates as well as ambient air sampling for suspended particulates.

[Note: Measurement of Concentrations. The methods listed in Table 2 (Chapter 7) and Table 4 (Chapter 15), or such equivalent methods as may be approved by the department, shall be utilized to determine these particulate concentrations.]

\*\*\*

[See Prior Text in F - F.1.d]

2. Every horizontal stud Soderberg process primary aluminum plant and prebake process primary aluminum plant shall furnish, upon request to the department, such other data as the administrative authority may require to evaluate the plant's emission control program. Such plants shall immediately report abnormal plant operations which result in increased emissions of air contaminants to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance). Such notification does not imply the administrative authority will automatically grant an exemption to the source(s) of excessive emissions.

\*\*\*

[See Prior Text in G - G.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000).

**Subchapter D. Nitric Acid Industry**  
**§2307. Emission Standards for the Nitric Acid Industry**

\*\*\*

[See Prior Text in A - C.1]

a. A four-hour start-up exemption from emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR part 60, subpart G, as incorporated by reference in LAC 33:III.Chapter 30, which have been shut down. It is recognized that existing nitrogen oxide abatement equipment is effective only at normal operating temperatures. This provision allows the necessary time to bring up a facility from a cold start to near steady state condition. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to the Office of Environmental Compliance, Surveillance Division within seven calendar days of the occurrence.

\*\*\*

[See Prior Text in C.1.b - 2]

a. A four-hour exemption from emission regulations may be extended by the administrative authority to plants not subject to 40 CFR part 60, subpart G, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the Office of Environmental Compliance, Surveillance Division within seven calendar days of the occurrence.

\*\*\*

[See Prior Text in C.2.b.H.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000).

<sup>1</sup> Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

**Chapter 25. Miscellaneous Incineration Rules**  
**Subchapter B. Biomedical Waste Incinerators**  
**§2511. Standards of Performance for Biomedical Waste Incinerators**

\*\*\*

[See Prior Text in A - C]

1. Within 90 days after adoption of these regulations, all facilities operating incinerators designed or operated for the purpose of burning potentially infectious medical waste, shall submit a supplemental incinerator data form (SID-1) to the Office of Environmental Assessment, Environmental Technology Division.

\*\*\*

[See Prior Text in C.2 - E.6.e]

7. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment, Environmental Technology Division for review and approval within 45 days of completion of testing.

\*\*\*

[See Prior Text in F - K]

L. Recordkeeping/Reporting. The owner or operator of any BWI shall keep a daily record of the hours the unit was in operation and the amount of waste incinerated. A separate record shall be kept of all chemotherapeutic waste incinerated that is not listed under the Resource Conservation and Recovery Act, 40 CFR 261.33(f). This record shall show the name of the material, date and time incinerated, and amount burned. Records shall be submitted to the Office of Environmental Compliance, Surveillance Division by March 31 for the previous calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000).

**Subchapter C. Refuse Incinerators**

**§2521. Refuse Incinerators**

\* \* \*

[See Prior Text in A - F.9.e]

10. A copy of all monitoring and tests results shall be submitted to the Department of Environmental Quality, Office of Environmental Assessment, Environmental Technology Division, for review and approval within 45 days of completion of testing.

\* \* \*

[See Prior Text in G - H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1100 (October 1994), amended LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000).

**Subchapter D. Crematories**

**§2531. Standards of Performance for Crematories**

\* \* \*

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

2. A copy of all test results shall be submitted to the Department of Environmental Quality, Office of Environmental Assessment, Environmental Technology Division for review and approval within 45 days of completion of testing.

\* \* \*

[See Prior Text in J-J.1.d]

2. The owner/operator shall provide the Office of Environmental Assessment, Environmental Technology Division at least 30 days prior notice of any emission test to afford the department the opportunity to conduct a pretest conference and to have an observer present. The department has the authority to invalidate any testing where such notice is not provided.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1107 (October 1994), amended LR 22:1127 (November 1996), LR 22:1212 (December 1996), LR 23:1509 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000).

**Chapter 27. Asbestos-containing Materials in Schools and State Buildings Regulation**

**§2701. Asbestos-Containing Materials in Schools and State Buildings**

\* \* \*

[See Prior Text in A - B.3.b]

i. a copy of the inspection report must be submitted to the Office of Environmental Services, Permits Division, within 90 days of the inspection; and

\* \* \*

[See Prior Text in B.3.b.ii - C]

1. This regulation requires local education agencies and the state government to identify friable and nonfriable asbestos-containing material (ACM) in schools and state

buildings by visually inspecting schools and state buildings for such materials, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques referred to in this rule. The regulation requires local education agencies and the state government to submit management plans to the Office of Environmental Services, Permits Division on or before 90 days after promulgation of this regulation, to begin to implement the plans 180 days after promulgation of this regulation, and to complete implementation of the plans in a timely fashion. If an exemption is requested for a state building that contains no asbestos, an inspection report supporting that exemption should be submitted in accordance with Subsection B.3.b.i of this Section. Management plans submitted to and approved by the Department of Environmental Quality prior to the promulgation of this regulation shall meet the inspection and assessment requirements of this Chapter. In addition, local education agencies and the state government are required to employ persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions. The regulation also includes recordkeeping requirements. Local education agencies and the state government may contractually delegate their duties under this rule, but they remain responsible for the proper performance of those duties. Local education agencies and the state government are encouraged to consult with the Office of Environmental Compliance, Surveillance Division of the Department of Environmental Quality for assistance in complying with this rule.

\* \* \*

[See Prior Text in C.2]

D. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:1056 (December 1990), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:698 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000).

**§2719. Operations and Maintenance**

\* \* \*

[See Prior Text in A - F.2.b]

c. notify the Office of Environmental Compliance of the major fiber release episode by phone as specified in LAC 33:I.3923 at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance) and in writing as specified in LAC 33:I.3925;

\* \* \*

[See Prior Text in F.2.d]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000).

**§2723. Management Plans**

\* \* \*

[See Prior Text in A]

1. Each local education agency or the state government shall develop an asbestos management plan for each school, including all buildings that are leased, owned, or otherwise used as school or state buildings, and submit the plan to the Office of Environmental Services, Permits Division. After June 20, 1994, each plan must include Form AAC-8, Required Elements for Management Plans (latest revised form can be obtained from the Office of Environmental Services, Permits Division or through the department’s website located at www.deq.state.la.us). The plan may be submitted in stages that cover portions of the school or state building under the authority of the local education agency or the state government before the deadline specified in LAC 33:III.2701.C.

2. If a building to be used as part of a school or state building is leased or otherwise acquired more than 90 days after promulgation of this regulation, the local education agency or the state government shall include the new building in the management plan for the school or state building prior to its use as a school or state building. The revised portions of the management plan shall be submitted to the Office of Environmental Services, Permits Division.

3. If a local education agency or the state government begins to use a building as a school or state building more than 90 days after promulgation of this regulation, the local education agency or the state government shall submit a management plan for the school or state building to the Office of Environmental Services, Permits Division prior to its use as a school or state building. Each plan developed or modified after June 20, 1994 must include Form AAC-8, Required Elements for Management Plans.

\* \* \*

[See Prior Text in B - H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000).

**§2735. Exclusions**

\* \* \*

[See Prior Text in A – A.3.a]

b. within 30 days after the inspector's determination, the local education agency or the state government shall submit a copy of the inspector's statement to the Office of Environmental Services, Permits Division and shall include the statement in the management plan for that school or state building.

\* \* \*

[See Prior Text in A.4 - 5]

6. Based on inspection records and contractor and clearance records, an accredited inspector has determined that no ACM is present in the homogeneous or sampling area where asbestos removal operations have been conducted before December 14, 1987, and shall sign and date a statement to that effect and include his or her accreditation number. The local education agency or the

state government shall submit a copy of the statement to the Office of Environmental Services, Permits Division and shall include the statement in the management plan for that school or state building.

7. An architect or project engineer responsible for the construction of a new school building built after October 12, 1988, or an accredited inspector signs a statement that no ACM was specified as a building material in any construction document for the building or, to the best of his or her knowledge, no ACM was used as a building material in the building. The local education agency or the state government shall submit a copy of the signed statement of the architect, project engineer, or accredited inspector to the Office of Environmental Services, Permits Division and shall include the statement in the management plan for that school or state building.

\* \* \*

[See Prior Text in B - C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000).

**§2739. Agent Accreditation**

\* \* \*

[See Prior Text in A – B.2]

3. Workers who are engaged in maintenance that disturbs more than three square or linear feet of ACM which does involve its actual removal, enclosure, repair, or encapsulation shall receive their initial and refresher training from a training organization recognized by the Department of Environmental Quality. This training should be in accordance with the asbestos abatement worker course as described in Appendix A Subsection A.5 Initial Training. Workers who participate in the type of project described in this Paragraph must be accredited in accordance with Appendix A of this Chapter and must work under the close direction of an accredited supervisor during any work they perform.

4. Supervisors who are directing workers who may disturb ACM shall receive their initial and refresher training in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.4, from a training organization recognized by the Department of Environmental Quality. Supervisors who participate in the type of project referenced in this Paragraph are responsible for ensuring that:

\* \* \*

[See Prior Text in B.4.a – 5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000).

**APPENDIX A**

**Agent Accreditation Plan**

The duration of initial and refresher training courses is specified in numbers of days. A day of training equals eight consecutive hours, including breaks and lunch.

In several instances, initial training courses for a specific discipline (e.g., workers, inspectors) require hands-on training. For asbestos abatement supervisors, and workers, hands-on training should include working with asbestos-substitute materials, fitting and using respirators, use of glove-bags, donning protective clothing, constructing a decontamination unit, as well as other abatement work activities. Hands-on training must permit all supervisors, and workers to have actual experience performing tasks associated with asbestos abatement. For inspectors, hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

Training requirements for each of the five accredited disciplines are outlined below. Persons in each discipline perform a different job function and distinct role. Inspectors identify and assess the condition of ACBM, or suspect ACBM. Management planners use data gathered by inspectors to assess the degree of hazard posed by ACBM in schools to determine the scope and timing of appropriate response actions needed for schools. Project designers determine how asbestos abatement work should be conducted. Lastly, workers and contractor/supervisors carry out and oversee abatement work. Each accredited discipline and training curriculum is separate and distinct from the others. A person seeking accreditation in any of the five accredited MAP disciplines cannot attend two or more courses concurrently, but may attend such courses sequentially. All courses, both initial and refresher, shall be completed within 14 days of the commencement of the course.

\* \* \*

[See Prior Text in A - E.2.e]

3. The completed application with applicable fees (LAC 33:III.223) is to be sent to the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text in E.4 - 8.a]

b. for failure to notify the Office of Environmental Services, Permits Division of changes in status;

\* \* \*

[See Prior Text in E.8.c]

d. for failure to allow a department representative to inspect and review sites and documentation;

\* \* \*

[See Prior Text in E.8.e - F]

1. Submit the latest revision of the Asbestos Training Organization Recognition Application, Form AAC-3, (which may be obtained from the Office of Environmental Services, Permits Division or through the department's website located at [www.deq.state.la.us](http://www.deq.state.la.us)) requesting approval to train asbestos agents.

\* \* \*

[See Prior Text in F.2 - 2.g]

3. The completed application with applicable fees for organization and trainer recognition (LAC 33:III.223) are to be sent to the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text in F.4 - 5.a]

b. The recognized training organization must keep the Office of Environmental Services, Permits Division informed of any change in status of the training organization, such as pending fines, notices of violation, changes in instructor status, etc.

c. A notification of which courses will be taught, including where, when, and who will conduct the class, must be submitted to the Office of Environmental Services, Permits Division.

i. The notification must be received in writing by the Office of Environmental Services, Permits Division at least five days prior to class commencement. (Notification must be made at least three days prior to a course when only the state regulations are to be taught.)

ii. Cancellation of classes must be received by the Office of Environmental Services, Permits Division before the class should have commenced.

d. Within 10 days of the completion of a class a complete roster of trainees, their social security numbers, and examination grades, with a 1" x 1 3/4" photograph of the face of each trainee, must be submitted to the Office of Environmental Services, Permits Division on a form approved by the department.

e. The Office of Environmental Services, Permits Division must be notified by phone or in writing of changes in class schedules prior to the date when the course was to have commenced.

\* \* \*

[See Prior Text in F.5.f - k.v]

6. Applications for trainer recognition shall be completed using the latest revision of the Asbestos Trainer Recognition Form, AAC-4 (latest revision of the form may be obtained from the Office of Environmental Services, Permits Division or through the department's website at [www.deq.state.la.us](http://www.deq.state.la.us)). A resume indicating proof of experience as described in Subsection F.2.d.ii of this Appendix must be attached. The completed application with applicable fees (LAC 33:III.223) is to be sent to the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text in F.7 - 9.e.ii]

iii. If a training provider ceases to conduct training, the training provider shall notify the Office of Environmental Services, Permits Division and give it the opportunity to take possession of that providers asbestos training records.

NOTE: Copies of Forms AAC-1, 3 and 4 previously located here are hereby being deleted. All forms may be obtained from the Office of Environmental Services, Permits Division or through the department's website at [www.deq.state.la.us](http://www.deq.state.la.us).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), LR 16:1057 (December 1990), Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000).

**Chapter 28. Lead-Based Paint Activities C Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities**

**§2805. Recognition and Standards for Training Providers**

\*\*\*

[See Prior Text in A - A.1]

2. a training provider seeking recognition shall submit to the Office of Environmental Services, Permits Division the appropriate fees, as required in LAC 33:III.223, and a written application containing the following information:

\*\*\*

[See Prior Text in A.2.a - B.8.g]

9. the training provider shall submit rosters, including photographs of participants, to the Office of Environmental Services, Permits Division within 10 working days of course completion. For each course, the training provider shall provide three photographs of each student:

\*\*\*

[See Prior Text in B.9.a - D]

1. A training provider seeking renewal of its recognition shall submit, along with the appropriate fees as required in LAC 33:III.223 and an application to the Office of Environmental Services, Permits Division, 60 days prior to its expiration date. If a training provider does not submit its renewal application by that date, the department cannot guarantee the application will be reviewed and acted upon before the end of the one-year period.

\*\*\*

[See Prior Text in D.2 - D.3]

E. Notification Requirements. A training provider scheduling lead-based paint activities courses shall notify the Office of Environmental Services, Permits Division in writing as follows:

\*\*\*

[See Prior Text in E.1 - G.3]

4. The training provider shall notify the Office of Environmental Services, Permits Division 30 days prior to relocating its business or transferring its records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1666 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000).

**§2807. Accreditation of Individuals**

\*\*\*

[See Prior Text in A-C.1]

a. submit a completed and signed application form to the Office of Environmental Services, Permits Division;

\*\*\*

[See Prior Text in C.1.b - D]

1. To maintain accreditation individuals must be annually recertified by the Office of Environmental Services, Permits Division.

\*\*\*

[See Prior Text in D.2 - 2.a]

b. submit a copy of the refresher course completion certificate to the Office of Environmental Services, Permits Division;

\*\*\*

[See Prior Text in D.2.c - E.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1669 (December 1997), amended LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000).

**§2809. Licensure of Lead Contractors**

\*\*\*

[See Prior Text in A]

1. In order to bid and/or perform abatement activities, lead contractors must obtain a lead-based paint abatement and removal license from the State of Louisiana Licensing Board for Contractors. As of November 1, 1998, prior to obtaining an initial or renewal license, the lead contractor must submit an application for approval, along with the appropriate fees as required in LAC 33:III.223, to the Office of Environmental Services, Permits Division and certify to the department that the following criteria have been met:

\*\*\*

[See Prior Text in A.1.a - B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1671 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000).

**§2811. Work Practice Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities**

\*\*\*

[See Prior Text in A - A.4.f]

5. If using X-ray Fluorescence Spectroscopy (XRF) to test for the presence of lead-based paint, XRF shall be used according to the manufacturer's procedures. The XRF must be licensed in accordance with the department's Radiation Protection Regulations (LAC 33:III).

\*\*\*

[See Prior Text in B - E.3]

4. The lead contractor shall notify the Office of Environmental Services, Permits Division in writing of abatement activities.

\*\*\*

[See Prior Text in E.4.a]

b. The project shall not start before the start date noted on the LPN. The Office of Environmental Services, Permits Division shall be notified if the operation will stop for a day or more during the project time noted on the LPN or if the project has been canceled or postponed. The firm shall also give notice 24 hours before the completion of a project. Notice should be submitted to the department with written follow-up and fax notification to the appropriate regional office.

\*\*\*

[See Prior Text in E.4.c - 13]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1672 (December 1997),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000).

**Chapter 29. Odor Regulations**

**§2901. Odorous Substances**

\* \* \*

[See Prior Text in A – C.Perceived Odor Intensity]

D. Standard. Limit on Odorous Substances at or Beyond Property Lines. A person shall not discharge an odor substance which causes a perceived odor intensity of six or greater on the specified eight point butanol scale when determined by the department’s test method. (Method 41)

\* \* \*

[See Prior Text in E - G.6.d.Figure 3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2460 (November 2000).

**Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

**Subchapter A. Incorporation by Reference (IBR)**

**§3003. IBR 40 Code of Federal Regulations (CFR) Part 60**

\* \* \*

[See Prior Text in A-C]

1. whenever the referenced regulations (i.e., 40 CFR part 60) provide authority to the Administrator, such authority in accordance with these regulations shall be exercised by the administrative authority or his designee, not withstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR part 60) to be provided to the Administrator shall be provided to the Office of Environmental Assessment, Environmental Technology Division where the state is designated authority by EPA as the Administrator or shall be provided to the Office of Environmental Assessment, Environmental Technology Division and EPA where EPA retains authority as the Administrator;

2. 40 CFR Part 60 Subpart A, Section 60.4 (b)(T), to read as follows: State of Louisiana: Office of Environmental Assessment, Environmental Technology Division, Department of Environmental Quality;

\* \* \*

[See Prior Text in C.3 - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2460 (November 2000), LR 26:2608 (November 2000).

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter A. Applicability, Definitions, and General Provisions**

**§5107. Reporting Requirements, Availability of Information, and Public Notice Provisions**

A. Annual Emissions Reporting. The owner or operator of any stationary source that emits any toxic air pollutant listed in Table 51.1 or Table 51.3 shall submit a completed annual emissions report to the Office of Environmental Services, Permits Division in a format specified by the department. The owner or operator shall identify on the emissions report the quantity of emissions in the previous calendar year for any such toxic air pollutant emitted.

\* \* \*

[See Prior Text in A.1]

2. Subsequent Annual Emissions Reports. After the initial annual emissions report, the owner or operator of any stationary source subject to the requirements in Subsection A of this Section shall submit a completed annual emissions report to the Office of Environmental Services, Permits Division on or before July 1 of each year. Each subsequent report shall identify the quantity of emissions of all toxic air pollutants listed in Table 51.1 or Table 51.3.

\* \* \*

[See Prior Text in A.3 - B.1]

2. Emission Control Bypasses. Except as provided in Subsection B.6 of this Section, for any unauthorized discharge into the atmosphere of a toxic air pollutant as a result of bypassing an emission control device, where the emission control bypass was not the result of an upset, the owner or operator of the source shall notify the Office of Environmental Compliance of the bypass by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance no later than 24 hours after the beginning of the bypass. Where the emission control bypass was the result of an upset, the owner or operator shall comply with Subsection B.3 of this Section.

3. Nonemergency Conditions. Except as provided in Subsection B.6 of this Section, for any unauthorized discharge of a toxic air pollutant into the atmosphere which does not cause an emergency condition, the rate or quantity of which is in excess of that allowed by permit, compliance schedule, or variance, or for upset events that exceed the reportable quantity in LAC 33:I.3931, the owner or operator of the source shall immediately, but in no case later than 24 hours, notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by email utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance.

4. Written Reports. For every such discharge or equipment bypass as referred to in Subsection B.1, 2, and 3 of this Section, the owner or operator shall submit to the Office of Environmental Compliance a written report by certified mail within seven calendar days of learning of the discharge.

\* \* \*

[See Prior Text in B.4.a - D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:890 (July 1993), amended by the Office of the Secretary, LR 19:1022 (August 1993), repromulgated LR 19:1142 (September 1993), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:58 (January 1997), LR 24:1276 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2460 (November 2000).

**§5111. Permit Requirements, Application, and Review**

\* \* \*

[See Prior Text in A - A.2.a]

b. if the modification will not result in an increase in emissions of any toxic air pollutant and will not create a new point source, submit a letter requesting a permit modification to the Office of Environmental Services, Permits Division. The letter shall include those elements specified in Subsection B.2.a, b, and c of this Section. The administrative authority shall notify the owner or operator of the determination to authorize or deny such modification within 30 days of receiving the request.

\* \* \*

[See Prior Text in A.3]

a. submit a letter to the Office of Environmental Services, Permits Division indicating that the necessary permit modification (or new permit if no existing permit is in place) will be applied for by a date specified in the compliance schedule and requesting written authorization to construct; or

b. submit a permit application to the Office of Environmental Services, Permits Division in accordance with Subsection B of this Section.

\* \* \*

[See Prior Text in A.4 - B]

1. An owner or operator may submit to the Office of Environmental Services, Permits Division, by certified mail, a written request for a determination of whether actions intended to be taken by the owner or operator constitute construction or modification, or the commencement thereof, of a stationary source. The administrative authority will notify the owner or operator of the determination within 30 days after receiving sufficient information to evaluate the request.

\* \* \*

[See Prior Text in B.2 - C.5.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:891 (July 1993), repromulgated LR 19:1314 (October 1993), amended LR 23:59 (January 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000).

**§5113. Notification of Start-up, Testing, and Monitoring**

A. Notification of Start-up. Any owner or operator that has an initial start-up of a stationary source subject to MACT or Ambient Air Standard Requirements under this Subchapter shall furnish the Office of Environmental

Compliance, Surveillance Division written notification as follows:

1. a notification to the Office of Environmental Compliance, Surveillance Division of the anticipated date of the initial start-up of the source not more than 60 days nor less than 30 days before that date; and

2. a notification to the Office of Environmental Compliance, Surveillance Division of the actual date of initial start-up of the source postmarked within 10 working days after such date.

\* \* \*

[See Prior Text in B]

1. The department may require any owner or operator to conduct tests to determine the emission of toxic air pollutants from any source whenever the department has reason to believe that an emission in excess of those allowed by this Subchapter is occurring. The department may specify testing methods to be used in accordance with good professional practice. The department may observe the testing. All tests shall be conducted by qualified personnel. The Office of Environmental Assessment, Environmental Technology Division shall be given a copy of the test results in writing signed by the person responsible for the tests within 45 days after completion of the test.

\* \* \*

[See Prior Text in B.2 - 4.e]

5. Unless otherwise specified, samples shall be analyzed and emissions determined within 30 days after each emission test has been completed. The owner or operator shall report the determinations of the emission test to the Office of Environmental Assessment, Environmental Technology Division by a certified letter sent before the close of business on the 45th day following the completion of the emission test.

\* \* \*

[See Prior Text in B.6]

7. The owner or operator shall notify the Office of Environmental Assessment, Environmental Technology Division of any emission test required to demonstrate compliance with this Subchapter at least 30 days before the emission test to allow the administrative authority the opportunity to have an observer present during the test.

\* \* \*

[See Prior Text in C - C.1]

2. When required at any other time requested by the administrative authority, the owner or operator of a source being monitored shall conduct a performance evaluation of the monitoring system and furnish the Office of Environmental Assessment, Environmental Technology Division with a copy of a written report of the results within 60 days of the evaluation. The owner or operator of the source shall furnish the Office of Environmental Assessment, Environmental Technology Division with written notification of the date of the performance evaluation at least 30 days before the evaluation is to begin.

\* \* \*

[See Prior Text in C.3 - 4]

5. The administrative authority may require a continuous monitoring system where such systems are deemed feasible and necessary to demonstrate compliance with applicable standards. The owner or operator of a facility that the administrative authority has required to install a

continuous monitoring system shall submit to the Office of Environmental Assessment, Environmental Technology Division for approval a plan describing the affected sources and the methods for ensuring compliance with the continuous monitoring system. The plan for the continuous monitoring system must be submitted to the department within 90 days after the administrative authority requests either the initial plan or an updated plan.

\* \* \*

[See Prior Text in C.5.a - 7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997), LR 23:1658 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000).

### Subchapter M. Asbestos

#### §5151. Emission Standard for Asbestos

\* \* \*

[See Prior Text in A – B.Planned Operation]

*Recognized Disposal Site* Ca waste disposal site which has been approved or permitted by the Department of Environmental Quality.

\* \* \*

[See Prior Text in B.Regulated Asbestos-containing Material (RACM) – F.2]

a. provide the Office of Environmental Services, Permits Division with typed notice of intention to demolish or renovate using the latest version of Form AAC-2, Notification of Demolition and Renovation. This form is available from the Office of Environmental Services, Permits Division or through the department's website located at [www.deq.state.la.us](http://www.deq.state.la.us). Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable. The use of a prior version of the AAC-2 form is acceptable unless the department has previously provided the owner or operator with a copy of the current version, or the owner or operator is aware of the latest version.

\* \* \*

[See Prior Text in F.2.b - F.2.c.iv.(a).(i)]

(ii). provide the Office of Environmental Services, Permits Division with a written notice of the new start date as soon as possible before, and no later than, the original start date. Delivery of the updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

\* \* \*

[See Prior Text in F.2.c.iv.(b)]

(i). provide the Office of Environmental Services, Permits Division with a written notice of the new start date at least 10 working days before asbestos stripping or removal work begins;

(ii). for demolitions covered by Subsection F.1.b of this Section, provide the Office of Environmental Services, Permits Division written notice of a new start date at least 10 working days before commencement of demolition. Delivery of the updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

\* \* \*

[See Prior Text in F.2.c.iv.(c) - f.i.(c)]

ii. Within five working days after the notification is made by phone, a typed notification as specified in Subsection F.2.d and e shall be submitted to the Office of Environmental Services, Permits Division in order to obtain an ADVF.

g. Use the following procedures in order that the department can trace disposal of asbestos-containing waste material:

i. Each demolition or renovation notification received by the department that is associated with a project that generates asbestos-containing waste material shall result in a confirmation letter with a specific project number to the owner or operator accompanied by an Asbestos Disposal Verification Form (ADVF) with a specific facility code.

\* \* \*

[See Prior Text in F.2.g.ii - iii]

iv. The completed ADVF from the transporter shall be verified and signed by the disposal site owner or operator and mailed to the Office of Environmental Services, Permits Division within 30 working days. A copy is to be returned to the waste generator.

\* \* \*

[See Prior Text in F.2.g.v - G.2]

a. Notify the Office of Environmental Services, Permits Division at least 20 days before beginning the spraying operation. Include the following information in the notice:

\* \* \*

[See Prior Text in G.2.a.i - I]

1. Deposit all asbestos-containing waste material at a waste disposal site recognized by the department. A completed AAC-7 form shall have been submitted to the Office of Environmental Services, Permits Division by the disposal facility for prior recognition. Updated information will be required upon request. The latest AAC-7 form may be obtained from the Office of Environmental Services, Permits Division or through the department's website at [www.deq.state.la.us](http://www.deq.state.la.us). The Office of Environmental Services, Permits Division will maintain a current list of recognized asbestos waste disposal sites.

\* \* \*

[See Prior Text in I.2 - 3.a.iii]

b. Use an alternative emission control and waste treatment method that has received prior written approval by the administrative authority. To obtain approval for an alternative method, a written application must be submitted to the Office of Environmental Services, Permits Division demonstrating that the following criteria are met:

\* \* \*

[See Prior Text in I.3.b.i - 5.b]

c. report in writing to the Office of Environmental Services, Permits Division if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

\* \* \*

[See Prior Text in I.5.c.i – J.1.a.v]



vi. store all wrapped and contained asbestos-containing waste material in a labeled, secured area away from the public, where it will not be subject to disturbance or tampering until it can be transported to a waste disposal site recognized by the department.

\*\*\*

[See Prior Text in J.1.b - 4.c]

d. report in writing to the Office of Environmental Services, Permits Division if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

\*\*\*

[See Prior Text in J.4.d.i - K.2.b]

c. when requesting a determination on whether a natural barrier adequately deters public access, supply information enabling the Office of Environmental Services, Permits Division to determine whether a fence or a natural barrier adequately deters access by the general public;

\*\*\*

[See Prior Text in K.3]

4. notify the Office of Environmental Services, Permits Division in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site under this Section, and follow the procedures specified in the notification. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the Office of Environmental Services, Permits Division at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

\*\*\*

[See Prior Text in K.4.a - L.6.g]

7. submit the following reports to the Office of Environmental Services, Permits Division:

\*\*\*

[See Prior Text in L.7.a - 8]

M. Reporting and Recordkeeping. Any new source to which this Subchapter applies (with the exception of sources subject to Subsections D, F, G, and H of this Section), which has an initial start-up date preceding the effective date of this Subchapter, shall provide the following information to the administrative authority, postmarked or delivered, within 90 days of the effective date. In the case of a new source that does not have an initial start-up date preceding the effective date, the information shall be provided to the administrative authority, postmarked or delivered, within 90 days of the initial start-up date. Any owner or operator of an existing source shall provide the following information to the administrative authority within 90 days of the effective date of this Subchapter, unless the owner or operator of the existing source has previously provided this information to the administrative authority. Any changes in the information provided by any existing source shall be provided to the administrative authority, postmarked or delivered, within 30 days after the change. The owner or operator of any existing source to which this Section is applicable shall, within 90

days after the effective date, provide the following information to the Office of Environmental Services, Permits Division:

\*\*\*

[See Prior Text in M.1 - N.3.a]

b. be covered with a resinous or petroleum-based dust suppression agent that effectively binds dust and controls wind erosion, if previously approved by the Department of Environmental Quality. Such an agent shall be used in the manner and frequency recommended for the particular dust by the dust suppression agent manufacturer to achieve and maintain dust control. Other equally effective dust suppression agents may be used upon prior written approval by the administrative authority. For purposes of this Subsection, any used, spent, or other waste oil is not considered a dust suppression agent.

\*\*\*

[See Prior Text in N.4 - 5.a.v]

b. as soon as possible and no longer than 30 days after receipt of the waste, send a copy of the signed ADVF to the waste generator and to the Office of Environmental Services, Permits Division;

c. upon discovering a discrepancy between the quantity of waste designated on the ADVF and the quantity actually received, attempt to reconcile the discrepancy with the waste generator. If the discrepancy is not resolved within 15 days after receiving the waste, immediately report in writing to the Office of Environmental Services, Permits Division. Describe the discrepancy and attempts to reconcile it, and submit a copy of the ADVF with the report.

\*\*\*

[See Prior Text in N.5.d - 7]

8. Submit to the Office of Environmental Services, Permits Division, upon closure of the facility, a copy of records of asbestos waste disposal locations and quantities.

\*\*\*

[See Prior Text in N.9]

10. Notify the Office of Environmental Services, Permits Division in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site and is covered. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date shall be provided to the administrative authority at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

\*\*\*

[See Prior Text in N.10.a - O.4.b]

c. The administrative authority may authorize the use of filtering equipment other than that described in Subsection O.1 and 4 of this Section if the owner or operator demonstrates to the administrative authority satisfaction that it is equivalent to the described equipment in filtering particulate asbestos material.

P. Training and Accreditation Requirements

\*\*\*

[See Prior Text in P.1 - P.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 24:27 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2462 (November 2000).

**Chapter 53. Area Sources of Toxic Air Pollutants**  
**Subchapter A. Toxic Emissions Reporting Requirements**  
**§5307. Reporting Requirements**

A. An initial emissions inventory report is due on or before October 1, 1994, from the facilities within the specified categories that use the listed chemical(s) pursuant to LAC 33:III.5301. The report shall be submitted on a form or in an electronic format specified by the department to the Department of Environmental Quality, and include the following information:

\* \* \*

[See Prior Text in A.1 - 7]

B. Subsequent reports will be due on or before July 1 of each year. The report shall be submitted to the Department of Environmental Quality, Office of Environmental Services, Permits Division, and include the information requested in Subsection A of this Section for the preceding calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:431 (April 1994), Office of Environmental Assessment, Environmental Planning Division, LR 26:2464 (November 2000).

**Chapter 59. Chemical Accident Prevention and Minimization of Consequences**  
**Subchapter B. Risk Management Program Requirements**  
**§5911. Registration for Stationary Sources**

A. The owner or operator of each stationary source that has a covered process as defined by 40 CFR 68.3 shall register with the Department of Environmental Quality, Office of Environmental Compliance, Surveillance Division by the latest of the following dates:

\* \* \*

[See Prior Text in A.1 - B.4]

C. If at any time after the submission of the registration, information in the registration is no longer accurate, the owner or operator shall submit an amended registration within 60 days to the Department of Environmental Quality, Office of Environmental Compliance, Surveillance Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:426 (April 1994), amended LR 22:1125 (November 1996), LR 23:1496 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2464 (November 2000). Title 33

**Part V. Hazardous Waste and Hazardous Materials**  
**Subpart 1. Department of Environmental Quality—Hazardous Waste**

**Chapter 1 General Provisions and Definitions**  
**§105. Program Scope**

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or

dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste," appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

\* \* \*

[See Prior Text in A]

1. Within 90 days after the promulgation of these regulations anyone subject to these regulations who has not previously notified the department on the Notification of Hazardous Waste Activity Form—HW-1, or whose notification on Form HW-1 is not approved, must notify the Office of Environmental Services, Permits Division using Form HW-1. Within 90 days after changes in waste characteristics or changes in these regulations that result in changes in the notification, interim status facilities must revise their notification form by resubmitting a corrected copy of Form HW-1.

\* \* \*

[See Prior Text in A.2 - C.1.b]

2. The Office of Environmental Services, Permits Division is responsible for nonhazardous solid wastes treated, stored and/or disposed of in public and private solid waste facilities.

\* \* \*

[See Prior Text in C.3 - 3.a]

b. injection wells, less related surface installations and areas, for industrial on-site or commercial disposal of hazardous wastes, until the effective date of Act 97 of 1983 (scheduled to be February 1, 1984), after which time they shall be regulated by the Department of Environmental Quality in accordance with the provisions of Title 30 of the Louisiana Revised Statutes.

4. The department is responsible for radioactive materials.

\* \* \*

[See Prior Text in C.5 - D.1.i.iii.(d)]

(e) prior to operating pursuant to this exclusion, the plant owner or operator submits to the Office of Environmental Services, Permits Division a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the administrative authority for reinstatement. The administrative authority may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

\* \* \*

[See Prior Text in D.1.j - p.iv.(c)]

v. the owner or operator provides a notice to the Office of Environmental Services, Permits Division identifying the following information: the types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in non-land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process; and

\* \* \*

[See Prior Text in D.1.p.vi - 5.c.ii]

iii. the additional quantities and time frames allowed in Subsection D.5.c.i and ii of this Section are subject to all the provisions in Subsection D.5.a and b.iii-vi of this Section. The generator or sample collector must apply to the Office of Environmental Services, Permits Division and provide in writing the following information:

\* \* \*

[See Prior Text in D.5.c.iii.(a) - 6]

a. no less than 45 days before conducting treatability studies, the facility notifies the Office of Environmental Services, Permits Division in writing that it intends to conduct treatability studies under this Subsection;

\* \* \*

[See Prior Text in D.6.b - h]

i. the facility prepares and submits a report to the Office of Environmental Services, Permits Division by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

\* \* \*

[See Prior Text in D.6.i.i - 6.j]

k. the facility notifies the Office of Environmental Services, Permits Division by letter when the facility is no longer planning to conduct any treatability studies at the site.

\* \* \*

[See Prior Text in D.7 - J.1]

2. Non-Emergency Conditions. For any unauthorized discharge of a hazardous waste which does not cause an emergency condition, the discharger shall notify the Office of Environmental Compliance, Surveillance Division, within 24 hours of learning of the discharge and in accordance with other provisions of LAC 33:I.Chapter 39.

\* \* \*

[See Prior Text in K - O.2.c.vi]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR

23:298 (March 1997), amended by the Office of Solid And Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687 (September 1998), LR 24:1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000).

## §109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

\* \* \*

[See Prior Text]

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

\* \* \*

[See Prior Text in Ancillary Equipment- Hazardous Waste.4.b.ii.(c)(i)]

(ii). A one-time notification and certification must be placed in the facility's files and sent to the Office of Environmental Services, Permits Division for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generators' or treaters' files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater needs only to notify the administrative authority on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31. The notification must include the following information:

\* \* \*

[See Prior Text in Hazardous Waste.4.b.ii(c)(ii)[a] - Zone of Engineering Control]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000).

**Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits**

**§303. Overview of the Permit Program**

**A. General Application Requirements**

1. Permit Application. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Office of Environmental Services, Permits Division as described in this Section and LAC 33:V.4301, 4303, and 4305. Persons currently authorized with interim status shall apply for permits when required by the administrative authority. Persons covered by permits by rule (LAC 33:V.305.D) need not apply. Procedures for applications, issuance, and administration of emergency permits are found exclusively in LAC 33:V.701 and 703. Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in LAC 33:V.329.

2. No later than 90 days after the promulgation or revision of these regulations, all generators and transporters of hazardous waste, and all owners or operators of hazardous waste treatment, storage, or disposal facilities must file or have on file a notification of that activity using Notification Form HW-1, available from the Office of Environmental Services, Permits Division or through the department's website at [www.deq.state.la.us](http://www.deq.state.la.us). For generators of hazardous waste, the Notification Form HW-1 shall be deemed a registration upon acceptance and approval by the administrative authority.

\* \* \*

[See Prior Text in A.3 - H.1]

2. An application for a permit for a new TSD facility (including both Parts I and II) may be filed any time after promulgation of these standards, applicable to such facility. The application shall be filed with the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text in H.3]

4. A new facility must obtain an EPA identification number. EPA identification numbers will be issued only by the EPA. However, application for an EPA Identification Number shall be made by completing the Hazardous Waste Notification form provided by the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text in I - Q]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:790 (November 1988), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 21:564 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000).

**§309. Conditions Applicable to All Permits**

Each permit shall include permit conditions necessary to achieve compliance with the Act and these regulations, including each of the applicable requirements specified in LAC 33:V.Subpart 1. In satisfying this provision, the administrative authority may incorporate applicable requirements of LAC 33:V.Subpart 1 directly into the permit

or establish other permit conditions that are based on LAC 33:V.Subpart 1. The following conditions apply to all hazardous waste permits. All conditions applicable to permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

\* \* \*

[See Prior Text in A - L]

1. Planned Changes. The permittee shall give notice to the Office of Environmental Services, Permits Division, as soon as possible, of any planned physical alterations or additions to the permitted facility.

2. Anticipated Noncompliance. The permittee shall give advance notice to the Office of Environmental Services, Permits Division of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

\* \* \*

[See Prior Text in L.3 - 7.d]

8. Manifest Discrepancy Report. If a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within five days, the permittee must submit a report including a copy of the manifest to the Office of Environmental Services, Environmental Assistance Division.

9. Unmanifested Waste Report. An unmanifested waste report must be submitted to the Office of Environmental Services, Environmental Assistance Division within five days of receipt of unmanifested waste.

10. Annual Report. An annual report must be submitted to the Office of Environmental Services, Environmental Assistance Division covering facility activities during the previous calendar year.

\* \* \*

[See Prior Text in L.11]

12. Other Information. If the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to the administrative authority, he shall promptly submit such facts or information to the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text in M]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000).

**§321. Modification of Permits**

A. Any proposed major modification of a facility or a site, any change in wastes handled in either volume or composition, any other change in the site, facility, or operations which materially deviates from a permit or materially increases danger to the public health or the environment, and any operator or ownership change must be reported in writing to the Office of Environmental Services,

Permits Division prior to such an occurrence and a permit modification must be obtained in accordance with the application, public notice, and permit requirements of this Chapter. The administrative authority may approve an ownership change (transfer of permit) based on the following factors:

\* \* \*

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

2. Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the administrative authority in accordance with LAC 33:V.321.C. The new owner or operator must submit a revised permit application to the Office of Environmental Services, Permits Division no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the administrative authority. When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of LAC 33:V.Chapter 37 (Financial Requirements) until the new owner or operator has demonstrated that he or she is complying with the requirements of LAC 33:V.Chapter 37. The new owner or operator must demonstrate compliance with LAC 33:V.Chapter 37 requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the administrative authority by the new owner or operator of compliance with LAC 33:V.Chapter 37, the administrative authority shall notify the old owner or operator that he or she no longer needs to comply with LAC 33:V.Chapter 37 as of the date of demonstration.

\* \* \*

[See Prior Text in C - 1.a]

i. The permittee must notify the Office of Environmental Services, Permits Division concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by LAC 33:V.515-533, 2707, and 3115.

\* \* \*

[See Prior Text in C.1.a.ii - 2]

a. For Class 2 modifications, listed in LAC 33:V.322, the permittee must submit a modification request to the Office of Environmental Services, Permits Division that:

\* \* \*

[See Prior Text in C.2.a.i - 10.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1691 (September 1998), LR 25:435 (March 1999),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000).

### **§323. Suspension, Modification or Revocation and Reissuance, and Termination of Permits**

\* \* \*

[See Prior Text in A]

B. If the administrative authority decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the administrative authority may be appealed to the Department of Environmental Quality (DEQ), Legal Affairs Division in accordance with Act 97 of 1983.

\* \* \*

[See Prior Text in B.1 - 4.e]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 14:790 (November 1988), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000).

## **Chapter 5. Permit Application Contents**

### **Subchapter A. General Requirements for Permit Applications**

#### **§501. Permit Application**

A. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit a permit application to the Office of Environmental Services, Permits Division as described in this Section and LAC 33:V.4301, 4303, and 4305. Persons currently authorized with interim status shall apply for permits when required by the administrative authority. Persons covered by RCRA permits by rule (LAC 33:V.305.D) need not apply. Procedures for applications, issuance, and administration of emergency permits are found exclusively in LAC 33:V.701 and 703. Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in LAC 33:V.329.

\* \* \*

[See Prior Text in B - C.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000).

### **Subchapter E. Specific Information Requirements**

#### **§520. Specific Part II Information Requirements for Groundwater Protection**

The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as provided in LAC 33:V.3301.B and C:

\* \* \*

[See Prior Text in A - F.4]

G. if the presence of hazardous constituents has been detected in the groundwater at the point of compliance at the time of the permit application, the owner or operator must submit to the Office of Environmental Services, Permits Division, sufficient information supporting data, and analyses to establish a compliance monitoring program that meets the requirements of LAC 33:V.3319. Except as provided in LAC 33:V.3317.H, the owner or operator must also submit to the Office of Environmental Services, Permits Division, an engineering feasibility plan for a corrective action program necessary to meet the requirements of LAC 33:V.3321, unless the owner or operator obtains written authorization in advance from the administrative authority to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with LAC 33:V.3319, the owner or operator must address the following items:

\* \* \*

[See Prior Text in G.1 - H.5]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000).

#### **Subchapter F. Special Forms of Permits**

##### **§537. Permits for Boiler and Industrial Furnaces Burning Hazardous Waste for Recycling Purposes Only (boilers and industrial furnaces burning hazardous waste for destruction are subject to permit requirements for incinerators)**

\* \* \*

[See Prior Text in A - B.2.h.x]

i. The applicant must submit to the Office of Environmental Services, Permits Division a certification that the trial burn has been conducted in accordance with the approved trial burn plan and must submit the results of all the analyses and determinations required in Subsection B.2.h of this Section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the administrative authority.

\* \* \*

[See Prior Text in B.2.j - C.2]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), IR 21:266 (March 1995), LR 22:818 (September 1996), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000).

#### **Subchapter G. Remedial Action Plans (RAPs)C General Information**

##### **§565. How Do I Apply for a RAP?**

To apply for a RAP, you must complete an application, sign it, and submit it to the Office of Environmental Services, Permits Division according to the requirements in this Subchapter.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000), amended LR 26:2468 (November 2000).

##### **§590. To Whom Must I Submit My RAP Application?**

You must submit your application for a RAP to the Office of Environmental Services, Permits Division for approval.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000), amended LR 26:2468 (November 2000).

#### **Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits**

##### **Subchapter A. Permits**

##### **§703. Permit Evaluation**

A. Application Distribution. Upon acceptance of an application for review, the administrative authority will distribute copies of the application (Part I) for review and comment to: the public (filed with local libraries or other public facility), notification of which is to be published in a bulletin (see LAC 33:V.717), and as an ad in a local newspaper; Department of Health and Hospitals, Office of Health Services and Environmental Quality; Department of Wildlife and Fisheries; Office of Public Works of the Department of Transportation and Development; or the successors to any of the above; and to local governing authorities of any municipality and parish within whose territorial jurisdiction the facility or activity is located.

\* \* \*

[See Prior Text in B - D.2.f]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:564 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000).

##### **Subchapter B. Hearings**

##### **§708. Preapplication Public Meeting and Notice, Public Notice Requirements at the Application Stage, and Information Repository**

\* \* \*

[See Prior Text in A - 4.a.iii]

iv. a notice to the department. The applicant shall send a copy of the newspaper notice to the Office of Environmental Services, Permits Division and to the appropriate units of state and local government, in accordance with LAC 33:V.717.A.2.

\* \* \*

[See Prior Text in A.4.b - C.6]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:659 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000).

**§709. Evidentiary Hearings on Operating Permit Applications for Commercial Hazardous Waste Treatment, Storage, Disposal, or Recycling Facilities**

\* \* \*

[See Prior Text in A]

B. An evidentiary hearing shall be held after the technical review on a permit application for operation of a commercial hazardous waste treatment, storage, disposal, or recycling facility.

\* \* \*

[See Prior Text in C - D.1.b]

c. those who request notice in writing and those who are on the area mailing list developed by the department.

\* \* \*

[See Prior Text in D.2 - F]

G. The presiding officer shall not make findings of fact, conclusions of law, or recommendations or render decisions on the merits of the permit application. The presiding officer's authority terminates once the record is complete and has been submitted to the administrative authority.

\* \* \*

[See Prior Text in H - K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:683 (August 1990), LR 17:362 (April 1991), LR 21:565 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2469 (November 2000).

**Chapter 9. Manifest System for TSD Facilities**

**§903. Manifest Requirements**

\* \* \*

[See Prior Text in A]

1. a state manifest document number which shall be obtained from the Office of Environmental Services, Environmental Assistance Division if the destination point is in Louisiana;

\* \* \*

[See Prior Text in A.2 - C]

D. The manifest form must be obtained from the Office of Environmental Services, Environmental Assistance Division. A Louisiana manifest shall be used as follows:

\* \* \*

[See Prior Text in D.1 - 3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 17:362 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2469 (November 2000).

**§907. Manifest Discrepancies**

\* \* \*

[See Prior Text in A]

B. Upon discovering a discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g, with telephone conversations). The owner or operator must submit to the Office of Environmental Services, Environmental Assistance

Division within five working days a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue. After the discrepancy is resolved, a corrected copy is to be sent to the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:364 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2469 (November 2000).

**§909. Unmanifested Waste Report**

If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in LAC 33:V.1307.E.2, then the owner or operator must prepare and submit a single copy of a report to the administrative authority within 15 days after receiving the waste. Such unmanifested waste storage, treatment, or disposal shall be covered by the facility permit or an emergency permit (LAC 33:V.701), and treatment or disposal shall not occur until approval of the administrative authority is given. The unmanifested waste report must be submitted to the Office of Environmental Services, Environmental Assistance Division. Such report must be designated "Unmanifested Waste Report" and include the following information:

\* \* \*

[See Prior Text in A - G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:364 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2469 (November 2000).

**§911. Manifest Forms**

\* \* \*

[See Prior Text in A]

B. Sample manifest forms will be available upon request from the Office of Environmental Services, Environmental Assistance Division.

\* \* \*

[See Prior Text in C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:364 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2469 (November 2000).

**§913. Manifest Document Flow**

\* \* \*

[See Prior Text in A - E]

F. The generator and hazardous waste facility operator each shall submit an annual report to the Office of Environmental Services, Environmental Assistance Division including manifest numbers, total quantity by type of waste handled, its disposition, and all other information requested by the department on the annual report forms. The report

shall cover the preceding calendar year and shall be submitted by March 1.

\* \* \*

[See Prior Text in G]

H. Except as otherwise provided in LAC 33:V.919 and 1309.G, hazardous waste facility operators are required to report to the Office of Environmental Services, Environmental Assistance Division any irregularities between the wastes actually received and the waste described on the manifest, or any other irregularities, within five days.

\* \* \*

[See Prior Text in I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 17:362 (April 1991), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2469 (November 2000).

#### **§919. Hazardous Waste Rejections**

If any hazardous waste is rejected by the operator of a hazardous waste facility, the operator of that facility is to notify the Office of Environmental Services, Environmental Assistance Division immediately (within 24 hours) by telephone and give reasons why the waste was rejected. Within seven days of the refusal to accept the wastes, the operator must provide the administrative authority with a written explanation of why the waste was rejected.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:364 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000).

### **Chapter 11. Generators**

#### **Subchapter A. General**

##### **§1105. EPA Identification Numbers**

A generator must not treat, store, dispose of, transport or offer for transportation hazardous waste without having received an active EPA identification number.

\* \* \*

[See Prior Text in A]

B. A generator must notify the Office of Environmental Services, Permits Division within seven days if any of the information submitted in the application for the identification number changes. Because EPA identification numbers are site-specific, if a facility moves to another location, the owner/operator must obtain a new EPA identification number for the facility.

\* \* \*

[See Prior Text in C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:362 (April 1991), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000).

##### **§1107. The Manifest System**

\* \* \*

[See Prior Text in A - A.7]

8. Except as otherwise provided in LAC 33:V.919 and 1309.F, generators are required to report to the Office of Environmental Services, Environmental Assistance Division any irregularities between the wastes actually received and the waste described on the manifest, or any other irregularities, within 15 days.

9. The manifest form and the continuation sheet used must be obtained from the Office of Environmental Services, Environmental Assistance Division.

\* \* \*

[See Prior Text in A.10 - D.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000).

##### **§1109. Pre-Transport Requirements**

\* \* \*

[See Prior Text in A - E.7.d.iv.(b)]

(c). in the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance). The report must include the following information:

\* \* \*

[See Prior Text in E.7.d.iv.(c).(i) - (v)]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000).

##### **§1111. Recordkeeping and Reporting**

\* \* \*

[See Prior Text in A - B]

1. A generator who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must prepare and submit a single copy of an annual report to the Office of Environmental Services, Environmental Assistance Division by March 1 of each year.



The annual report must be submitted on the form provided by the administrative authority and it must cover generator activities during the previous calendar year. The reports must also include the following information:

\* \* \*

[See Prior Text in B.1.a - h]

2. Generators who also dispose, treat, or store hazardous waste on-site shall also submit annual reports to the Office of Environmental Services, Environmental Assistance Division, reporting total quantity, by type, of waste handled, and how that waste was disposed, treated, or stored. Generators must maintain on site a copy of each report submitted to the department for a period of at least three years from the date of the report. Reporting for exports of hazardous waste is not required on the annual report form. A separate annual report requirement is set forth in LAC 33:V.1113.G.

\* \* \*

[See Prior Text in C - C.1]

2. A generator must submit an Exception Report to the Office of Environmental Services, Environmental Assistance Division if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

\* \* \*

[See Prior Text in C.2.a - D]

E. Quarterly Reports. Generators who dispose of hazardous waste on-site shall submit a quarterly report (form approved by the administrative authority) no later than 15 days after the beginning of the quarter to the Office of Environmental Services, Environmental Assistance Division reporting total quantities (calculated on a daily basis), by type of waste handled, and how that waste was disposed of during the previous calendar quarter, and shall retain on-site a copy of the report for at least three years from the date of disposal.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:365 (April 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000).

### **§1113. Exports of Hazardous Waste**

\* \* \*

[See Prior Text in A - D.1.b.viii]

2. Notification shall be sent to the Office of Environmental Services, Environmental Assistance Division with "Attention: Notification to Export" prominently displayed on the front of the envelope. [Note: This does not relieve the regulated community from the requirement of submitting notification to the Office of Waste Programs Enforcement, RCRA Enforcement Division (OS-520), EPA, as required by 40 CFR 262.53 (b).]

\* \* \*

[See Prior Text in D.3 - E.4]

5. in lieu of the requirements of LAC 33:V.1107.A.6, the primary exporter must obtain the manifest form from the

Office of Environmental Services, Environmental Assistance Division;

\* \* \*

[See Prior Text in E.6 - L2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 22:20 (January 1996), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000).

### **§1123. Imports of Foreign Hazardous Waste**

\* \* \*

[See Prior Text in A - D.4]

E. Notification shall be sent to the Office of Environmental Services, Environmental Assistance Division with "Attention: Notification to Import Foreign Hazardous Waste" prominently displayed on the front of the envelope. Such notices shall be sent by certified mail.

\* \* \*

[See Prior Text in F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:20 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000).

### **§1125. Unmanifested Foreign Hazardous Waste**

A. Any person who imports foreign generated material that has not been classified as hazardous waste prior to entry into the state of Louisiana, but subsequently is determined to be hazardous waste, must immediately notify the Office of Environmental Services, Environmental Assistance Division by telephone.

\* \* \*

[See Prior Text in B]

1. file in writing an unmanifested waste report with the Office of Environmental Services, Environmental Assistance Division which shall include;

\* \* \*

[See Prior Text in B.1.a - 2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:21 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000).

### **Subchapter B. Transfrontier Shipments of Hazardous Waste**

#### **§1127. Transfrontier Shipments of Hazardous Waste for Recovery Within the OECD**

\* \* \*

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

2. Exception Reports. Any person who meets the definition of primary exporter in LAC 33:V.109 must file an exception report, in lieu of the requirements of LAC 33:V.1111.C, with the Office of Environmental Services,

Environmental Assistance Division if any of the following occurs:

\* \* \*

[See Prior Text in G.2.a - I.4]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000).

### **Chapter 13. Transporters**

#### **§1309. Compliance with the Manifest**

\* \* \*

[See Prior Text in A - E]

F. Transporters will pick up and ship only those wastes which are properly prepared for shipment (see LAC 33:V.1109), and which are accompanied by a properly filled out manifest, and appear to be the hazardous waste described on the manifest. If the transporter notices any irregularities or rejects a shipment for any reason, he must notify the Office of Environmental Services, Environmental Assistance Division as soon as possible, but no later than the next working day.

G. Except as provided in LAC 33:V.919 and 1309.F, transporters are required to report to the Office of Environmental Services, Environmental Assistance Division any irregularities between the wastes received and the waste described on the manifest, or any other irregularities, within five days.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000).

### **Chapter 15. Treatment, Storage, and Disposal Facilities**

#### **§1504. Construction Quality Assurance Program**

\* \* \*

[See Prior Text in A - C.2]

D. Certification. Waste shall not be received in a unit subject to LAC 33:V.1504 until the owner or operator has submitted to the Office of Environmental Services, Permits Division by certified mail or hand delivery a certification signed by the CQA officer that the approved CQA plan has been successfully carried out, that the unit meets the requirements of LAC 33:V.2903.J or K, 2303.C or D, or 2503.L or M, and the procedure in LAC 33:V.309.L.3.b has been completed. Documentation supporting the CQA officer's certification must be furnished to the administrative authority upon request.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000).

#### **§1505. Discharges from the Site**

\* \* \*

[See Prior Text in A - 1]

2. air emissions, if any, must be in conformity with air limitations of the Clean Air Act administered by the Office of Environmental Services, Permits Division, operating under an Air Quality Permit as required, and reported as required by that permit. The air permit must be applied for prior to the issuance of a hazardous waste permit.

\* \* \*

[See Prior Text in B - C.3]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000).

#### **§1513. Contingency Plan and Emergency Procedures**

\* \* \*

[See Prior Text in A - 1]

2. A contingency plan to be implemented in the event of an emergency shall be filed with the Office of Environmental Services, Permits Division and, after approval, with the local fire and police departments (if any operate in the area), hospitals and emergency response teams operating in the area which are subject to call by the operator or the department.

\* \* \*

[See Prior Text in A.3 - C]

1. The contingency plan must be submitted to the Office of Environmental Services, Permits Division with the permit application and, after modification or approval, will become a condition of any permit issued.

\* \* \*

[See Prior Text in C.2 - F.8.b]

9. The owner or operator must notify the Office of Environmental Compliance, Surveillance Division and appropriate state and local authorities that the facility is in compliance with LAC 33:V.1513.F.8 before operations are resumed in the affected area(s) of the facility.

10. The owner or operator must note in the operating record the time, date, and details of any incident that requires implementation of the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to the Office of Environmental Compliance, Surveillance Division which includes:

\* \* \*

[See Prior Text in F.10.a - g]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000).

#### **§1527. Receiving and Monitoring Incoming Waste**

\* \* \*

[See Prior Text in A - E]

F. Unmanifested Waste Reports. Any wastes presented for disposal that are not accompanied by a properly completed manifest shall be rejected. The TSD operator shall note the name of the driver, hauler, and the vehicle

identification numbers. He shall notify the Office of Environmental Compliance, Surveillance Division by phone immediately and in writing within seven days of the refusal to accept the waste and provide the administrative authority with the required information.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000).

**§1529. Operating Record and Reporting Requirements**

\* \* \*

[See Prior Text in A - C.3]

D. Annual Report. The owner or operator must prepare and submit a single copy of an annual report to the Office of Environmental Services, Environmental Assistance Division by March 1 of each year. The report form must be used for this report. The annual report must cover facility activities during the previous calendar year. Information submitted on a more frequent basis may be included by reference or in synopsis form where it is not pertinent to reporting under LAC 33:V.Chapter 9 or monitoring reporting under LAC 33:V.3317. It must include the following information:

\* \* \*

[See Prior Text in D.1 - E.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), LR 25:1799 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:278 (February 2000), LR 26:2473 (November 2000).

**§1531. Required Notices**

A. The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Office of Environmental Services, Environmental Assistance Division in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

\* \* \*

[See Prior Text in B - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2473 (November 2000).

**Chapter 17. Air Emission Standards**

**Subchapter A. Process Vents**

**§1715. Reporting Requirements**

A. A semiannual report shall be submitted by owners and operators subject to the requirements of this Subchapter to the Office of Environmental Services, Permits Division by dates specified by the administrative authority. The report shall include the following information:

\* \* \*

[See Prior Text in A.1 - B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2473 (November 2000).

**Subchapter B. Equipment Leaks**

**§1737. Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Percentage of Valves Allowed to Leak**

\* \* \*

[See Prior Text in A - B]

1. An owner or operator must notify the Office of Environmental Services, Permits Division that the owner or operator has elected to comply with the requirements of this Section.

\* \* \*

[See Prior Text in B.2 - C.3]

D. If an owner or operator decides to comply with this Section no longer, the owner or operator must notify the Office of Environmental Services, Permits Division in writing that the work practice standard described in LAC 33:V.1729.A-E will be followed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2473 (November 2000).

**§1739. Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Skip Period Leak Detection and Repair**

\* \* \*

[See Prior Text in A - 1]

2. An owner or operator must notify the Office of Environmental Services, Permits Division before implementing one of the alternative work practices.

\* \* \*

[See Prior Text in B - B.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:439 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2473 (November 2000).

**§1745. Reporting Requirements**

A. A semiannual report shall be submitted by owners and operators subject to the requirements of this Subchapter to the Office of Environmental Services, Permits Division by dates specified by the administrative authority. The report shall include the following information.

\* \* \*

[See Prior Text in A.1 - B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2474 (November 2000).

**Subchapter C. Air Emission Standards for Tanks, Surface Impoundments, and Containers**

**§1747. Applicability**

\* \* \*

[See Prior Text in A - D.2]

3. the owner or operator notifies the Office of Environmental Services, Permits Division, in writing, that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of Subsection D.1 of this Section are managed at the facility in tanks or containers meeting the conditions of Subsection D.2 of this Section. The notification shall state the name and address of the facility and be signed and dated by an authorized representative of the facility owner or operator.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998), LR 25:440 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:279 (February 2000), LR 26:2474 (November 2000).

**§1755. Standards: Tanks**

\* \* \*

[See Prior Text in A - E.3.c]

d. prior to each inspection required by Subsection E.3.b or c of this Section, the owner or operator shall notify the Office of Environmental Compliance, Surveillance Division in advance of each inspection to provide the administrative authority with the opportunity to have an observer present during the inspection. The owner or operator shall notify the administrative authority of the date and location of the inspection as follows:

\* \* \*

[See Prior Text in E.3.d.i]

ii. when a visual inspection is not planned and the owner or operator could not have known about the inspection 30 calendar days before refilling the tank, the owner or operator shall notify the Office of Environmental Compliance, Surveillance Division as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the administrative authority at least seven calendar days before refilling the tank;

\* \* \*

[See Prior Text in E.3.e - F.3.b.iv]

c. prior to each inspection required by Subsection F.3.a or F.3.b of this Section, the owner or operator shall notify the Office of Environmental Compliance, Surveillance Division in advance of each inspection to provide the administrative authority with the opportunity to have an observer present during the inspection. The owner or operator shall notify the administrative authority of the date and location of the inspection as follows:

\* \* \*

[See Prior Text in F.3.c.i - L.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1704 (September 1998), LR 25:440 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:279 (February 2000), LR 26:2474 (November 2000).

**§1767. Reporting Requirements**

A. Each owner or operator managing hazardous waste in a tank, surface impoundment, or container exempted from using air emission controls under the provisions of LAC 33:V.1751.C shall report to the Office of Environmental Compliance, Enforcement Division each occurrence when hazardous waste is placed in the waste management unit in noncompliance with the conditions specified in LAC 33:V.1751.C.1 or 2, as applicable. Examples of such occurrences include placing in the waste management unit a hazardous waste having an average VO concentration equal to or greater than 500 ppmw at the point of waste origination or placing in the waste management unit a treated hazardous waste of which the organic content has been reduced by an organic destruction or removal process that fails to achieve the applicable conditions specified in LAC 33:V.1751.C.2.a-f. The owner or operator shall submit a written report within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

B. Each owner or operator using air emission controls on a tank in accordance with the requirements LAC 33:V.1755.C shall report to the Office of Environmental Compliance, Enforcement Division each occurrence when hazardous waste is managed in the tank in noncompliance with the conditions specified in LAC 33:V.1755.B. The owner or operator shall submit a written report within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

C. Each owner or operator using a control device in accordance with the requirements of LAC 33:V.1761 shall submit a semiannual written report to the Office of Environmental Compliance, Enforcement Division, except

as provided for in Subsection D of this Section. The report shall describe each occurrence during the previous six-month period when either:

\* \* \*

[See Prior Text in C.1 - D.2]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1720 (September 1998), LR 25:442 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2474 (November 2000).

## **Chapter 18. Containment Buildings**

### **§1802. Design and Operating Standards**

\* \* \*

[See Prior Text in A - C.3.a.iii]

iv. within seven days after the discovery of the condition, notify the Office of Environmental Assessment, Environmental Technology Division of the condition and, within 14 working days, provide a written notice to the administrative authority with a description of the steps taken to repair the containment building and the schedule for accomplishing the work;

\* \* \*

[See Prior Text in C.3.b]

c. upon completing all repairs and cleanup, the owner or operator must notify the Office of Environmental Assessment, Environmental Technology Division in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with LAC 33:V.1802.C.3.a.iv; and

\* \* \*

[See Prior Text in C.4 - E]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000).

## **Chapter 19. Tanks**

### **§1905. Design and Installation of New Tank Systems or Components**

A. Owners or operators of new tank systems or components must obtain and submit to the Office of Environmental Assessment, Environmental Technology Division, at time of submittal of Part II information, a written assessment, reviewed and certified by an independent, qualified registered professional engineer, in accordance with LAC 33:V.513, attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The assessment must show that the foundation, structural support, seams, connections and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated and corrosion protection to ensure that it will not collapse, rupture or fail. This assessment, which will be used by the administrative authority to review and approve or disapprove the acceptability of the tank system design, must include, at a minimum, the following information:

\* \* \*

[See Prior Text in A.1 - G]

H. Owners or operators of new tanks systems or components subject to the accumulation time exclusion of LAC 33:V.1109.E.1 must obtain and submit to the Office of Environmental Assessment, Environmental Technology Division, prior to placing the tank system in service, a written assessment, reviewed and certified by an independent registered professional engineer, in accordance with LAC 33:V.513, attesting that the tank system has sufficient structural integrity and is acceptable for storing or treating hazardous waste. The assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed, and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. The assessment, which will be used by the administrative authority to review the acceptability of the tank system design, must include at a minimum the requirements specified in LAC 33:V.1905.A.1-5.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), LR 16:683 (August 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000).

### **§1907. Containment and Detection of Releases**

\* \* \*

[See Prior Text in A - H]

1. The Office of Environmental Assessment, Environmental Technology Division must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in LAC 33:V.1907.G according to the following schedule:

\* \* \*

[See Prior Text in H.1.a - I.5]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000).

### **§1913. Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems**

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements.

\* \* \*

[See Prior Text in A - D]

1. Any release to the environment, except as provided in LAC 33:V.1913.D.2, must be reported to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance) within 24 hours of its detection. If the release has been

reported pursuant to LAC 33:V.105.J, that report will satisfy this requirement.

\* \* \*

[See Prior Text in D.2 - 2.b]

3. Within 30 days of detection of a release to the environment, a report containing the following information must be submitted to the Office of Environmental Compliance, Surveillance Division:

\* \* \*

[See Prior Text in D.3.a - E.4]

F. Certification of Major Repairs. If the owner/operator has repaired a tank system in accordance with LAC 33:V.1913.E and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, registered, professional engineer in accordance with LAC 33:V.513 that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification must be submitted to the Office of Environmental Compliance, Surveillance Division within seven days after returning the tank system to use.

*Note:* The administrative authority may, on the basis of any information received that there is or has been a release of hazardous waste or hazardous constituents into the environment, issue an order requiring corrective action or such other response as is deemed necessary to protect human health or the environment.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 13:651 (November 1987), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000).

## Chapter 22. Prohibitions on Land Disposal

### Subchapter A. Land Disposal Restrictions

#### §2227. Treatment Standards Expressed as Specified Technologies

\* \* \*

[See Prior Text in A]

B. Any person may submit an application to the Office of Environmental Services, Permits Division demonstrating that an alternative treatment method can achieve a measure of performance equivalent to that achieved by methods specified in LAC 33:V.2227.A, C, and D or specified in LAC 33:V.Chapter 22.Table 8. The applicant must submit information demonstrating that his or her treatment method is in compliance with federal, state, and local requirements and is protective of human health and the environment. On the basis of such information and any other available information, the administrative authority may approve the use of the alternative treatment method if he or she finds that the alternative treatment method provides a measure of performance equivalent to those achieved by methods specified in LAC 33:V.2227.A, C, and D or specified in LAC 33:V.Chapter 22.Table 8. Any approval must be stated in writing and may contain such provisions and conditions as the administrative authority deems appropriate. The person to whom such approval is issued must comply with all limitations contained in such a determination.

\* \* \*

[See Prior Text in C - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 25:445 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000).

#### §2231. Variance from a Treatment Standard

\* \* \*

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

B. Each petition must be submitted to the Office of Environmental Services, Permits Division for consideration in accordance with the procedures in LAC 33:V.105.H.

\* \* \*

[See Prior Text in C - C.2]

D. The Office of Environmental Services, Permits Division will give public notice of the intent to approve or deny a petition and will provide the person requesting the variance and the public, through a newspaper notice in the official state journal and the local newspaper in the affected area, the cost of which will be charged to the person requesting the variance, the opportunity to submit written comments on the request and the conditions of the variance, allowing a 30-day comment period. The notices referred to in this Section will be provided in the local newspaper in three separate issues; however, the 30-day comment or notice period shall begin with the notice in the official state journal. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the variance request. The administrative authority will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments.) The final decision on a variance from a treatment standard will also be published.

\* \* \*

[See Prior Text in E - M]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:445 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000).

#### §2237. Exemption for Surface Impoundments Treating Hazardous Waste

\* \* \*

[See Prior Text in A - A.3.c]

4. The owner or operator must submit to the Office of Environmental Services, Permits Division a written certification that the requirements of Subsection A.3 of this Section have been met and a copy of the waste analysis plan

required under Subsection A.2 of this Section. The following certification is required:

"I certify under penalty of law that the requirements of LAC 33:V.2237.A.3 have been met for all surface impoundments being used to treat prohibited wastes. I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

\* \* \*

[See Prior Text in B - C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), LR 25:447 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000).

**§2239. Procedures for Case-by-Case Extensions of an Effective Date**

A. Any person who generates, treats, stores, or disposes of a hazardous waste may submit an application to the Office of Environmental Services, Permits Division for an extension of the effective date of any applicable prohibition established under this Chapter. The applicant must provide the following, and in each case the burden of proof will be on the applicant:

\* \* \*

[See Prior Text in A.1 - F]

G. Any person granted an extension under this Section must immediately notify the Office of Environmental Services, Permits Division as soon as he or she has knowledge of any change in the conditions certified in the application.

H. Any person granted an extension under this Section shall submit written progress reports at intervals designated by the Office of Environmental Services, Permits Division which may not exceed six months. Such reports must describe the overall progress made toward constructing or otherwise providing alternative treatment, recovery, or disposal capacity; must identify any event which may cause or has caused a delay in the development of the capacity, and must summarize the steps taken to mitigate the delay. The administrative authority can revoke the extension at any time if the applicant does not make a good-faith effort to meet the schedule for completion, if the department denies or revokes any required permit, if conditions certified in the application change, or for any violation of the Louisiana Environmental Quality Act or regulations promulgated thereto.

\* \* \*

[See Prior Text in I -J]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2477 (November 2000).

**§2241. Exemptions to Allow Land Disposal of a Prohibited Waste Except by Deep Well Injection**

A. Any person seeking an exemption to allow land disposal except by deep well injection of a prohibited hazardous waste in a particular unit or units must submit a petition to the Office of Environmental Services, Permits Division that meets the following requirements:

\* \* \*

[See Prior Text in A.1 - F.5.c]

G. Each petition must be submitted to the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text in H]

1. If the owner or operator plans to make changes to the unit design, construction, or operation, such changes must be proposed in writing, and the owner or operator shall submit a demonstration to the Office of Environmental Services, Permits Division at least 30 days before making the changes. The administrative authority will determine whether the proposed changes invalidate the terms of the petition and will determine the appropriate response. Any changes must be approved by the administrative authority prior to being made.

2. If the owner or operator discovers that a condition at the site which was modeled or predicted in the petition does not occur as predicted, this change must be reported, in writing, to the Office of Environmental Services, Permits Division within 10 days of discovery of the change. The administrative authority will determine whether the reported change from the terms of the petition requires further action, which may include termination of waste acceptance and revocation of the petition or petition modifications, or other responses.

I. If the owner or operator determines that hazardous constituent(s) are migrating from the unit, the owner or operator must immediately suspend receipt of prohibited wastes at the unit and notify the Office of Environmental Compliance within 24 hours and in writing within 10 days of the determination that a release has occurred. Following receipt of the notification, the administrative authority will determine within 60 days of receiving notification whether the owner or operator can continue to receive prohibited wastes in the unit and whether the exemption is to be revoked. The administrative authority shall also determine whether further examination of any migration is warranted under applicable provisions of LAC 33:V.Chapter 33 or 43.

J. Each petition must include the following statement signed by the petitioner or a duly authorized representative and must be submitted to the Office of Environmental Services, Permits Division:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

\* \* \*

[See Prior Text in K - Q]

R. As a condition of the exemption, the petitioner must submit a report to the Office of Environmental Services, Permits Division by March 1 of each calendar year during the term of the exemption that describes in detail the efforts undertaken during the preceding calendar year to reduce the volume and toxicity of the waste generated. The report shall provide data indicating the change in volume and toxicity of waste actually achieved during the year in comparison to previous years.

\* \* \*

[See Prior Text in S - T.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2477 (November 2000).

**§2243. Administrative Procedures for Exemptions under LAC 33:V.2241 and 2271, No-Alternative Determinations under LAC 33:V.2237, and Case-by-Case Extensions of an Effective Date under LAC 33:V.2239**

Before making a final decision on the exemption, determination, or extension request, the department will provide the person requesting the exemption, determination, or extension and the public, through a newspaper notice in the official state journal and the local newspaper in the affected area, the cost of which will be charged to the person requesting the exemption, determination, or extension, the opportunity to submit written comments on the request on the conditions of the exemption, determination, or extension, allowing a 45-day comment period. The notices referred to in this Section will be provided in the local newspaper in three separate issues; however, the comment or notice period shall begin with the notice in the official state journal. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the exemption, determination, or extension request. The administrative authority will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments.)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999), LR 26:2478 (November 2000).

**§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements**

\* \* \*

[See Prior Text in A - E.1]

2. Such plan must be filed with the Office of Environmental Services, Permits Division a minimum of 30 days prior to the treatment activity, with delivery verified.

\* \* \*

[See Prior Text in E.3 - K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1728 (September 1998), LR 25:447 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:2478 (November 2000).

**§2246. Special Rules Regarding Wastes That Exhibit a Characteristic**

\* \* \*

[See Prior Text in A - C]

D. Wastes that exhibit a characteristic are also subject to the requirements of LAC 33:V.2245, except that once the waste is no longer hazardous, a one-time notification and certification must be placed in the generator or treaters files and sent to the Office of Environmental Services, Permits Division. The notification and certification must be updated if the process or operation generating the waste changes and/or if the solid waste disposal facility receiving the waste changes. However, the generator or treater need only notify the administrative authority on an annual basis if such changes occur. In such circumstances, a notification and certification must be sent to the administrative authority by the end of the calendar year, but no later than December 31.

\* \* \*

[See Prior Text in D.1 - E]

1. a one-time notification, including the following information, must be submitted to the Office of Environmental Services, Permits Division:

\* \* \*

[See Prior Text in E.1.a - F.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:2478 (November 2000).

**§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping and Notice Requirements**

\* \* \*

[See Prior Text in A - D]

E. Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions in LAC 33:V.4139.A.2-4 regarding treatment standards and prohibition levels, the owner or operator of a treatment



facility (i.e., the recycler) is not required to notify the receiving facility, in accordance with Subsection B of this Section. With each shipment of such wastes the owner or operator of the recycling facility must submit a certification described in Subsection C of this Section and a notice which includes the information listed in Subsection B of this Section (except the manifest number) to the Office of Environmental Services, Permits Division. The recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

\* \* \*

[See Prior Text in F - H]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:670 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 26:2478 (November 2000).

**Subchapter B. Hazardous Waste Injection Restrictions**  
**§2253. Procedures for Case-by-Case Extensions to an Effective Date**

The owner or operator of a Class I hazardous waste injection well may submit an application to the Office of Environmental Services, Permits Division for an extension of the effective date of any applicable prohibition established under LAC 33:V.Chapter 22.Subchapter A according to the procedures of LAC 33:V.2239.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2479 (November 2000).

**§2271. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injections**

A. Any person seeking an exemption to allow land disposal by deep well injection of a prohibited hazardous waste in a particular injection well or wells must submit a petition to the Office of Environmental Services, Permits Division that does the following:

\* \* \*

[See Prior Text in A.1 - G.2]

H. Any person who has been granted an exemption pursuant to this Section may submit a petition to the Office of Environmental Services, Permits Division for reissuance of the exemption to include an additional prohibited waste or wastes or to modify any conditions placed on the exemption by the administrative authority. The administrative authority may reissue the exemption if the petitioner complies with the requirements of LAC 33:V.2271.A-F.

I. Any person who has been granted an exemption pursuant to this Section may submit a petition to the Office of Environmental Services, Permits Division to modify an exemption to include an additional nonprohibited hazardous waste or wastes. The administrative authority may grant the

modification if he or she determines, to a reasonable degree of certainty, that the additional waste or wastes will behave hydraulically and chemically in a manner similar to previously included wastes and that it will not interfere with the containment capability of the injection zone.

\* \* \*

[See Prior Text in J - T.1]

a. notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance) within 24 hours of obtaining such evidence;

\* \* \*

[See Prior Text in T.1.b - U.4.c]

5. The permittee shall submit a request to the Office of Environmental Services, Permits Division for reissuance of the exemption at least 180 days prior to the end of the term. If the applicant submits a timely and technically complete application, and the administrative authority, through no fault of the applicant, fails to act on the application for reissuance on or before the expiration date of the existing exemption, the permittee may, with the written approval of the administrative authority, continue to operate under the terms and conditions of the existing exemption which shall remain in effect until final action on the application is taken by the administrative authority.

\* \* \*

[See Prior Text in V]

1. The petitioner shall submit a plan to the Office of Environmental Assessment, Environmental Technology Division outlining the protocol used to:

\* \* \*

[See Prior Text in V.1.a - Y]

Z. As a condition of the exemption, the petitioner must submit a report to the Office of Environmental Services, Permits Division by March 1 of each calendar year during the term of the exemption, describing in detail the efforts undertaken during the preceding calendar year to reduce the volume and toxicity of the waste generated. The report shall provide data indicating the change in volume and toxicity of waste actually achieved during the year in comparison to previous years.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended LR 23:299 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2479 (November 2000).

**§2273. Petition for Determinations Concerning No Alternatives to Land Disposal of a Prohibited Waste by Deep Well Injection**

\* \* \*

[See Prior Text in A - B]

C. Any person seeking a determination of no alternatives must submit a petition to the Office of Environmental Services, Permits Division that does the following:

\* \* \*

[See Prior Text in C.1 - D]

E. Except as otherwise provided in this Section, if a hazardous waste not subject to an existing determination is to be injected, a petition that addresses such hazardous waste must be submitted to the Office of Environmental Services, Permits Division and a determination of no alternatives be made prior to this waste being injected. The provisions contained in Subsection J of this Section, shall apply with respect to such hazardous waste.

\* \* \*

[See Prior Text in E.1 - 2]

F. If a new injection well(s) is to be used to inject a hazardous waste subject to an existing approved determination under this Section, a new petition is not necessary, provided the owner or operator submits a notice to the Office of Environmental Assessment, Environmental Technology Division. The notice shall include a copy of the EPA exemption approval for the new well(s) and a copy of the permit issued by the Louisiana Department of Natural Resources, Office of Conservation for the new well(s).

\* \* \*

[See Prior Text in G - L.1]

2. The petitioner shall submit a petition to the Office of Environmental Services, Permits Division for reissuance of a determination at least 180 days prior to the end of the term. If the petitioner submits a timely and technically complete petition and the administrative authority, through no fault of the petitioner, fails to act on the petition for reissuance on or before the expiration date of the existing determination, the petitioner may, with the written approval of the administrative authority, continue to operate under the terms and conditions of the existing determination, which shall remain in effect until final action on the petition is taken by the administrative authority and all subsequent administrative and/or judicial appeal processes have been completed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:1801 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2479 (November 2000).

### Chapter 23. Waste Piles

#### §2303. Design and Operating Requirements

\* \* \*

[See Prior Text in A - K.4]

a. notify the Office of Environmental Assessment, Environmental Technology Division of the leak in writing within seven days after detecting the leak; and

\* \* \*

[See Prior Text in K.4.b - L]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000).

#### §2306. Response Actions

\* \* \*

[See Prior Text in A - B]

1. notify the Office of Environmental Assessment, Environmental Technology Division in writing of the exceedence within seven days of the determination;

2. submit a preliminary written assessment to the Office of Environmental Assessment, Environmental Technology Division within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

\* \* \*

[See Prior Text in B.3 - 5]

6. within 30 days after the notification that the action leakage rate has been exceeded, submit to the Office of Environmental Assessment, Environmental Technology Division the results of the analyses specified in LAC 33:V.2306.B.3-5, of actions taken, and of remedial actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the administrative authority a report summarizing the results of any remedial actions taken and actions planned.

\* \* \*

[See Prior Text in C - C.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000).

#### §2307. Inspection of Synthetic Liners

A. The facility must provide the Office of Environmental Assessment, Environmental Technology Division with 30 days advance notice of the initial liner installation to allow the administrative authority the opportunity to inspect the liner and its installation.

B. The liner must be inspected on a regular basis by removing the waste pile. The facility must notify the Office of Environmental Assessment, Environmental Technology Division at least 30 days prior to the inspection to allow the administrative authority the opportunity to inspect the liner. If deterioration, a crack, or other condition is identified that is causing or could cause a leak, the owner or operator must:

\* \* \*

[See Prior Text in B.1 - 3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000).

### Chapter 25. Landfills

#### §2503. Design and Operating Requirements

\* \* \*

[See Prior Text in A - K.1.m]

n. it is not a radioactive waste as defined by the Radiation Protection regulations (LAC 33:XV); and

\* \* \*

[See Prior Text in K.1.o - N.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:368 (April 1991), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000).

#### **§2508. Response Actions**

\* \* \*

[See Prior Text in A - B]

1. notify the Office of Environmental Services, Permits Division in writing of the exceedence within seven days of the determination;

2. submit a preliminary written assessment to the Office of Environmental Services, Permits Division within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

\* \* \*

[See Prior Text in B.3 - 5]

6. within 30 days after the notification that the action leakage rate has been exceeded, submit to the Office of Environmental Assessment, Environmental Technology Division the results of the analyses specified in LAC 33:V.2508.B.3-5, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the administrative authority a report summarizing the results of any remedial actions taken and remedial actions planned.

\* \* \*

[See Prior Text in C - C.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2481 (November 2000).

#### **§2521. Closure and Post-closure Care**

\* \* \*

[See Prior Text in A - B.6]

C. During the post-closure care period, if liquid leaks into a leak detection system installed under LAC 33:V.3305, the owner or operator must notify the Office of Environmental Assessment, Environmental Technology Division of the leak in writing within seven days after detecting the leak.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2481 (November 2000).

### **Chapter 27. Land Treatment**

#### **§2707. Treatment Demonstration**

\* \* \*

[See Prior Text in A - D.2.b]

3. When the owner or operator who has been issued a two-phase permit has completed the treatment

demonstration, he must submit to the Office of Environmental Services, Permits Division a certification, signed by a person authorized to sign a permit application or report under LAC 33:V.507 and 509, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the administrative authority approves a later date.

\* \* \*

[See Prior Text in D.4 - 4.c]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2481 (November 2000).

#### **§2711. Unsaturated Zone Monitoring**

An owner or operator subject to this Chapter must establish an unsaturated zone monitoring program to discharge the following responsibilities.

\* \* \*

[See Prior Text in A - G]

1. notify the Office of Environmental Services, Permits Division of this finding in writing within seven days. The notification must indicate what constituents have shown statistically significant increases;

2. within 90 days, submit to the Office of Environmental Services, Permits Division an application for a permit modification to modify the operating practices at the facility in order to maximize the success of degradation, transformation, or immobilization processes in the treatment zone.

\* \* \*

[See Prior Text in H]

1. notify the Office of Environmental Services, Permits Division in writing within seven days of determining a statistically significant increase below the treatment zone that he intends to make a determination under this Subsection;

2. within 90 days, submit a report to the Office of Environmental Services, Permits Division demonstrating that a source other than the regulated units caused the increase or that the increase resulted from error in sampling, analysis, or evaluation;

3. within 90 days, submit to the Office of Environmental Services, Permits Division an application for a permit modification to make any appropriate changes to the unsaturated zone monitoring program at the facility; and

\* \* \*

[See Prior Text in H.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2481 (November 2000).

**§2719. Closure and Post-Closure Care**

\* \* \*

[See Prior Text in A - A.8]

B. For the purpose of complying with LAC 33:V.3517, when closure is completed, the owner or operator may submit to the Office of Environmental Services, Permits Division certification by an independent qualified soil scientist, in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

\* \* \*

[See Prior Text in C - C.7]

D. The owner or operator is not subject to regulation under LAC 33:V.2719.A.8 and 2719.C if the administrative authority finds that the level of hazardous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in LAC 33:V.2719.D.3. The owner or operator may submit such a demonstration to the Office of Environmental Services, Permits Division at any time during the closure or post-closure care periods. For the purposes of this Subsection:

\* \* \*

[See Prior Text in D.1 - 4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 14:790 (November 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000).

**Chapter 28. Drip Pads**

**§2803. Assessment of Existing Drip Pad Integrity**

\* \* \*

[See Prior Text in A]

B. The owner or operator must develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of LAC 33:V.2805.C and submit the plan to the Office of Environmental Services, Permits Division no later than two years before the date that all repairs, upgrades, and modifications will be complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of LAC 33:V.2805 and must document the age of the drip pad to the extent possible. The plan must be reviewed and certified by an independent qualified, registered professional engineer.

C. Upon completion of all upgrades, repairs, and modifications, the owner or operator must submit to the Office of Environmental Services, Permits Division the as-built drawings for the drip pad together with a certification by an independent, qualified registered professional engineer attesting that the drip pad conforms to the drawings.

\* \* \*

[See Prior Text in D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000).

**§2805. Design and Operating Requirements**

Owners and operators of drip pads must ensure that the pads are designed, installed, and operated in accordance with LAC 33:V.2805.A or C.

\* \* \*

[See Prior Text in A - N.1.c]

d. within 24 hours after discovery of the condition, notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance of the condition and, within 10 working days, provide written notice to the Office of Environmental Compliance, Surveillance Division with a description of the steps that will be taken to repair the drip pad and clean up any leakage, and the schedule for accomplishing this work.

\* \* \*

[See Prior Text in N.2]

3. Upon completing all repairs and cleanup, the owner or operator must notify the Office of Environmental Compliance, Surveillance Division in writing and provide a certification, signed by an independent qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with LAC 33:V.2805.N.1.d.

\* \* \*

[See Prior Text in O - P]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000).

**Chapter 29. Surface Impoundments**

**§2903. Design and Operating Requirements**

[Comment: The permit applicant must submit detailed plans and specifications accompanied by an engineering report that must collectively include the information itemized and address the following in addition to the design and operating requirements: (1) a description of the proposed maintenance and repair procedures; (2) a description of the operating procedures that will ensure compliance with this Section; and (3) a certification by a qualified engineer which states that the facilities comply with the applicable design requirements in this Section. The owner or operator of a new facility must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications.]

\* \* \*

[See Prior Text in A - I.4]

a. notify the Office of Environmental Services, Permits Division of the leak in writing within seven days after detecting the leak; and

\* \* \*

[See Prior Text in I.4.b - L.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:267 (March 1995),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000).

**§2906. Response Actions**

\* \* \*

[See Prior Text in A - B]

1. notify the Office of Environmental Services, Permits Division in writing of the exceedence within seven days of the determination;

2. submit a preliminary written assessment to the Office of Environmental Services, Permits Division within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

\* \* \*

[See Prior Text in B.3 - 5]

6. within 30 days after the notification that the action leakage rate has been exceeded, submit to the Office of Environmental Services, Permits Division the results of the analyses specified in LAC 33:V.2906.B.3-5, the results of actions taken, and remedial actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the Office of Environmental Services, Permits Division a report summarizing the results of any remedial actions taken and actions planned.

\* \* \*

[See Prior Text in C - C.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000).

**§2909. Emergency Repairs; Contingency Plans**

\* \* \*

[See Prior Text in A - B.5]

6. notify the Office of Environmental Compliance of the problem by phone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays, or by e-mail utilizing the Incident Report Form and procedure found at www.deq.state.la.us/surveillance in 24 hours and in writing within seven days after detecting the problem.

\* \* \*

[See Prior Text in C - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000).

**Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces**

**§3005. Permit Standards for Burners**

\* \* \*

[See Prior Text in A - D.4.b]

c. For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow the owner or operator to analyze samples, compute data, and submit to the Office of Environmental Services, Permits Division the trial burn results, and for the administrative authority to modify the facility permit to

reflect the trial burn results, the administrative authority will specify the operating requirements most likely to ensure compliance with the emission standards of LAC 33:V.3009-3015, based on engineering judgment.

\* \* \*

[See Prior Text in D.4.d - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:822 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000).

**§3007. Interim Status Standards for Burners**

\* \* \*

[See Prior Text in A - B.5.c]

6. Public Notice Requirements at Precompliance. On or before August 21, 1991, the owner or operator must submit a notice with the following information for publication in a major local newspaper of general circulation and send a copy of the notice to the appropriate units of state and local government. The owner or operator must provide to the Office of Environmental Services, Permits Division with the certification of precompliance evidence of submitting the notice for publication. The notice, which shall be entitled "Notice of Certification of Precompliance with Hazardous Waste Burning Requirements of LAC 33:V.3007.B", must include:

\* \* \*

[See Prior Text in B.6.a - i]

j. location (mailing address) of the applicable LDEQ Regional Office, where further information can be obtained on LDEQ regulation of hazardous waste burning.

\* \* \*

[See Prior Text in B.7 - C.1.m]

2. Prior Notice of Compliance Testing. At least 30 days prior to the compliance testing required by LAC 33:V.3007.C.3, the owner or operator shall notify the Office of Environmental Services, Permits Division and submit the following information:

\* \* \*

[See Prior Text in C.2.a - 7.b.iii]

8. Revised Certification of Compliance. The owner or operator may submit at any time a revised certification of compliance (recertification of compliance) to the Office of Environmental Services, Permits Division under the following procedures:

\* \* \*

[See Prior Text in C.8.a]

b. at least 30 days prior to first burning hazardous waste under operating conditions that exceed those established under a current certification of compliance, the owner or operator shall notify the Office of Environmental Services, Permits Division and submit the following information:

\* \* \*

[See Prior Text in C.8.b.i - iii]

iv. complete emissions testing protocol for any pretesting and for a new compliance test to determine compliance with the applicable emissions standards of LAC 33:V.3009-3015 when operating under revised operating

conditions. The protocol shall include a schedule of pre-testing and compliance testing. If the owner and operator revises the scheduled date for the compliance test, he/she shall notify the Office of Environmental Services, Permits Division in writing at least 30 days prior to the revised date of the compliance test;

\* \* \*

[See Prior Text in C.8.c]

d. submit to the Office of Environmental Services, Permits Division a revised certification of compliance under LAC 33:V.3007.C.4.

D. Periodic Recertifications. The owner or operator must conduct compliance testing and submit to the Office of Environmental Services, Permits Division a recertification of compliance under provisions of LAC 33:V.3007.C within three years from submitting the previous certification or recertification. If the owner or operator seeks to recertify compliance under new operating conditions, he/she must comply with the requirements of LAC 33:V.3007.C.8.

\* \* \*

[See Prior Text in E - L]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:822 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1740 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000).

**§3009. Standards to Control Organic Emissions**

A boiler or industrial furnace burning hazardous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under LAC 33:V.3005.E, it will meet the following standards:

\* \* \*

[See Prior Text in A - A.2]

3. Dioxin-listed Waste. A boiler or industrial furnace burning hazardous waste containing (or derived from) EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027 must achieve a DRE of 99.9999 percent for each POHC designated (under Subsection A.1.b of this Section) in its permit. This performance must be demonstrated on POHCs that are more difficult to burn than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. The DRE is determined for each POHC from the equation in Subsection A.1 of this Section. In addition, the owner or operator of the boiler or industrial furnace must notify the Office of Environmental Services, Permits Division of his intent to burn EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027.

\* \* \*

[See Prior Text in A.4 - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:823 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000).

**Chapter 31. Incinerators**

**§3103. General Requirements**

A. The operator of a hazardous waste incinerator shall secure a permit from the Office of Environmental Services, Permits Division of the department.

[Comment: The permit application must also include the information required in LAC 33:V.3115.]

\* \* \*

[See Prior Text in B - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000).

**§3115. Incinerator Permits for New or Modified Facilities**

\* \* \*

[See Prior Text in A - B.13.j]

14. the applicant must submit to the Office of Environmental Services, Permits Division a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in Subsection B.13 of this Section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the administrative authority.

15. all data collected during any trial burn must be submitted to the Office of Environmental Services, Permits Division following the completion of the trial burn.

\* \* \*

[See Prior Text in B.16 - C.2]

D. For the purposes of determining feasibility of compliance with the performance standards of LAC 33:V.3111 and of determining adequate operating conditions under LAC 33:V.3117, the applicant for a permit for an existing hazardous waste incinerator must prepare and submit to the Office of Environmental Services, Permits Division a trial burn plan and perform a trial burn in accordance with LAC 33:V.529.B and Subsection B, B.1-11, and 13-16 or, instead, submit other information as specified in LAC 33:V.529.C. The administrative authority must announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of Subsection B.12 of this Section. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under LAC 33:V.529.A are exempt from compliance with LAC 33:V.3111 and 3117 and, therefore, are exempt from the requirements to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in Subsection B.13 of

this Section, with Part II of the permit application. If completion of this process conflicts with the date set for submission of the Part II application, the applicant must contact the administrative authority to establish a later date for submission of the Part II application or the trial burn results. Trial burn results must be submitted prior to issuance of a permit. When the applicant submits a trial burn plan with Part II of the permit application, the administrative authority will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 22:828 (September 1996), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:683 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000).

### **Chapter 33. Ground Water Protection**

#### **§3317. Detection Monitoring Program**

An owner or operator required to establish a detection monitoring program under this Subpart must, at a minimum, discharge the following responsibilities:

\* \* \*

[See Prior Text in A - G.3]

4. Within 90 days, submit to the Office of Environmental Services, Permits Division an application for a permit modification to establish a compliance monitoring program meeting the requirements of LAC 33:V.3319. The application must include the following information:

\* \* \*

[See Prior Text in G.4.a - d]

5. Within 180 days, submit to the Office of Environmental Services, Permits Division:

\* \* \*

[See Prior Text in G.5.a - 6]

a. notify the Office of Environmental Services, Permits Division in writing within seven days of determining statistically significant evidence of contamination at the compliance point that he or she intends to make a demonstration under this Paragraph;

b. within 90 days, submit a report to the Office of Environmental Services, Permits Division that demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis, or evaluation;

\* \* \*

[See Prior Text in G.6.c - H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 10:496 (July 1984), LR 16:399 (May 1990), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2485 (November 2000).

#### **§3319. Compliance Monitoring Program**

An owner or operator required to establish a compliance monitoring program under this Chapter must, at a minimum, discharge the following responsibilities:

\* \* \*

[See Prior Text in A - H]

1. notify the Office of Environmental Services, Permits Division of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded; and

2. submit, to the Office of Environmental Services, Permits Division, an application for a permit modification to establish a corrective action program meeting the requirements of LAC 33:V.3321 within 180 days, or within 90 days if an engineering feasibility study has been previously submitted to the administrative authority under LAC 33:V.3317.H.5. The application must at a minimum include the following information:

\* \* \*

[See Prior Text in H.2.a - I]

1. notify the Office of Environmental Services, Permits Division in writing within seven days that he intends to make a demonstration under this Paragraph;

2. within 90 days, submit a report to the Office of Environmental Services, Permits Division which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis or evaluation;

3. within 90 days, submit to the Office of Environmental Services, Permits Division an application for a permit modification to make any appropriate changes to the compliance monitoring program at the facility; and

\* \* \*

[See Prior Text in I.4]

J. If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this Section, he must, within 90 days, submit to the Office of Environmental Services, Permits Division an application for a permit modification to make any appropriate changes to the program.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:399 (May 1990), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2485 (November 2000).

#### **§3321. Corrective Action Program**

An owner or operator required to establish a corrective action program under this Subpart must, at a minimum, discharge the following responsibilities:

\* \* \*

[See Prior Text in A - F]

G. the owner or operator must report in writing to the Office of Environmental Assessment, Remediation Services Division on the effectiveness of the corrective action program. The owner or operator must submit these reports semi-annually; and

H. if the owner or operator determines that the corrective action program no longer satisfies the requirements of this Section, he must, within 90 days, submit to the Office of Environmental Services, Permits Division an application for a permit modification to make any appropriate changes to the program.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2485 (November 2000).

## **Chapter 35. Closure and Post-Closure**

### **§3503. Notification of Intention to Close a Facility**

A. At least 180 days prior to closure, the operator must notify the Office of Environmental Services, Permits Division of intention to close and supply the following information:

\* \* \*

[See Prior Text in A.1 - 4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000).

#### **Subchapter A. Closure Requirements**

### **§3505. Closure Procedures**

\* \* \*

[See Prior Text in A]

B. If the request is made to change the closure plan, the operator will submit revisions to the plan to the Office of Environmental Services, Permits Division, supported by necessary scientific and engineering data to permit evaluation by the department, and the procedures established in permit process will be followed in evaluating and approving the requested changes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000).

### **§3511. Closure Plan; Amendment of Plan**

\* \* \*

[See Prior Text in A - B.7]

C. Amendment of Plan. The owner or operator must submit to the Office of Environmental Services, Permits Division a written notification of or request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the applicable procedures in LAC 33:V.Chapters 3 and 7. The written notification or request must include a copy of the amended closure plan for review or approval by the administrative authority.

1. The owner or operator may submit a written notification or request to the Office of Environmental Services, Permits Division for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

\* \* \*

[See Prior Text in C.2 - 2.c]

3. The owner or operator must submit to the Office of Environmental Services, Permits Division a written request for a permit modification including a copy of the amended closure plan for approval at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than 30 days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to prepare a contingent closure plan under LAC 33:V.2911.D or 2315.D must submit an amended closure plan to the Office of Environmental Services, Permits Division no later than 60 days from the date that the owner or operator or administrative authority determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of LAC 33:V.2521, or no later than 30 days from that date if the determination is made during partial closure or final closure. The administrative authority will approve, disapprove, or modify this amended plan in accordance with the procedures in LAC 33:V.Chapters 3 and 7. In accordance with LAC 33:V.311, the approved closure plan will become a condition of any hazardous waste permit issued.

\* \* \*

[See Prior Text in C.4 - D]

1. The owner or operator must notify the Office of Environmental Services, Permits Division in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the Office of Environmental Services, Permits Division in writing at least 45 days prior to the date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed. The owner or operator must notify the Office of Environmental Services, Permits Division in writing at least 45 days prior to the date on which he expects to begin partial or final closure of a boiler or industrial furnace, whichever is earlier.

\* \* \*

[See Prior Text in D.2 - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 21:266 (March 1995), , amended by the Office of Waste Services, Hazardous Waste Division, LR 25:480 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000).

### **§3513. Closure; Time Allowed for Closure**

\* \* \*

[See Prior Text in A - E]

1. Submit to the Office of Environmental Services, Permits Division with the request to modify the permit:



\* \* \*

[See Prior Text in E.1.a - 7.e]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 17:478 (May 1991), LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000).

### §3517. Certification of Closure

A. Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of the completion of final closure, the owner or operator must submit to the Office of Environmental Services, Permits Division, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for closure under LAC 33:V.3707.

B. Survey Plat. No later than the submission of the certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services, Permits Division, a survey plat indicating the location and dimensions of landfills cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use, must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable Chapter 35 regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2487 (November 2000).

### Subchapter B. Post-Closure Requirements

#### §3523. Post-Closure Plan, Amendment of Plan

A. Written Plan. The owner or operator of a hazardous waste disposal unit must have a written post-closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous wastes at partial or final closure are required by LAC 33:V.2911.D and 2315.C to have contingent post-closure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent post-closure plans under LAC 33:V.2315.C and 2911.D must submit a post-closure plan to the Office of Environmental Services, Permits Division

within 90 days from the date that the owner or operator or administrative authority determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of LAC 33:V.3519-3527. The plan must be submitted with the permit application, in accordance with LAC 33:V.517.P, and approved by the administrative authority as part of the permit issuance procedures under these regulations. In accordance with LAC 33:V.311 the approved post-closure plan will become a condition of any hazardous waste permit issued.

\* \* \*

[See Prior Text in B - C]

D. Amendment of Plan. The owner or operator must submit to the Office of Environmental Services, Permits Division a written notification of or request for a permit modification to authorize a change in the approved post-closure plan in accordance with the applicable requirements of LAC 33:V.Chapters 3 and 7. The written notification or request must include a copy of the amended post-closure plan for review or approval by the administrative authority.

1. The owner or operator may submit a written notification or request to the Office of Environmental Services, Permits Division for a permit modification to amend the post-closure plan at any time during the active life of the facility or during the post-closure care period.

\* \* \*

[See Prior Text in D.2 - 2.d]

3. The owner or operator must submit a written request for a permit modification at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at a closure and is not otherwise required to submit a contingent post-closure plan under LAC 33:V.2911.D and 2315.C must submit a post-closure plan to the Office of Environmental Services, Permits Division no later than 90 days after the date that the owner or operator or administrative authority determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of LAC 33:V.2521. The administrative authority will approve, disapprove or modify this plan in accordance with the procedures in LAC 33:V.Chapters 3 and 7. In accordance with LAC 33:V.311, the approved post-closure plan will become a permit condition.

\* \* \*

[See Prior Text in D.4]

E. Certification of Completion of Post-closure Care. No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Office of Environmental Services, Permits Division, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under LAC 33:V.3711.I.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:480 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2487 (November 2000).

### §3525. Post-Closure Notices

A. No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services, Permits Division a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

\* \* \*

[See Prior Text in B - C.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 18:1256 (November 1992), LR 23:568 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2488 (November 2000).

### §3527. Certification of Completion of Post-Closure Care

No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Office of Environmental Services, Permits Division, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under LAC 33:V.3711.I.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2488 (November 2000).

## Chapter 37. Financial Requirements

### Subchapter A. Closure Requirements

#### §3707. Financial Assurance for Closure

An owner or operator of each facility must establish financial assurance for closure of the facility. Under this Part, the owner or operator must choose from the options as specified in LAC 33:V.3707.A-F, which choice the

administrative authority must find acceptable based on the application and the circumstances.

\* \* \*

[See Prior Text in A]

1. An owner or operator may satisfy the requirements of this Part by establishing a closure trust fund which conforms to the requirements of this Subpart, and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

\* \* \*

[See Prior Text in A.2 - 6]

7. If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in this Part for all or part of the trust fund, he may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current closure cost estimate covered by the trust fund.

\* \* \*

[See Prior Text in A.9 - B]

1. An owner or operator may satisfy the requirements of this Part by obtaining a surety bond which conforms to the requirements of this Paragraph and submitting the bond to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

\* \* \*

[See Prior Text in B.2 - 6]

7. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

\* \* \*

[See Prior Text in B.8 - C]

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this Subsection and submitting the bond to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

\* \* \*

[See Prior Text in C.2 - 6]

7. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

\* \* \*

[See Prior Text in C.8 - D]

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Subsection and submitting the letter to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the letter of credit to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The letter of credit must be effective before the initial receipt of hazardous waste. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

\* \* \*

[See Prior Text in D.2 - 6]

7. Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

\* \* \*

[See Prior Text in D.8 - E]

1. An owner or operator may satisfy the requirements of this Part by obtaining closure insurance which conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the Office of Management and Finance, Financial Services Division. An owner or

operator of a new facility must submit the certificate of insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and authorized to transact business in Louisiana.

\* \* \*

[See Prior Text in E.2 - 8.e]

9. Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate, and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

\* \* \*

[See Prior Text in E.10 - F.2]

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Management and Finance, Financial Services Division:

\* \* \*

[See Prior Text in F.3.a - c.ii]

4. An owner or operator of a new facility must submit the items specified in LAC 33:V.3707.F.3 to the Office of Management and Finance, Financial Services Division at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

5. After the initial submission of items specified in LAC 33:V.3707.F.3, the owner or operator must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in LAC 33:V.3707.F.3.

6. If the owner or operator no longer meets the requirements of LAC 33:V.3707.F.1, he must send notice to the Office of Management and Finance, Financial Services Division of intent to establish alternate financial assurance as specified in this Part. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

\* \* \*

[See Prior Text in F.7 - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1511 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2488 (November 2000).

**Subchapter B. Post-Closure Requirements**

**§3711. Financial Assurance for Post-Closure Care**

The owner or operator of a hazardous waste management unit subject to the requirements of LAC 33:V.3709 must establish financial assurance for post-closure care in accordance with the approved post-closure plan for the facility 60 days prior to the initial receipt of hazardous waste or the effective date of the regulation, whichever is later. Under this Section, the owner or operator must choose from the options as specified in Subsections A-F of this Section, which choice the administrative authority must find acceptable based on the application and the circumstances.

\* \* \*

[See Prior Text in A]

1. An owner or operator may satisfy the requirements of this Part by establishing a post-closure trust fund which conforms to the requirements of this Paragraph and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

\* \* \*

[See Prior Text in A.2 - 6]

7. During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current post-closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in this Part for all or part of the trust fund, he may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

\* \* \*

[See Prior Text in A.9 - B]

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this Subsection and submitting the bond to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

\* \* \*

[See Prior Text in B.2 - 6]

7. Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least

equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator, and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

\* \* \*

[See Prior Text in B.9 - C]

1. An owner or operator of a facility which has been issued a standard permit may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this Subsection and by submitting the bond to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

\* \* \*

[See Prior Text in C.2 - 6]

7. Whenever the current post-closure cost estimate increases to an amount greater than the penal sum during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

\* \* \*

[See Prior Text in C.8]

9. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator, and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

\* \* \*

[See Prior Text in C.10 - D]

1. An owner or operator may satisfy the requirements of this Part by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Paragraph

and by submitting the letter to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the letter of credit to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

\* \* \*

[See Prior Text in D.2 - 6]

7. Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

\* \* \*

[See Prior Text in D.8 - 9]

10. If the owner or operator does not establish alternate financial assurance as specified in this Part and obtain written approval of such alternate assurance from the administrative authority within 90 days after receipt by both the owner or operator and the Office of Management and Finance, Financial Services Division of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the administrative authority will draw on the letter of credit. The administrative authority may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the administrative authority will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this Part and obtain written approval of such assurance from the administrative authority.

\* \* \*

[See Prior Text in D.11 - E]

1. An owner or operator may satisfy the requirements of this Part by obtaining post-closure insurance which conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the certificate of insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer in one or more states, and authorized to transact business in Louisiana.

\* \* \*

[See Prior Text in E.2 - 7]

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Office of Management and Finance, Financial Services Division. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the administrative authority and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

\* \* \*

[See Prior Text in E.8.a - e]

9. Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

\* \* \*

[See Prior Text in E.10 - F2]

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Management and Finance, Financial Services Division:

\* \* \*

[See Prior Text in F.3.a - c.ii]

4. An owner or operator of a new facility must submit the items specified in LAC 33:V.3711.F.3 to the Office of Management and Finance, Financial Services Division at least 60 days before the date on which hazardous waste is first received for disposal.

5. After the initial submission of items specified in LAC 33:V.3711.F.3, the owner or operator must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in LAC 33:V.3711.F.3.

6. If the owner or operator no longer meets the requirements of LAC 33:V.3711.F.1 of this Part, he must send notice to the Office of Management and Finance, Financial Services Division of intent to establish alternate financial assurance as specified in this Part. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

\* \* \*

[See Prior Text in F.7 - I]

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**Subchapter D. Insurance Requirements**  
**§3715. Liability Requirements**

\* \* \*

[See Prior Text in A - A.1]

a. Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Management and Finance, Financial Services Division. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the certificate of liability insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

\* \* \*

[See Prior Text in A.1.b - 6]

7. An owner or operator shall notify the Office of Management and Finance, Financial Services Division in writing within 30 days whenever:

\* \* \*

[See Prior Text in A.7.a - B.1]

a. Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Management and Finance, Financial Services Division. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the certificate of liability insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

\* \* \*

[See Prior Text in B.1.b - 6]

7. An owner or operator shall notify the Office of Management and Finance, Financial Services Division in writing within 30 days whenever:

\* \* \*

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

D. Adjustments by the Administrative Authority. If the administrative authority determines that the levels of financial responsibility required by LAC 33:V.3715.A or B are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the administrative authority may adjust the level of financial responsibility required by LAC 33:V.3715.A and B as may be necessary to protect human health and the environment. This adjusted level will be based on the administrative authority's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the administrative authority determines that there is a significant risk to human health and the environment from non-sudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, he may require that an owner or operator of the facility comply with LAC 33:V.3715.B. An owner or operator must furnish to the Office of Management and Finance, Financial Services Division, within a reasonable time, any information which the administrative authority requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification under LAC 33:V.321.

\* \* \*

[See Prior Text in E - F.2]

3. To demonstrate that he meets this test, the owner or operator must submit the following three items to the Office of Management and Finance, Financial Services Division:

\* \* \*

[See Prior Text in F.3.a - c.ii]

4. An owner or operator of a new facility must submit the items specified in LAC 33:V.3715.F.3 to the Office of Management and Finance, Financial Services Division at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

\* \* \*

[See Prior Text in F.5]

6. If the owner or operator no longer meets the requirements of LAC 33:V.3715.F.1, he must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in this Section. Evidence of liability coverage must be submitted to the Office of Management and Finance, Financial Services Division within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

\* \* \*

[See Prior Text in F.7 - H]

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subsection

and submitting a copy of the letter of credit to the Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text in H.2 - I]

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and submitting a copy of the bond to the Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text in I.2 - J]

1. An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this Paragraph and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text in J.2 - K]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:399 (May 1990), LR 18:723 (July 1992), repromulgated LR 19:486 (April 1993), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1513 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2492 (November 2000).

**Subchapter E. Incapacity Regulations**

**§3717. Incapacity of Owners or Operators, Guarantors, or Financial Institutions**

A. An owner or operator must notify the Office of Management and Finance, Financial Services Division by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in LAC 33:V.3707.F and 3711.F must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (see LAC 33:V.3719.H).

\* \* \*

[See Prior Text in B]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2493 (November 2000).

**Subchapter F. Financial and Insurance Instruments**

**§3719. Wording of the Instruments**

\* \* \*

[See Prior Text in A - C.Performance Bond]

D. Letter of Credit. A letter of credit, as specified in LAC 33:V.3707.D or 3711.D or 4403.C or 4407.C must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**IRREVOCABLE STANDBY LETTER OF CREDIT**

Secretary

Louisiana Department of Environmental Quality  
P.O. Box 82231

Baton Rouge, LA 70884-2231

Dear [Sir or Madam]:

We hereby establish our Irrevocable Standby Letter of Credit Number in favor of the Department of Environmental Quality of the State of Louisiana at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of U.S. dollars \$ \_\_\_\_\_ upon presentation of:

1. a sight draft, bearing reference to the Letter of Credit Number \_\_\_ drawn by the Secretary or his or her designated representative, together with;

2. a statement signed by the Secretary or his or her designated representative, reading as follows:

"I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq."

This Letter of Credit is effective as of \_\_\_\_\_, \_\_\_\_\_, and shall expire on, \_\_\_\_\_ [date at least one year later], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [ \_\_\_\_\_, \_\_\_\_\_ ] and on each successive expiration date thereafter, unless, at least 120 days before the then current expiration date, we notify both you and [name of owner/operator] 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 the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [name of owner/operator], 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 owner/operator] in accordance with your instructions.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:V.3719.D as such regulations were constituted on the date shown immediately below.

[Signature(s) and Titles of Official(s) of issuing institutions]

[DATE]

This credit is subject to [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"].

\* \* \*

[See Prior Text in E.Certificate of Insurance for Closure or Post -Closure Care]

F. Closure Guarantee. A letter from the chief financial officer, as specified in LAC 33:V:3707.F.3 or 3711.F.3 or 4403.E.3 or 4407.E.3 must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**LETTER FROM CHIEF FINANCIAL OFFICER**

Secretary

Louisiana Department of Environmental Quality  
P.O. Box 82231

Baton Rouge, LA 70884-2231

Dear [Sir or Madam]:

I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance for closure and/or post-closure costs, as specified in LAC 33:V.Chapter 37 and 43.

[Fill out the following five paragraphs. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA Identification Number, name, address, and current closure and/or post-closure cost estimates. Identify each cost as to whether it is for closure or post -closure.]

\* \* \*

[See Prior Text in 1 – 5]

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 fiscal year, ended [date].

[Fill in Alternative I if the first criteria of LAC 33:V.3707.F.1 or 3711.F.1 or the first criteria of LAC 33:V.4403.E.1 or 4407.E.1 are used. Fill in Alternative II if the second criteria of LAC 33:V.3707.F.1 or 3711.F.1 or the second criteria of LAC 33:V.4403.E.1 or 4407.E.1 are used.]

ALTERNATIVE I

\* \* \*

[See Prior Text in 1 – 17]

ALTERNATIVE II

\* \* \*

[See Prior Text in 1 – 10]

I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:V.3719.F as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

**G Liability Coverage Guarantee.** A letter from the chief financial officer, as specified in LAC 33:V.3715.F or 4411, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Secretary  
Louisiana Department of Environmental Quality  
P.O. Box 82231  
Baton Rouge, LA 70884-2231

Dear [Sir or Madam]:

I am the chief financial officer of [firm's name and address]. This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage [insert "and closure and/or post -closure care" if applicable] as specified in LAC 33:V.Chapter 37 or 43.

[Fill out the following paragraph regarding facilities and liability coverage. If there are no facilities that belong in a particular paragraph, write "none" in the space indicated. For each facility, include its EPA Identification Number, name, and address.]

The firm identified above is the owner or operator of the following facilities for which liability coverage for [insert "sudden" or "nonsudden" or "both sudden and nonsudden"] accidental occurrences is being demonstrated through the financial test specified in LAC 33:V.Chapter 37 or 43.

The firm identified above guarantees, through the guarantee specified in LAC 33:V.Chapter 37 or 43, liability coverage for [insert "sudden" or "nonsudden" or "both sudden and nonsudden"] accidental occurrences at the following facilities owned or operated by the following: \_\_\_\_\_ . The firm identified above is [insert one or more: (1) the direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee \_\_\_\_\_; or (3) engaged in the following substantial business relationship with the owner or operator \_\_\_\_\_, and receiving the following value in consideration of this guarantee \_\_\_\_\_]. [Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter].

[If you are using the financial test to demonstrate coverage of both liability and closure and post-closure care, fill in the following five paragraphs regarding facilities and associated closure and post-closure cost estimates. If there are no facilities that belong in a particular paragraph, write "none" in the space indicated. For each facility, include its EPA Identification Number, name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care.]

\* \* \*

[See Prior Text in 1 – 5]

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 under LAC 33:V.Chapters 37 and 43.]

**PART A. LIABILITY COVERAGE FOR SUDDEN AND NONSUDDEN OCCURRENCES**

[Fill in Alternative I if the first criteria of LAC 33:V.3707.F.1 or 4411.F.1 are used. Fill in Alternative II if the second criteria of LAC 33:V.3707.F.1 or 4411.F.1 or 4411.F.1are used.]

ALTERNATIVE I

\* \* \*

[See Prior Text in 1 – 11]

ALTERNATIVE II

\* \* \*

[See Prior Text in 1 – 10]



[Fill in Part B if you are using the financial test to demonstrate assurance of both liability coverage and closure or post-closure care.]

PART B. CLOSURE OR POST-CLOSURE CARE AND LIABILITY COVERAGE

[Fill in Alternative I if the first criteria of LAC 33:V.3707.F.1, 3711.F.1, and 3715.F.1 or if the first criteria of LAC 33:V.4403.E.1 or 4407.E.1 and 4411.F.1 are used. Fill in Alternative II if the second criteria of LAC 33:V.3707.F.1, 3711.F.1, and 3715.F.1 or if the second criteria of LAC 33:4403.E.1 or 4407.E.1 and 4411.F.1 are used.]

ALTERNATIVE I

\* \* \*

[See Prior Text in 1 – 19]

ALTERNATIVE II

\* \* \*

[See Prior Text in 1 – 12]

I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:V.3719.G as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

\* \* \*

[See Prior Text in H – J. Hazardous Waste Facility Certificate of Liability Insurance]

K. Letter of Credit. A letter of credit, as specified in LAC 33:V.3715 or 4411, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

IRREVOCABLE STANDBY LETTER OF CREDIT

Secretary

Louisiana Department of Environmental Quality  
P.O. Box 82231

Baton Rouge, Louisiana 70884-2231

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit Number \_\_\_\_\_ in the favor of ["any and all third-party liability claimants" or insert name of trustee of the standby trust fund], at the request and for the account of [owner or operator's name and address] for third-party liability awards or settlements up to [in words] U.S. dollars \$\_\_\_\_\_ per occurrence and the annual aggregate amount of [in words] U.S. dollars, for sudden accidental occurrences and/or for third-party liability awards or settlements up to the amount of [in words] U.S. dollars \$\_\_\_\_\_ per occurrence, and the annual aggregate amount of [in words] U.S. dollars \$\_\_\_\_\_ for nonsudden accidental occurrences available upon presentation of a sight draft bearing reference to this Letter of Credit Number \_\_\_\_\_, and [insert the following language if the letter of credit is being used without a standby trust fund:]

\* \* \*

[See Prior Text in 1 – 2]

This Letter of Credit is effective as of [date] and shall expire on [date at least one year later], but such expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify you, the administrative authority, and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date.

Whenever this Letter of Credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us.

[Insert the following language if a standby trust fund is not being used: "In the event that this letter of credit is used in combination with another mechanism for liability coverage, this letter of credit shall be considered [insert "primary" or "excess" coverage]."

We certify that the wording of this letter of credit is identical to the wording specified in LAC 33:V.3719.K as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution [Date]]

This credit is subject to [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"].

\* \* \*

[See Prior Text in L – N.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:47 (January 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1514 (November 1997), repromulgated LR 23:1684 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2493 (November 2000).

Chapter 38. Universal Wastes  
Subchapter B. Standards for Small Quantity Handlers of Universal Waste

§3831. Off-Site Shipments

\* \* \*

[See Prior Text in A - F.2]

G. If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Office of Environmental Compliance, Surveillance Division of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The administrative authority will provide instructions for managing the hazardous waste.

\* \* \*

[See Prior Text in H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:573 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2495 (November 2000).

### **Subchapter C. Standards for Large Quantity Handlers of Universal Waste**

#### **§3841. Notification**

A. Except as provided in Subsection A.1 and 2 of this Section, a large quantity handler of universal waste must have sent written notification of universal waste management to the Office of Environmental Services, Permits Division, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

\* \* \*

[See Prior Text in A.1 - B.5]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000).

#### **§3853. Off-Site Shipments**

\* \* \*

[See Prior Text in A - F.2]

G If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Office of Environmental Compliance, Surveillance Division of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The administrative authority will provide instructions for managing the hazardous waste.

\* \* \*

[See Prior Text in H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:576 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000).

### **Subchapter E. Standards for Destination Facilities**

#### **§3875. Off-Site Shipments**

\* \* \*

[See Prior Text in A - B.2]

C. If the owner or operator of a destination facility receives a shipment containing hazardous waste that was shipped as a universal waste, the owner or operator of the destination facility must immediately notify the Office of Environmental Compliance, Surveillance Division of the illegal shipment, and provide the name, address, and phone number of the shipper. The administrative authority will provide instructions for managing the hazardous waste.

\* \* \*

[See Prior Text in D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 23:578 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000).

### **Chapter 39. Small Quantity Generators**

#### **§3903. Quantitative Limit**

A generator is a small quantity generator if he generates less than an average of 100 kilograms of hazardous waste per calendar month except as specified in LAC 33:V.3911. If the quantitative limit set forth in this Section is exceeded, the generator must notify the Office of Environmental Services, Permits Division of his change in status and remain in that category for the next calendar year. At no time shall a small quantity generator generate over 1000 kilograms in a calendar month.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), repromulgated LR 18:1256 (November 1992), amended LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000).

#### **§3907. Recycle**

A. The generator must notify the Office of Environmental Services, Permits Division of his on-site reuse/recycle activities in accordance with LAC 33:V.4103.

\* \* \*

[See Prior Text in B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000).

#### **§3915. Requirements**

The small quantity generator must:

\* \* \*

[See Prior Text in A - C.4.b]

5. the owner or operator shall be required to submit to the Office of Environmental Services, Environmental Assistance Division an annual report for all hazardous waste shipped off-site. The annual report is due by March 1 of each calendar year covering the period of January 1 to December 31 of the previous year. The report will include the generator ID, the type of waste, the amount of waste, and the disposition of the waste;

\* \* \*

[See Prior Text in C.6 - C.7.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), LR 16:220 (March 1990), repromulgated LR 18:1256 (November 1992), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1497 (August 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000).

**Chapter 40. Used Oil**  
**Subchapter D. Standards for Used Oil Transporter and Transfer Facilities**

**§4029. Notification**

\* \* \*

[See Prior Text in A]

B. Mechanics of Notification. A used oil transporter who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services, Permits Division of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1).

C. Upon promulgation of this Chapter, used oil transporters and transfer facilities who have previously notified must renotify the Office of Environmental Services, Permits Division of used oil activity.

D. Used oil transporters and transfer facilities must notify the Office of Environmental Services, Permits Division within seven business days if any of the information submitted in the application for the identification number changes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2497 (November 2000).

**Subchapter E. Standards for Used Oil Processors and Re-Refiners**

**§4043. Notification**

\* \* \*

[See Prior Text in A]

B. Mechanics of Notification. A used oil processor or re-refiner who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services, Permits Division of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1).

C. Upon promulgation of this Chapter, used oil processors and re-refiners who have previously notified must renotify the Office of Environmental Services, Permits Division of used oil activity.

D. Used oil processors and re-refiners must notify the Office of Environmental Services, Permits Division within seven business days if any of the information submitted in the application for the identification number changes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2497 (November 2000).

**§4045. General Facility Standards**

\* \* \*

[See Prior Text in A - B.6.h.ii]

iii. the owner or operator must notify the Office of Environmental Compliance, Surveillance Division and appropriate local authorities that the facility is in compliance with LAC 33:V.4045.B.h.i and ii before operations are resumed in the affected area(s) of the facility.

i. The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report about the incident to the Office of Environmental Compliance, Surveillance Division. The report must include:

\* \* \*

[See Prior Text in B.6.i.i - vii]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2497 (November 2000).

**Subchapter F. Standards for Used Oil Burners Which Burn Off-specification Used Oil for Energy Recovery**

**§4065. Notification**

\* \* \*

[See Prior Text in A]

B. Mechanics of Notification. A used oil burner who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services, Permits Division of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1).

C. Upon promulgation of this Chapter, used oil burners which burn off-specification used oil for energy recovery and have previously notified must renotify the Office of Environmental Services, Permits Division of this used oil activity.

D. A used oil burner must notify the Office of Environmental Services, Permits Division within seven business days if any of the information submitted in the application for the identification number changes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2497 (November 2000).

**Subchapter G. Standards for Used Oil Fuel Marketers**  
**§4083. Notification**

\* \* \*

[See Prior Text in A]

B. A marketer who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services, Permits Division of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1) EPA Form 8700-12.

C. Upon promulgation of this Chapter, used oil fuel marketers who have previously notified must renotify the Office of Environmental Services, Permits Division of used oil activity.

D. A generator must notify the Office of Environmental Services, Permits Division within seven days if any of the information submitted in the application for the identification number changes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2497 (November 2000).

## **Chapter 41. Recyclable Materials**

### **§4101. Applicability**

\* \* \*

[See Prior Text in A - C]

D. Upon transport of a recyclable material from the generation site and out of the direct control of the generator, the owner of the recyclable material shall notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance) within 24 hours of any determination that the material shall not be used, reused, or recycled. Following such a determination the recyclable material is no longer considered a recyclable material and is fully subject to all requirements of these regulations.

\* \* \*

[See Prior Text in E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000).

### **§4107. Spills**

\* \* \*

[See Prior Text in A - B]

C. Owners of the spilled material are considered to be generators for the purposes of these regulations. In an emergency situation, all reporting and manifest requirements of these rules and regulations for generators may be suspended. However, the owners of the material must submit a full report on the spill, including location of spill, type of material spilled, cause of spill, amount of spilled material, damages incurred, and how the spilled material was cleaned up, transported, and disposed of. This report shall be forwarded to the Office of Environmental Compliance, Surveillance Division no later than 20 days following the spill.

D. Whenever a spill of recyclable material occurs that requires immediate removal to protect human health or the environment, the transporter shall immediately notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.us/surveillance](http://www.deq.state.us/surveillance) as required by the "Notification Regulations and Procedures for Unauthorized Discharges and Spills." (See LAC 33:I.Chapter 39.)

\* \* \*

[See Prior Text in E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000).

## **Subchapter B. Special Requirements for Group II Recyclable Materials**

### **§4123. Manifest Document Flow**

\* \* \*

[See Prior Text in A - C]

D. If a recycle facility refuses to accept a recyclable material for use, the facility operator must notify the Office of Environmental Services, Environmental Assistance Division immediately and provide the following information:

\* \* \*

[See Prior Text in D.1 - G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 17:366 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000).

### **§4127. Procedures Governing the Transporter's Portion of the Manifest System**

\* \* \*

[See Prior Text in A - B]

C. If the facility rejects a shipment of recyclable material, the transporter shall return it to the generator, notify the Office of Environmental Services, Environmental Assistance Division of the action immediately, and give reasons to his best understanding why the material was rejected.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000).

### **§4129. Procedures Governing the Portion of the Manifest System for the Recycle Facility**

\* \* \*

[See Prior Text in A - B]

C. If the operator of the facility rejects any recyclable material he is to notify the Office of Environmental Services, Environmental Assistance Division immediately and give reasons for the rejection.

\* \* \*

[See Prior Text in D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000).

## **Chapter 43. Interim Status**

### **§4301. Purpose and Applicability**

A. The purpose of interim status is to allow existing facilities to operate in an appropriate and responsible manner during the period of time required to process and review permit application or until certification of final closure or, if

the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled. Interim status facilities must, when required by the administrative authority, submit to the Office of Environmental Services, Permits Division a permit application in compliance with the requirements of these regulations. Failure to submit an application is a violation of interim status and will result in revocation of a facility's interim status designation. Once revoked the facility will be treated as an unpermitted facility and appropriate legal action will be taken.

\* \* \*

[See Prior Text in B - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), LR 25:482 (March 1999), LR 25:1466 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000).

#### **Subchapter A. General Facility Standards**

##### **§4320. Construction Quality Assurance Program**

\* \* \*

[See Prior Text in A - C.2]

D. Certification. The owner or operator of units subject to LAC 33:V.4320 must submit to the Office of Environmental Services, Permits Division by certified mail or hand delivery, at least 30 days prior to receiving waste, a certification signed by the CQA officer that the CQA plan has been successfully carried out and that the unit meets the requirements of LAC 33:V.4462.A, 4476, or 4512.A. The owner or operator may receive waste in the unit after 30 days from the administrative authority's receipt of the CQA certification unless the administrative authority determines in writing that the construction is not acceptable, or extends the review period for a maximum of 30 more days, or seeks additional information from the owner or operator during this period. Documentation supporting the CQA officer's certification must be furnished to the administrative authority upon request.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000).

#### **Subchapter E. Groundwater Monitoring**

##### **§4367. Applicability**

Facilities that have interim status must comply with this Subchapter in lieu of LAC 33:V.Chapter 33.

\* \* \*

[See Prior Text in A - C]

1. submit to the Office of Environmental Assessment, Remediation Services Division a specific plan, certified by a qualified geologist or geotechnical engineer, which satisfies the requirements of LAC 33:V.4373.G, for an alternate groundwater monitoring system;

\* \* \*

[See Prior Text in C.2 - E.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000).

##### **§4373. Preparation, Evaluation, and Response**

\* \* \*

[See Prior Text in A - E]

F. Within 15 days after the notification under LAC 33:V.4373.E, the owner or operator must develop and submit to the Office of Environmental Assessment, Remediation Services Division a specific plan, based on the outline required under LAC 33:V.4373.A and certified by a qualified geologist or geotechnical engineer, for a groundwater quality assessment program at the facility.

\* \* \*

[See Prior Text in G - H.2]

I. The owner or operator must make his first determination under LAC 33:V.4373.H as soon as technically feasible, and, within 15 days after that determination, submit to the Office of Environmental Assessment, Remediation Services Division a written report containing an assessment of the groundwater quality.

J. If the owner or operator determines, based on the results of the first determination under LAC 33:V.4373.H, that no hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then he may reinstate the indicator evaluation program described in LAC 33:V.4371 and 4373.B. If the owner or operator reinstates the indicator evaluation program, he must notify the Office of Environmental Assessment, Remediation Services Division in the report submitted under LAC 33:V.4373.I.

\* \* \*

[See Prior Text in K - K.1]

2. within 30 days or other schedule required by the administrative authority, after the establishment of the groundwater protection standard, the owner or operator shall submit to the Office of Environmental Assessment, Remediation Services Division a corrective action and monitoring plan;

\* \* \*

[See Prior Text in K.3 - M]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:791 (November 1988), LR 18:723 (July 1992), amended by the Office of the Secretary, LR 24:2248 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000).

##### **§4375. Recordkeeping and Reporting**

\* \* \*

[See Prior Text in A - A.1]

2. report the following groundwater monitoring information to the Office of Environmental Assessment, Remediation Services Division:

\* \* \*

[See Prior Text in A.2.a - B.1]

2. annually, until final closure of the facility, submit to the Office of Environmental Assessment, Remediation Services Division a report containing the results of his or her groundwater quality assessment program which includes, but is not limited to, the calculated (or measured) rate of migration of hazardous waste or hazardous waste constituents in the groundwater during the reporting period. This information must be submitted no later than March 1 following each calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1520 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000).

**Subchapter F. Closure and Post-Closure**  
**§4381. Closure Plan; Amendment of Plan**

\* \* \*

[See Prior Text in A - B.8]

C. Amendment of Plan. The owner or operator may amend the closure plan at any time prior to the notification of partial or final closure of the facility. An owner or operator with an approved closure plan must submit a written request to the Office of Environmental Services, Permits Division to authorize a change to the approved closure plan. The written request must include a copy of the amended closure plan for approval by the administrative authority.

\* \* \*

[See Prior Text in C.1 - 2]

3. An owner or operator with an approved closure plan must submit the modified plan to the Office of Environmental Services, Permits Division at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event has occurred during the partial or final closure period, the owner or operator must submit the modified plan no more than 30 days after the unexpected event. These provisions also apply to owner or operator of surface impoundments and waste piles who intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with LAC 33:V.4501. If the amendment to the plan is a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modification to the plan will be approved according to the procedures in LAC 33:V.4381.D.4.

4. The administrative authority may request modifications to the plan under the conditions described in LAC 33:V.4381.C.1. An owner or operator with an approved closure plan must submit the modified plan within 60 days of the request from the Office of Environmental Services, Permits Division, or within 30 days if the unexpected event occurs during partial or final closure. If the amendment is considered a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modification to the plan will be approved in accordance with the procedures in LAC 33:V.4381.D.4.

\* \* \*

[See Prior Text in D]

1. The owner or operator must submit the closure plan to the Office of Environmental Services, Permits Division at least 180 days prior to the date on which he expects to begin closure of the first surface impoundment, waste pile, land treatment, or landfill unit, or final closure if it involves such a unit, whichever is earlier. The owner or operator must submit the closure plan to the administrative authority at least 45 days prior to the date on which he expects to begin partial or final closure of a boiler or industrial furnace. The owner or operator must submit the closure plan to the administrative authority at least 45 days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units. Owners or operators with approved closure plans must notify the administrative authority in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit. Owners or operators with approved closure plans must notify the administrative authority in writing at least 45 days prior to the date on which they expect to begin partial or final closure of a boiler or industrial furnace. Owners or operators with approved closure plans must notify the administrative authority in writing at least 45 days prior to the date on which they expect to begin final closure of a facility with only tanks, container storage, or incinerator units.

\* \* \*

[See Prior Text in D.2 - 2.b]

3. The owner or operator must submit his closure plan to the Office of Environmental Services, Permits Division no later than 15 days after:

\* \* \*

[See Prior Text in D.3.a - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:485 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2500 (November 2000).

**§4383. Closure; Time Allowed for Closure**

\* \* \*

[See Prior Text in A - E.4.c]

5. During the period of corrective action, the owner or operator shall provide semiannual reports to the Office of Environmental Assessment, Remediation Services Division that describe the progress of the corrective action program, compile all groundwater monitoring data, and evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

\* \* \*

[See Prior Text in E.6 - 7.e]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR

10:496 (July 1984), LR 13:433 (August 1987), LR 14:791 (November 1988), LR 17:478 (May 1991), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2500 (November 2000).

#### **§4387. Certification of Closure**

A. Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of completion of final closure, the owner or operator must submit to the Office of Environmental Services, Permits Division, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for closure under LAC 33:V.4403.H.

B. Survey Plat. No later than the submission of the certification of closure of each hazardous waste disposal unit, an owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services, Permits Division, a survey plat indicating the location and dimensions of landfill cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable LAC 33:V.Chapters 35 or 43 regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2501 (November 2000).

#### **§4391. Post-Closure Plan; Amendment of Plan**

A. Written Plan. By May 19, 1988, the owner or operator of a hazardous waste disposal unit must have a written post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure must prepare a post-closure plan and submit it to the Office of Environmental Services, Permits Division within 90 days of the date that the owner or operator or administrative authority determines that the hazardous waste management unit or facility must be closed as a landfill, subject to the requirements of LAC 33:V.4389-4395.

\* \* \*

[See Prior Text in B - C.5]

D. Amendment of Plan. The owner or operator may amend the post-closure plan any time during the active life of the facility or during the post-closure care period. An

owner or operator with an approved post-closure plan must submit a written request to the Office of Environmental Services, Permits Division to authorize a change to the approved plan. The written request must include a copy of the amended post-closure plan for approval by the administrative authority.

\* \* \*

[See Prior Text in D.1 - 2]

3. An owner or operator with an approved post-closure plan must submit the modified plan to the Office of Environmental Services, Permits Division at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the post-closure plan. If an owner or operator of a surface impoundment or a waste pile who intended to remove all hazardous wastes at closure in accordance with LAC 33:V.4457.B or LAC 33:V.4475.A, is required to close as a landfill in accordance with LAC 33:V.4501, the owner or operator must submit a post-closure plan within 90 days of the determination by the owner or operator or administrative authority that the unit must be closed as a landfill. If the amendment to the post-closure plan is a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modification to the plan will be approved according to the procedures in LAC 33:V.4391.F.

4. The administrative authority may request modifications to the plan under the conditions described in LAC 33:V.4391.D.1. An owner or operator with an approved post-closure plan must submit the modified plan no later than 60 days after the request from the administrative authority. If the amendment to the plan is considered a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modifications to the post-closure plan will be approved in accordance with the procedures in LAC 33:V.4391.F. If the administrative authority determines that an owner or operator of a surface impoundment or waste pile who intended to remove all hazardous wastes at closure must close the facility as a landfill, the owner or operator must submit a post-closure plan for approval to the Office of Environmental Services, Permits Division within 90 days of the determination.

E. The owner or operator of a facility with hazardous waste management units subject to these requirements must submit his post-closure plan to the administrative authority at least 180 days before the date he expects to begin partial or final closure of the first hazardous waste disposal unit. The date he "expects to begin closure" of the first hazardous waste disposal unit must be either within 30 days after the date on which the hazardous waste management unit receives the known final volume of hazardous waste, or if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous wastes. The owner or operator must submit the post-closure plan to the Office of Environmental Services, Permits Division no later than 15 days after:

\* \* \*

[See Prior Text in E.1 - G.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:485 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2501 (November 2000).

#### §4393. Post-Closure Notices

A. No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services, Permits Division, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

\* \* \*

[See Prior Text in B - B.1.b]

c. the survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by LAC 33:V.4387 and LAC 33:V.4393.A have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Office of Environmental Services, Permits Division; and

\* \* \*

[See Prior Text in B.2 - C.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2402 (November 2000).

#### §4395. Certification of Completion of Post-Closure Care

No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Office of Environmental Services, Permits Division, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under LAC 33:V.4407.H.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2502 (November 2000).

### Subchapter G. Financial Requirements

#### §4403. Financial Assurance for Closure

By the effective date of these regulations an owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from the options as specified in LAC 33:V.4403.A-E.

\* \* \*

[See Prior Text in A]

1. An owner or operator may satisfy the requirements of LAC 33:V.4403 by establishing a closure trust fund which conforms to the requirements of this Paragraph, and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

\* \* \*

[See Prior Text in A.2 - 6]

7. If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in LAC 33:V.4403 for all or part of the trust fund, he may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current closure cost estimate covered by the trust fund.

\* \* \*

[See Prior Text in A.9]

10. After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request reimbursements for partial or final closure expenditures by submitting itemized bills to the Office of Management and Finance, Financial Services Division. The owner or operator may request reimbursement for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. No later than 60 days after receiving bills for partial or final closure activities, the administrative authority will instruct the trustees to make reimbursements in those amounts as the administrative authority specifies in writing, if the administrative authority determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the administrative authority has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with LAC 33:V.4407.H that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the administrative authority does not instruct the trustee to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

\* \* \*

[See Prior Text in A.11 - B]



1. An owner or operator may satisfy the requirements of LAC 33:V.4403 by obtaining a surety bond which conforms to the requirements of this Paragraph and submitting the bond to the Office of Management and Finance, Financial Services Division. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

\* \* \*

[See Prior Text in B.2 - 6]

7. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in LAC 33:V.4403 to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

8. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

\* \* \*

[See Prior Text in B.9 - C]

1. An owner or operator may satisfy the requirements of LAC 33:V.4403 by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Paragraph and submitting the letter to the Office of Management and Finance, Financial Services Division. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

\* \* \*

[See Prior Text in C.2 - 6]

7. Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in LAC 33:V.4403 to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

\* \* \*

[See Prior Text in C.8]

9. If the owner or operator does not establish alternate financial assurance as specified in LAC 33:V.4403, and obtain written approval of such alternate assurance from the administrative authority within 90 days after receipt by both the owner or operator and the Office of Management and Finance, Financial Services Division of a notice from the

issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the administrative authority may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the administrative authority will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in LAC 33:V.4403 and obtain written approval of such assurance from the administrative authority.

\* \* \*

[See Prior Text in C.10 - D]

1. An owner or operator may satisfy the requirements of LAC 33:V.4403 by obtaining closure insurance which conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the administrative authority. By the effective date of these regulations the owner or operator must submit to the Office of Management and Finance, Financial Services Division a letter from an insurer stating that the insurer is considering issuance of closure insurance conforming to the requirements of this Paragraph to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator must submit the certificate of insurance to the Office of Management and Finance, Financial Services Division or establish other financial assurance as specified in this Section. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and authorized to transact business in Louisiana.

\* \* \*

[See Prior Text in D.2 - 5]

6. The owner or operator must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the owner or operator as specified in LAC 33:V.4403.D.10. Failure to pay the premium, without substitution of alternate financial assurance as specified in LAC 33:V.4403, will constitute a significant violation of these regulations, warranting such remedy as the administrative authority deems necessary. Such violation will be deemed to begin upon receipt by the Office of Management and Finance, Financial Services Division of a notice of future cancellation, termination, or failure to renew, due to nonpayment of the premium, rather than upon the date of expiration.

\* \* \*

[See Prior Text in D.7]

8. The policy must provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Office of Management and Finance, Financial Services Division. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the administrative authority and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew

may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

\* \* \*

[See Prior Text in D.8.a - e]

9. Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in LAC 33:V.4403 to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

\* \* \*

[See Prior Text in D.10 - E.2]

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Management and Finance, Financial Services Division:

\* \* \*

[See Prior Text in E.3.a - 4.f]

5. After the initial submission of items specified in LAC 33:V.4403.E.3, the owner or operator must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in LAC 33:V.4403.E.3.

6. If the owner or operator no longer meets the requirements of LAC 33:V.4403.E.1, he must send notice to the Office of Management and Finance, Financial Services Division of intent to establish alternate financial assurance as specified in LAC 33:V.4403. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

\* \* \*

[See Prior Text in E.7 - F]

G. Use of a Financial Mechanism for Multiple Facilities. An owner or operator may use a financial assurance mechanism specified in LAC 33:V.4403 to meet the requirements of LAC 33:V.4403 for more than one facility. Evidence of financial assurance submitted to the Office of Management and Finance, Financial Services Division must include a list showing, for each facility, the EPA identification number, name, address, and the amount of funds for closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing the funds available through the mechanism for closure of any of the facilities covered by the mechanism, the administrative authority may direct only the amount of funds designated for that particular facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

\* \* \*

[See Prior Text in H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16:219 (March 1990), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1520 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2502 (November 2000).

**§4407. Financial Assurance for Post-Closure Care**

An owner or operator of each hazardous waste disposal unit must establish financial assurance for post-closure care of the facility. He must choose from the options as specified in Subsections A -E of this Section.

\* \* \*

[See Prior Text in A]

1. An owner or operator may satisfy the requirements of LAC 33:V.4407.A by establishing a post-closure trust fund which conforms to the requirements of this Paragraph and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

\* \* \*

[See Prior Text in A.2 - 6]

7. During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current post-closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in LAC 33:V.4407 for all or part of the trust fund, he may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

\* \* \*

[See Prior Text in A.9 - 10]

11. An owner or operator, or any other person authorized to perform post-closure care, may request reimbursement for the post-closure expenditures by submitting itemized bills to the Office of Management and Finance, Financial Services Division. Within 60 days after receiving bills for post-closure activities, the administrative authority will instruct the trustee to make reimbursements in those amounts as the administrative authority specifies in writing, if the administrative authority determines that the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified. If the administrative authority does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed statement of reasons.

\* \* \*

[See Prior Text in A.12 - B]

1. An owner or operator may satisfy the requirements of LAC 33:V.4407.B by obtaining a surety bond which conforms to the requirements of this Paragraph and submitting the bond to the Office of Management and

Finance, Financial Services Division. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

\* \* \*

[See Prior Text in B.2 - 6]

7. Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in LAC 33:V.4407.B to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator, and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

\* \* \*

[See Prior Text in B.9 - C]

1. An owner or operator may satisfy the requirements of LAC 33:V.4407.C by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Paragraph and by submitting the letter to the Office of Management and Finance, Financial Services Division. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

\* \* \*

[See Prior Text in C.2 - 4]

5. The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator, and the Office of Management and Finance, Financial Services Division by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator, and the administrative authority have received the notice, as evidenced by the return receipts.

\* \* \*

[See Prior Text in C.6]

7. Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in LAC 33:V.4407 to cover the increase. Whenever the current post-closure cost estimate

decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

\* \* \*

[See Prior Text in C.8 - C.9]

10. If the owner or operator does not establish alternate financial assurance as specified in LAC 33:V.4407 and obtain written approval of such alternate assurance from the administrative authority within 90 days after receipt by both the owner or operator and the Office of Management and Finance, Financial Services Division of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the administrative authority will draw on the letter of credit. The administrative authority may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the administrative authority will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in LAC 33:V.4407 and obtain written approval of such assurance from the administrative authority.

\* \* \*

[See Prior Text in C.11 - D]

1. An owner or operator may satisfy the requirements of LAC 33:V.4407.D by obtaining post-closure insurance which conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the Office of Management and Finance, Financial Services Division. The owner or operator must submit to the administrative authority a letter from an insurer stating that the insurer is considering issuance of post-closure insurance conforming to the requirements of this Paragraph to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator must submit the certificate of insurance to the administrative authority or establish other financial assurance as specified in LAC 33:V.4407. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer in one or more states, and authorized to transact insurance business in Louisiana.

\* \* \*

[See Prior Text in D.2 - 4]

5. An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the Office of Management and Finance, Financial Services Division. Within 60 days after receiving bills for post-closure activities, the administrative authority will instruct the insurer to make reimbursements in those amounts as the administrative authority specifies in writing, if the administrative authority determines that the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified. If the administrative authority does not instruct the insurer to make such reimbursements, he will provide a detailed written statement of reasons.

\* \* \*

[See Prior Text in D.6 - 7]

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for

failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Office of Management and Finance, Financial Services Division. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the administrative authority and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

\* \* \*

[See Prior Text in D.8.a - e]

9. Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in LAC 33:V.4407 to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

\* \* \*

[See Prior Text in D.10 - E.2]

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Management and Finance, Financial Services Division:

\* \* \*

[See Prior Text in E.3.a - c.ii]

4. The owner or operator may obtain an extension of the time allowed for submission of the documents specified in LAC 33:V.4407.E.3 if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer must send, by the effective date of these regulations, a letter to the Office of Management and Finance, Financial Services Division. This letter from the chief financial officer must:

\* \* \*

[See Prior Text in E.4.a - f]

5. After the initial submission of items specified in LAC 33:V.4407.E.3, the owner or operator must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in LAC 33:V.4407.E.3.

6. If the owner or operator no longer meets the requirements of LAC 33:V.4407.E.1, he must send notice to the Office of Management and Finance, Financial Services Division of intent to establish alternate financial assurance

as specified in LAC 33:V.4407. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

\* \* \*

[See Prior Text in E.7 - 11.a]

b. the corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

\* \* \*

[See Prior Text in E.11.c - F]

G. Use of a Financial Mechanism for Multiple Facilities. An owner or operator may use a financial assurance mechanism specified in this Subsection to meet the requirements of this Subsection for more than one facility. Evidence of financial assurance submitted to the Office of Management and Finance, Financial Services Division must include a list showing, for each facility, the EPA identification number, name, address, and the amount of funds for post-closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for post-closure care of any of the facilities covered by the mechanism, the administrative authority may direct only the amount of funds designated for that particular facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

\* \* \*

[See Prior Text in H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1521 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2504 (November 2000).

#### **§4411. Liability Requirements**

\* \* \*

[See Prior Text in A - A.1]

a. Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Management and Finance, Financial Services Division. If requested by the administrative authority, the owner or

operator must provide a signed duplicate original of the insurance policy.

\* \* \*

[See Prior Text in A.1.b - 6]

7. An owner or operator shall notify the Office of Management and Finance, Financial Services Division in writing within 30 days whenever:

\* \* \*

[See Prior Text in A.7.a - B.1]

a. Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Management and Finance, Financial Services Division. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy.

\* \* \*

[See Prior Text in B.1.b - 6]

7. An owner or operator shall notify the Office of Management and Finance, Financial Services Division in writing within 30 days whenever:

\* \* \*

[See Prior Text in B.7.a - F.2]

3. To demonstrate that he meets this test, the owner or operator must submit the following three items to the Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text in F.3.a - c.ii]

4. The owner or operator may obtain a one-time extension of the time allowed for submission of the documents specified in LAC 33:V.4411.F.3 if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or operator's fiscal year. To obtain the extension, the chief financial officer for the owner or operator must send a letter to the Office of Management and Finance, Financial Services Division. This letter from the chief financial officer must:

\* \* \*

[See Prior Text in F.4.a - f]

5. After the initial submission of items specified in LAC 33:V.4411.F.3, the owner or operator must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in LAC 33:V.4411.F.3.

6. If the owner or operator no longer meets the requirements of LAC 33:V.4411.F.1, he must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in LAC 33:V.4411. Evidence of liability coverage must be submitted to the Office of Management and Finance, Financial Services Division within 90 days

after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

\* \* \*

[See Prior Text in F.7 - H]

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subsection and submitting a copy of the letter of credit to the Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text in H.2 - I]

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and submitting a copy of the bond to the Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text in I.2 - J]

1. An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this Subsection and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text in J.2 - K]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:399 (May 1990), LR 18:723 (July 1992), repromulgated LR 19:627 (May 1993), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1521 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2506 (November 2000).

**§4413. Incapacity of Owners or Operators, Guarantors, or Financial Institutions**

A. An owner or operator must notify the Office of Management and Finance, Financial Services Division by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in LAC 33:V.4403.E and 4407.E must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (see LAC 33:V.3719.H).

\* \* \*

[See Prior Text in B]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2507 (November 2000).

**Subchapter I. Tanks**

**§4437. Containment and Detection of Releases**

\* \* \*

[See Prior Text in A - H]

1. The Office of Environmental Services, Permits Division must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in LAC 33:V.4437.G according to the following schedule:

\* \* \*

[See Prior Text in H.1.a - b]

2. As part of the notification, the owner or operator must also submit to the Office of Environmental Services, Permits Division a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in LAC 33:V.4437.G.1 or 2.

3. The demonstration for a variance must be completed and submitted to the Office of Environmental Services, Permits Division within 180 days after notifying the administrative authority of intent to conduct the demonstration.

\* \* \*

[See Prior Text in H.4 - I.4]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2507 (November 2000).

#### **Subchapter J. Surface Impoundments**

##### **§4449. Action Leakage Rate**

A. The owner or operator of surface impoundment units subject to LAC 33:V.4462.A must submit a proposed action leakage rate to the Office of Environmental Services, Permits Division when submitting the notice required under LAC 33:V.4462.B. Within 60 days of receipt of the notification, the administrative authority will establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or extend the review period for up to 30 days. If no action is taken by the administrative authority before the original 60- or the extended 90-day review periods, the action leakage rate will be approved as proposed by the owner or operator.

\* \* \*

[See Prior Text in B - C]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000).

##### **§4451. Response Actions**

A. The owner or operator of surface impoundment units subject to LAC 33:V.4462.A must submit a response action plan to the Office of Environmental Services, Permits Division when submitting the proposed action leakage rate under LAC 33:V.4449. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in LAC 33:V.4451.B.

\* \* \*

[See Prior Text in B - C.4]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000).

#### **§4462. Design Requirements**

\* \* \*

[See Prior Text in A]

B. The owner or operator of each unit referred to in LAC 33:V.4462.A must notify the Office of Environmental Services, Permits Division at least 60 days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part II application within six months of the receipt of such notice.

\* \* \*

[See Prior Text in C - H]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 17:368 (April 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000).

#### **Subchapter K. Waste Piles**

##### **§4472. Response Actions**

A. The owner or operator of waste pile units subject to LAC 33:V.4476 must submit a response action plan to the Office of Environmental Services, Permits Division when submitting the proposed action leakage rate under LAC 33:V.4474. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in LAC 33:V.4472.B.

\* \* \*

[See Prior Text in B - C.4]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000).

##### **§4474. Action Leakage Rates**

A. The owner or operator of waste pile units subject to LAC 33:V.4476 must submit a proposed action leakage rate to the Office of Environmental Services, Permits Division when submitting the notice required under LAC 33:V.4476. Within 60 days of receipt of the notification, the administrative authority will establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or extend the review period for up to 30 days. If no action is taken by the administrative authority before the original 60- or the extended 90-day review periods, the action leakage rate will be approved as proposed by the owner or operator.

\* \* \*

[See Prior Text in B - C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000).

#### **Subchapter L. Land Treatment**

##### **§4489. Closure and Post-Closure**

\* \* \*

[See Prior Text in A - D.4]

E. For the purpose of complying with LAC 33:V.4387, when closure is completed the owner or operator may submit to the Office of Environmental Services, Permits Division certification both by the owner or operator and by an independent qualified soil scientist in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

\* \* \*

[See Prior Text in F - F.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000).

#### **Subchapter M. Landfills**

##### **§4512. Design and Operating Requirements**

\* \* \*

[See Prior Text in A]

B. The owner or operator of each unit referred to in LAC 33:V.4512.A must notify the Office of Environmental Services, Permits Division at least 60 days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part II application within six months of the receipt of such notice.

\* \* \*

[See Prior Text in C - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000).

#### **Subchapter N. Incinerators**

##### **§4522. Interim Status Incinerators Burning Particular Hazardous Wastes**

\* \* \*

[See Prior Text in A - B]

1. The owner or operator will submit an application to the Office of Environmental Services, Permits Division containing applicable information in LAC 33:V.529 and LAC 33:V.3115 demonstrating that the incinerator can meet the performance standards in LAC 33:V.Chapter 31 when they burn these wastes.

\* \* \*

[See Prior Text in B.2 - 3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000).

#### **Subchapter O. Thermal Treatment**

##### **§4534. Interim Status Thermal Treatment Devices Burning Particular Hazardous Waste**

\* \* \*

[See Prior Text in A - B]

1. The owner or operator will submit an application to the Office of Environmental Services, Permits Division containing the applicable information in LAC 33:V.529 and LAC 33:V.3115 demonstrating that the thermal treatment unit can meet the performance standard in LAC 33:V.Chapter 31 when they burn these wastes.

\* \* \*

[See Prior Text in B.2 - 3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000).

#### **Subchapter T. Containment Buildings**

##### **§4703. Design and Operating Standards**

\* \* \*

[See Prior Text in A - C.3.a.iii]

iv. within seven days after the discovery of the condition, notify the Office of Environmental Assessment, Environmental Technology Division of the condition and, within 14 working days, provide a written notice to the administrative authority with a description of the steps taken to repair the containment building and the schedule for accomplishing the work;

\* \* \*

[See Prior Text in C.3.b]

c. upon completing all repairs and cleanup, the owner or operator must notify the Office of Environmental Assessment, Environmental Technology Division in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with LAC 33:V.4703.C.3.a.iv; and

\* \* \*

[See Prior Text in C.4 - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000).

#### **Chapter 49. Lists of Hazardous Wastes**

##### **Appendix E. Wastes Excluded Under LAC 33:V.105.M**

\* \* \*

[See Prior Text in DuPont Dow Elastomers L.L.C.]

| Table E1 - Wastes Excluded   |               |
|--|---------------|
| Facility   | Address       |
| Marathon Oil Co.   | Garyville, LA |
| Waste Description  |               |
| * * *  |               |
| [See Prior Text]   |               |
| (5) - Data Submittal:  |               |
| <p>Marathon must notify the department in writing at least two weeks prior to initiating condition (1)(A). The data obtained during condition (1)(A) must be submitted to the Office of Environmental Services, Permits Division, within the specified 90 days. Records of operating conditions and analytical data from condition (1) must be compiled, summarized, and maintained on-site for a minimum of five years. These records and data must be furnished upon request by the department and made available for inspection. Failure to submit the required data within the specified time period or failure to maintain the required records on-site for the specified time will be considered by the department, at its discretion, sufficient basis to revoke the exclusion. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:</p> |               |
| * * *  |               |
| [See Prior Text]   |               |

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000).

**Chapter 51. Fee Schedules**

**§5141. Incinerator and Boiler/Industrial Furnace Inspection and Monitoring Fee**

A. Trial Burn or Test Burn Observer Fee. This is a special fee charged at a daily rate to cover the cost to the department of providing and placing on site a regulatory observer team during incinerator trial burns, boiler/industrial furnace trial burns or other types of test burns required by regulations or the administrative authority when an observer team is required by regulations, specified by permit conditions, or considered necessary to ensure that human health and the environment are adequately protected.

\* \* \*

[See Prior Text in A.1 - B]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2014 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:1375 (December 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2510 (November 2000).

**Chapter 53. Military Munitions**

**§5309. Standards Applicable to the Storage of Solid Waste Military Munitions**

\* \* \*

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

d. within 90 days of when a storage unit is first used to store waste military munitions, whichever is later, the

owner or operator must notify the Office of Environmental Services, Permits Division of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in Subsection A.1 of this Section is claimed;

e. the owner or operator must provide oral notice to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance) within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section;

\* \* \*

[See Prior Text in A.1.f - 3]

B. Notice of Termination of Waste Storage. The owner or operator must notify the Office of Environmental Services, Permits Division when a storage unit identified in Subsection A.1.d of this Section will no longer be used to store waste military munitions.

\* \* \*

[See Prior Text in C - E]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1757 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2510 (November 2000).

**Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation**

**Chapter 1. General Provisions and Definitions**

**§103. Regulatory Overview**

\* \* \*

[See Prior Text in A]

B. Site Discovery and Evaluation

1. Site Discovery Reporting. These regulations establish a reporting program as required by the Louisiana Environmental Quality Act to help identify inactive or uncontrolled sites where hazardous substances could have been disposed of or discharged. Owners, lessees, and other persons who know or discover that hazardous substances have been discharged or disposed of at such a site must report this information to the Office of Environmental Assessment, Remediation Services Division, within the specified time. The department may also discover sites through its own investigations, referrals from other agencies, or other means.

\* \* \*

[See Prior Text in B.2 - E]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2178 (November 1999), LR 26:2510 (November 2000).



**§117. Definitions**

A. For all purposes of these rules and regulations, the terms used in this Chapter shall have the meanings given below unless specified otherwise or unless the context or use clearly indicates otherwise.

\*\*\*

[See Prior Text]

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

\*\*\*

[See Prior Text]

*Department*—the Department of Environmental Quality.

\*\*\*

[See Prior Text]

*Secretary*—the secretary of the Department of Environmental Quality.

\*\*\*

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2179 (November 1999), LR 26:2511 (November 2000):

**Chapter 2. Site Discovery and Evaluation**

**§201. Site Discovery**

A. Site Discovery Reporting Requirements. As part of a program to identify inactive or uncontrolled contaminated sites, the owner, operator, or other responsible person shall report to the Office of Environmental Assessment, Remediation Services Division any sites where hazardous substances have been, or could have been, disposed of or discharged. This Section sets forth the requirements for reporting such sites.

B. Mandatory Reporting

\*\*\*

[See Prior Text in B.1 - 2]

3. The department shall be notified in writing within 30 calendar days of the discovery of the discharge or disposal of any hazardous substance at an inactive or uncontrolled site. A written report shall be prepared and sent to the Office of Environmental Compliance, Surveillance Division. The date that the department was officially notified shall be determined as follows:

\*\*\*

[See Prior Text B.3.a - 5.f]

C. Voluntary Reporting. In addition to the mandatory reporting by those persons listed under Subsection B of this Section, all members of the public are encouraged to report to the department any suspected discharge, disposal, or presence of any hazardous substance at any inactive or uncontrolled site. This voluntary reporting can be made in writing to the Office of Environmental Compliance, Surveillance Division.

\*\*\*

[See Prior Text D -D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2182 (November 1999), LR 26:2511 (November 2000).

**Chapter 3. Administrative Processes**

**§303. Declaration that a Site is Abandoned**

\*\*\*

[See Prior Text A - B.2]

3. Within 10 calendar days of the publication of the last official journal notice, any owner may request a hearing by writing to the Office of the Secretary, Legal Affairs Division, regarding the declaration of abandonment. If a request for a hearing is received, the department shall hold a hearing in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

\*\*\*

[See Prior Text C - C.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2184 (November 1999), LR 26:2511 (November 2000).

**Chapter 4. PRP Search, Notification, and Demand for Remediation**

**§403. Notification to Provide Information**

A. The Office of Environmental Assessment, Remediation Services Division, shall send a written notification to provide information to all PRPs identified during its preliminary PRP investigation. The administrative authority may, at its discretion, send supplemental or additional notifications to any PRP identified by the administrative authority at any time during the remedial action process.

\*\*\*

[See Prior Text B - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), LR 26:2511 (November 2000).

**Chapter 5. Site Remediation**

**§501. Remedial Actions**

\*\*\*

[See Prior Text A]

B. The Office of Environmental Assessment, Remediation Services Division, shall consider the following factors in determining the need for or the appropriateness of a remedial action consistent with Subsection A of this Section:

\*\*\*

[See Prior Text B.1 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), LR 26:2511 (November 2000).

**§502. Role of PRPs in Remedial Actions**

A. The Office of Environmental Assessment, Remediation Services Division, may, as its sole discretion, direct PRPs to perform any site investigation, remedial investigation, corrective action study, and/or remedial action in accordance with the following:

\*\*\*

[See Prior Text A.1 - 5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), LR 26:2511 (November 2000).

#### §505. Removal Action

\*\*\*

[See Prior Text A - A.3]

4. If the removal action results in achievement of the RECAP standards established by the department, the Office of Environmental Assessment, Remediation Services Division, may determine that no further action is required. The department may then issue a decision document stating that the removal action is the final remedy and no further action is required.

\*\*\*

[See Prior Text A.5]

B. A removal action work plan shall be prepared by the Office of Environmental Assessment, Remediation Services Division, or by PRPs as directed by the department. Any plan prepared by PRPs shall be reviewed and approved by the department prior to the commencement of the removal action. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. The minimum requirements for a removal action work plan include:

\*\*\*

[See Prior Text B.1 - C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999), LR 26:2512 (November 2000).

#### §507. Remedial Investigation

\*\*\*

[See Prior Text A - B]

C. To complete a RI the Office of Environmental Assessment, Remediation Services Division, or PRPs as directed by the department, shall provide the following:

\*\*\*

[See Prior Text C.1 - 3]

4. Remedial Investigation Report. Following the completion of the RI, a remedial investigation report shall be prepared by the Office of Environmental Assessment, Remediation Services Division, or by PRPs as directed by the department. Any RI report prepared by PRPs shall be reviewed and approved by the department. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report. At a minimum, this report shall include:

\*\*\*

[See Prior Text C.4.a - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999), LR 26:2512 (November 2000).

#### §509. Corrective Action Study

\*\*\*

[See Prior Text A - C.5]

6. Preparation of a Corrective Action Study Report. Following the completion of the corrective action study activities in this Subsection, a CAS report describing the results of all required CAS activities shall be prepared by the Office of Environmental Assessment, Remediation Services Division, or by PRPs as directed by the department. Any CAS report prepared by PRPs shall be reviewed and approved by the department prior to the approval of the CAS. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2188 (November 1999), LR 26:2512 (November 2000).

#### §515. Revisions to the Final Remedy

\*\*\*

[See Prior Text A - B]

1. notify the Office of Environmental Assessment, Remediation Services Division, that a modification is necessary;

\*\*\*

[See Prior Text B.2 - 3]

C. If the department determines that a modification is necessary (whether proposed by a PRP or by the department) and if the modification changes the final remedy in the final decision document, then the Office of Environmental Assessment, Remediation Services Division, shall:

\*\*\*

[See Prior Text C.1 - 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999), LR 26:2512 (November 2000).

#### §521. Post-Remedial Management

\*\*\*

[See Prior Text A - A.2]

B. Operation and Maintenance. An operation and maintenance (O and M) plan shall be prepared for all sites assigned post-remedial management because hazardous substances remain at the site at levels above remedial goals or where O and M is part of the approved remedy. O and M plans prepared by PRPs shall be submitted to the Office of Environmental Assessment, Remediation Services Division, for review and approval. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. O and M plans prepared by PRPs for a site where leaving hazardous substances at the site is part of the approved and completed remedy shall be submitted to the department for review and approval at least six months prior to completion of the remedy. Each O and M plan shall include, but not be limited to:

\*\*\*

[See Prior Text B.1 - 8]

C. Monitoring. If required by the department, a monitoring plan shall be developed by the Office of Environmental Assessment, Remediation Services Division, or by PRPs as directed by the department. A monitoring plan prepared by PRPs shall be submitted to the department for

review and approval. The department shall provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. This plan shall include a description of provisions for monitoring of site conditions during the post-remedial management period to prevent further endangerment to human health and the environment, including:

\*\*\*

[See Prior Text C.1 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999), LR 26:2512 (November 2000).

## **Chapter 6. Cost Recovery**

### **§607. Determination of Remedial Costs; Demand to PRPs**

A. Timing. The Office of Environmental Assessment, Remediation Services Division, may at any time prepare a written determination of the cost of partial or complete remediation of a site. The department may revise its determination in writing at any time thereafter.

\*\*\*

[See Prior Text B - D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2193 (November 1999), LR 26:2513 (November 2000).

## **Chapter 7. Settlement and Negotiations**

### **§705. Negotiations**

\*\*\*

[See Prior Text A - B.4]

C. Negotiations After Issuance of Administrative Orders. PRPs who have received unilateral administrative orders may negotiate with the Office of Environmental Assessment, Remediation Services Division, for dismissal of the administrative order upon execution of a cooperative agreement unless an emergency situation has been declared or the department determines that a stay of remedial actions or of enforcement will be detrimental to the public health, welfare, or the environment. The department has sole discretion in determining whether to enter into negotiations after issuance of a unilateral administrative order. Except by written determination of the department, no request for or conduct of negotiations in accordance with this Section shall serve to stay or modify the terms of any such unilateral administrative order.

\*\*\*

[See Prior Text D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2194 (November 1999), LR 26:2513 (November 2000).

### **§709. De Minimis Settlements**

\*\*\*

[See Prior Text A - C]

D. To attain the goal set forth in Subsection C of this Section, the de minimis settlement should ordinarily involve

a cash payment to the Office of Management and Finance, Financial Services Division, by the settling party or parties, rather than a commitment to perform work. Where a remedial action is being conducted in whole or in part by PRPs, it may be appropriate for settling de minimis parties to deposit the amount paid in accordance with the de minimis settlement into a site-specific trust fund to be administered by a third party trustee and used for remedial action for that site.

\*\*\*

[See Prior Text E - F.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999), LR 26:2513 (November 2000).

### **§711. Mixed Funding**

\*\*\*

[See Prior Text A - B]

C. Eligibility and Mixed Funding Criteria. The Office of Environmental Assessment, Remediation Services Division, shall make a determination whether a proposal is eligible for funding. The only circumstances under which mixed funding can be approved by the department are when the funding will achieve both:

\*\*\*

[See Prior Text C.1 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999), LR 26:2513 (November 2000).

## **Chapter 8. Public Information and Participation**

### **§801. Public Information**

\*\*\*

[See Prior Text A - B]

1. Information Repositories. The Office of Environmental Assessment, Remediation Services Division, may establish and maintain an information repository in a public location near the site. If a repository is established, PRPs shall provide the department with copies of all necessary documents.

\*\*\*

[See Prior Text B.2 - 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), LR 26:2513 (November 2000).

### **§803. Public Participation**

A. In order to ensure that the public has an opportunity to comment on site-related decisions, the Office of Environmental Assessment, Remediation Services Division, or PRPs as directed by the department, shall provide opportunities for public participation as listed in this Section. All public participation activities undertaken by PRPs shall be performed under the direction and approval of the department.

\*\*\*

[See Prior Text A.1 - 1.b]

2. For sites where the secretary has made a demand for remedial action in accordance with R.S. 30:2275, the department shall, upon written request, provide an opportunity for a public meeting prior to approval of a site remedial investigation plan and selection of a remedy. Additionally, if a written request is received, the department shall hold a public comment period of not more than 60 calendar days duration prior to approval of a site remedial investigation plan and selection of a site remedy. Written requests shall be mailed to the Office of Environmental Assessment, Remediation Services Division.

\* \* \*

[See Prior Text 2.a]

b. Prior to any public comment period, the Office of Environmental Assessment, Remediation Services Division, or PRPs as directed by the department, shall place a copy of the document being reviewed in a public location near the site.

\* \* \*

[See Prior Text B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), LR 26:2513 (November 2000).

## Part VII. Solid Waste

### Subpart 1. Solid Waste Regulations

#### Chapter 1. General Provisions and Definitions

##### ' 101. Scope and Purpose

The Louisiana Legislature recognizes that the safety and welfare of state citizens "require efficient and reasonable regulation of solid waste disposal practices as well as a coordinated, statewide resource recovery and management system" (R.S. 30:2152). Therefore, the Department of Environmental Quality has formulated these rules and regulations to:

\* \* \*

[See Prior Text in A - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000).

##### §111. Review of the Rules and Regulations

These rules and regulations shall be reviewed and revised as follows:

A. Frequency. The department will review these rules and regulations at least once every three years.

\* \* \*

[See Prior Text in B - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000).

##### §113. Public Information Service

A. Responses to Suggestions and Complaints. The department will respond to complaints and suggestions and disseminate all pertinent information concerning solid waste.

Information will be disseminated by letter or telephone communication in response to direct inquiries and through a departmental bulletin issued periodically that will include lists of permits, enforcement actions, and similar information of general interest, if such a bulletin is available.

\* \* \*

[See Prior Text in B]

C. Mailing List. The department will maintain a mailing list of groups or individuals interested in public hearings and other such activities of the Office of Environmental Services, Permits Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000).

##### §115. Definitions

For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

\* \* \*

[See Prior Text]

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

\* \* \*

[See Prior Text]

*Applicant*—any person who intends to be a standard permit-holder for a solid waste processing and/or disposal facility and who has submitted a permit application to the Department of Environmental Quality.

\* \* \*

[See Prior Text]

*Assets*—all existing and all probable future economic benefits obtained or controlled by a particular entity.

*Authority*—the Louisiana Resource Recovery and Development Authority established by R.S. 30:2301.1 et seq.

\* \* \*

[See Prior Text]

*Order Authorizing Commencement of Operations*—a written authorization issued by the administrative authority after a permit-holder has completed all upgrading measures or completed construction measures, provided the required certification and a successful initial start-up inspection has been conducted by a representative of the department.

\* \* \*

[See Prior Text]

*Solid Waste*—any garbage, refuse, or sludge from a wastewater-treatment plant, water-supply treatment plant, or air pollution—control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. *Solid waste* does not include solid or dissolved material in domestic sewage; solid or dissolved materials in irrigation-return flows; industrial discharges that are point sources subject to permits under R.S. 30:2075; source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (68 Stat. 923 et seq.), as amended; or

hazardous waste subject to permits under R.S. 30:2171 et seq.

*Solid Waste Management System*—the entire process of collection, transportation, storage, processing, and disposal of solid waste by any person engaged in such process as a business or by any municipality, authority, trust, parish, or any combination thereof.

\* \* \*

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), LR 26:2607 (November 2000).

### Chapter 3. Scope and Mandatory Provisions of the Program

#### §301. Wastes Governed by These Regulations

All solid wastes as defined by the act and these regulations are subject to the provisions of these regulations, except as follows:

\* \* \*

[See Prior Text in A]

1. agricultural-crop residues, aquacultural residues, silvicultural residues, and other agricultural wastes stored, processed, or disposed of on the site where the crops are grown or which are stored, processed, or disposed in accordance with a best management practice plan which has been provided to the Office of Environmental Services, Permits Division and approved in writing by the Department of Agriculture, and within the jurisdiction of the Department of Agriculture;

\* \* \*

[See Prior Text in A.2 - B.6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000).

#### §303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

The following solid wastes, that are processed or disposed of in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

\* \* \*

[See Prior Text in A - I]

J. woodwastes which are beneficially used in accordance with a Best Management Practice Plan approved in writing by the Department of Agriculture and submitted to the Office of Environmental Services, Permits Division, provided the following requirements are met:

1. the generator must notify the Office of Environmental Services, Permits Division of such activity at each site in accordance with LAC 33:VII.503.A;

2. the generator must submit to the Office of Environmental Services, Environmental Assistance Division a disposer annual report in accordance with the standards in LAC 33:VII.1109, which reports amounts of woodwastes beneficially used at each site;

\* \* \*

[See Prior Text in K - L]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et 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).

#### §305. Facilities Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

The following facilities that are operated in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

\* \* \*

[See Prior Text in A - D]

1. the facility must notify the Office of Environmental Services, Permits Division of such activity in accordance with LAC 33:VII.503.A; and

2. the facility must submit to the Office of Environmental Services, Environmental Assistance Division a disposer annual report in accordance with the standards for construction/demolition-debris disposal facilities found in LAC 33:VII.721;

\* \* \*

[See Prior Text in E - H]

1. the facility must notify the Office of Environmental Services, Permits Division of such activity in accordance with LAC 33:VII.503.A;

2. the facility must submit to the Office of Environmental Services, Environmental Assistance Division a disposer annual report in accordance with the standards for woodwaste disposal facilities in LAC 33:VII.721;

\* \* \*

[See Prior Text in H.3 - I.3]

4. the facility must notify the Office of Environmental Services, Permits Division of its activities in accordance with LAC 33:VII.503.A;

5. the facility must submit to the Office of Environmental Services, Environmental Assistance Division a disposer annual report which accurately estimates volumes of waste disposed in accordance with the standards for woodwaste disposal facilities found in LAC 33:VII.721; and

\* \* \*

[See Prior Text in I.6 - J]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2515 (November 2000), LR 26:2609 (November 2000).

**§307. Exemptions**

\* \* \*

[See Prior Text in A - C.1]

2. Persons granted emergency exemptions by the administrative authority shall publish a notice to that effect in the legal-notices section of a newspaper of general circulation in the area and parish where the facility requesting the exemption is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. The notice shall describe the nature of the emergency exemption and the period of time for which the exemption was granted. Proof of publication of the notice shall be forwarded to the Office of Environmental Services, Permits Division within 60 days after the granting of an emergency exemption.

\* \* \*

[See Prior Text in D - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000).

**§311. Submittal of Information by Persons Other than Permit Holder or Applicant**

Documentation must be provided to the Office of Environmental Services, Permits Division by the permit holder or applicant authorizing other persons to submit information on their behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000).

**§315. Mandatory Provisions**

All persons conducting activities regulated under these regulations shall comply with the following provisions:

\* \* \*

[See Prior Text in A - G.1]

a. Permit holders for existing Type I landfills and Type I landfarms operating under a standard permit must submit to the Office of Environmental Services, Permits Division, no later than February 1, 1994, a mandatory modification document to address these regulations.

\* \* \*

[See Prior Text in G.1.b - G.2]

a. Permit holders of existing Type II landfills operating under a standard permit must submit to the department, no later than August 1, 1994, a mandatory modification document to address these regulations.

\* \* \*

[See Prior Text in G.2.b - G.3]

a. Permit holders for all other Type I, Type IA, Type II, and Type II-A facilities operating under a standard permit must submit to the department, no later than February

1, 1994, a mandatory modification document to address these regulations.

\* \* \*

[See Prior Text in G.3.b - G.6]

7. Permit-holders of facilities which have earthen ditches that lead to or from units of the facility and receive solid waste must:

a. submit a plan to the department by February 1, 1994, to:

\* \* \*

[See Prior Text in G.7.a.i - G.8]

9. The permit holder of a Type II facility must submit to the department a new or amended closure plan and a post-closure plan in the form of a permit modification to address these regulations no later than October 9, 1993, or by the initial receipt of waste, whichever is later.

10. Municipal solid waste landfills that commenced construction, reconstruction, or modification or began accepting waste on or after May 30, 1991, are subject to 40 CFR part 60, subpart WWW - Standards of Performance for Municipal Solid Waste Landfills. Described landfills may be required to have an operating permit under the Air Quality regulations, LAC 33:III.

11. Municipal solid waste landfills that accepted waste on or after November 8, 1987, or for which construction, reconstruction, or modification was commenced before May 30, 1991, may be subject to 40 CFR part 60, subpart Cc - Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills. Described landfills may be required to have an operating permit under the Air Quality regulations, LAC 33:III.

H. Existing Facilities Operating Under a Temporary Permit with Pending Permit Applications. Permit holders of existing facilities operating under a temporary permit must submit to the department, no later than January 1, 1994, an addendum to the permit application to address these regulations. Existing facilities which do not hold a standard permit must be upgraded in accordance with the applicable deadlines according to facility type in Subsection G of this Section unless earlier deadlines are required by the administrative authority.

\* \* \*

[See Prior Text in I]

1. Applicants of proposed facilities with permit applications on file with the department must submit to the Office of Environmental Services, Permits Division, no later than January 1, 1994, an addendum to their application to address these regulations.

\* \* \*

[See Prior Text in I.2]

J. Access to Facilities. The administrative authority or his representative shall have access to the premises of all facilities used for the management of solid waste for all purposes authorized under R.S. 30:2001 et seq., particularly R.S. 30:2012. These inspections may be conducted during normal operating hours; however, the department reserves the right to conduct inspections before and after operating hours. Upon request of the operator or permit holder, the administrative authority or his representative shall discuss the preliminary findings of any such investigation before leaving the premises.

\* \* \*

[See Prior Text in K – L]

M. Notice of Damage to Structures in a Solid Waste Facility. The Office of Environmental Compliance shall be notified within 48 hours by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance or other means of communication when damage to or degradation of any structure of a solid waste facility occurs that would impair the ability of the facility to meet the conditions of its permit.

\* \* \*

[See Prior Text in N - R.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000).

**§319. Assignment and Reassignment of Responsibilities**

\* \* \*

[See Prior Text in A]

B. Reassignment of Responsibilities. The administrative authority may reassign responsibilities within the department or to local authorities in LAC 33:VII.317.B as may be deemed necessary to operate the program more effectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000).

**Chapter 5. Solid Waste Management System**  
**Subchapter A. Administration, Classification, and Inspection Procedures**

**§501. Administration**

This program shall be administered by the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000).

**§503. Notification**

**A. Notification**

1. Except as provided for in Subsection A.2 of this Section, persons who generate industrial solid waste and or persons who transport, process, or dispose of solid waste shall, within 30 days after they become subject to these regulations, notify the Office of Environmental Services, Permits Division in writing of such activity. A form to be used for notification shall be obtained from the Office of Environmental Services, Permits Division or through the department's website at www.deq.state.la.us.

2. Persons who generate industrial solid waste and persons who transport, process, or dispose of solid waste who have previously notified the department of such activity are not required to renotify, unless changes are warranted.

3. Owners or operators of pickup stations are required to notify the Office of Environmental Services, Permits Division of such activities within 30 days after they become subject to these regulations. Existing facilities which have previously notified are not required to renotify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000).

**§505. Classification of Existing Facilities Which Have Not Been Previously Classified or Which Are Not Presently Operating under a Standard Permit**

\* \* \*

[See Prior Text in A - A.1]

2. Within 120 days after the review and acknowledgment of the notification by the administrative authority, a representative of the department will perform an on-site investigation of the facility to determine its classification. At the time of the classification inspection, the processor and/or disposer shall provide the representative with a map clearly depicting the location and size of each facility (and units thereof) to be classified and a schematic of the waste entering each unit of a facility to be classified.

3. Within 30 days after the classification inspection, any person who processes or disposes of solid waste shall file with the Office of Environmental Services, Permits Division a notice of his intent to upgrade or close a facility.

\* \* \*

[See Prior Text in B - C.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000).

**§509. Inspection Procedures**

The following are the types of inspections made at solid waste processing or disposal facilities.

A. Classification Inspection. A classification inspection is required for all existing facilities not previously classified, and each facility's initial classification is based on this inspection. It is performed after the department receives notification of operations (LAC 33:VII.503.A.1).

B. Compliance Inspections. The department will inspect each facility and each facility's records periodically to determine the facility's compliance with the terms of standard or temporary permits and these regulations.

\* \* \*

[See Prior Text in C]

1. For existing facilities, the initial start-up inspection shall be made after a standard permit has been issued, all upgrading measures are completed, new activities as a result of upgrade are implemented, and certification is submitted to the Office of Environmental Services, Permits Division by a

registered engineer, licensed in the state of Louisiana, that the facility is constructed and has been upgraded in accordance with the permit.

2. For new facilities, the initial start-up inspection shall be made after a standard permit has been issued, construction measures have been completed, and certification is submitted to the Office of Environmental Assessment, Environmental Technology Division by a registered engineer, licensed in the state of Louisiana, that the facility is constructed in accordance with the permit.

3. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Assessment, Environmental Technology Division unless a longer time period is set by mutual agreement.

\* \* \*

[See Prior Text in C.4]

D. Construction Inspections. At least 10 days prior to commencing construction of a liner, leak-detection system, leachate-collection system, or monitoring well at a Type I or Type II facility, the permit holder shall notify the Office of Environmental Assessment, Environmental Technology Division, in writing, of the date on which construction will begin, in order to allow a representative of the division the opportunity to witness the construction.

\* \* \*

[See Prior Text in E]

1. Start-Up inspections for new units of a standard permitted facility shall be conducted after completion of all construction measures and after submittal of certification to the Office of Environmental Assessment, Environmental Technology Division, by a registered engineer licensed in the state of Louisiana, that the unit is constructed in accordance with the permit.

2. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Assessment, Environmental Technology Division.

\* \* \*

[See Prior Text in E.3]

F. Modification Start-Up Inspections—All Facilities

1. Start-up inspections for modified construction of a standard permitted facility shall be conducted after construction measures of the modification are completed and certification is submitted to the Office of Environmental Assessment, Environmental Technology Division by a registered engineer licensed in the state of Louisiana, that the modified feature/unit has been constructed in accordance with the modification approved by the administrative authority and any conditions specified in such approval.

\* \* \*

[See Prior Text in F.2]

G. Closure Inspections. Closure inspections will be conducted within 30 days after the Office of Environmental Services, Permits Division has received written notice from the permit holder that closure requirements have been met in accordance with the approved closure plan and the permit holder has filed a request for a closure inspection. Closure inspections must be conducted before backfilling of a facility takes place. The administrative authority reserves the right to determine if a facility has been closed properly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000).

**Subchapter B. Permit System for Facilities Classified for Upgrade or Closure**

**§511. Permit System**

\* \* \*

[See Prior Text in A - A.2]

a. Generators who are not processors or disposers of solid waste are not required to secure a permit. Generators of industrial solid waste must notify the Office of Environmental Services, Permits Division in accordance with LAC 33:VII.503.A.1. Generators of industrial solid waste are subject to the applicable standards provided in LAC 33:VII.701.

b. Transporters who are not processors or disposers of solid waste are not required to secure a permit, but must notify the Office of Environmental Services, Permits Division in accordance with LAC 33:VII.503.A.1. Transporters of solid waste are subject to the applicable standards provided in LAC 33:VII.705.

\* \* \*

[See Prior Text in A.2.c]

d. Pickup stations at which no solid waste is processed or disposed of are not required to secure a permit. Pickup stations are subject to the standards found in LAC 33:VII.703 and 707 and must notify the Office of Environmental Services, Permits Division in accordance with LAC 33:VII.503.A.

\* \* \*

[See Prior Text in B - C]

1. Only those existing facilities that the administrative authority classifies for upgrading may apply for a standard permit. The person(s) notifying the Office of Environmental Services, Permits Division will be issued a temporary permit and may continue operations in accordance with the interim operational plan, pending a decision on the standard permit application.

\* \* \*

[See Prior Text in C.2 - D.2]

a. Processing and/or disposal facilities with an effective standard permit shall submit to the Office of Environmental Services, Permits Division a new permit application at least 455 days before the expiration date of the standard permit, unless permission for later filing is granted by the administrative authority. If the reapplication is submitted on or before the deadline above, and the administrative authority does not issue a final decision on the reapplication on or before the expiration date of the standard permit, the standard permit shall remain in effect until the administrative authority issues a final decision.

\* \* \*

[See Prior Text in D.2.b - G.2]

3. The applicant shall provide appropriate documentation to the Office of Environmental Services, Permits Division that the proposed use does not violate zoning or other land-use regulations that exist at the time of the submittal of the standard permit application.



\* \* \*

[See Prior Text in H]

AUTHORITY NOTE: Promulgated in accordance with R.S.30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2518 (November 2000).

**§513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities**

**A. Applicant Public Notice**

1. No sooner than 45 days prior to the submittal of a standard permit application to the Office of Environmental Services, Permits Division, the prospective applicant shall publish a notice of intent to submit an application for a standard permit. This notice shall be published one time as a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of this state and the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of the state will be the only public notice required.

\* \* \*

[See Prior Text in A.2– A3]

**B. Permit Application Requirements**

1. Any person who generates, transports or stores solid waste is not issued a permit but is under the jurisdiction of the department and must comply with the applicable provisions of these regulations.

**2. Submittal of Permit Applications**

a. Any applicant for a standard permit for existing or proposed processing and disposal facilities shall complete Part I, Part II, and Part III of the standard permit application, following the instructions for the appropriate facility class in LAC 33:VII.519, 521, and 523, and submit four copies to the Office of Environmental Services, Permits Division. Each individual copy of the application shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

\* \* \*

[See Prior Text in B.2.b]

c. The completed separate standard permit application for each existing facility shall be submitted to the Office of Environmental Services, Permits Division within 180 days after issuance of the temporary permit.

C. Notices to Parish Governing Authorities As provided in R.S. 30:2022, upon receipt of a permit application the Office of Environmental Services, Permits Division shall provide written notice on the subject matter to the parish governing authority, who shall promptly notify each parish municipality affected by the application.

\* \* \*

[See Prior Text in D - D.1]

2. The applicant shall make available to the department the assistance of professional engineers or other trained individuals responsible for the design of the facility to explain the design and operation.

3. The applicant shall furnish all other technical information the department may require to evaluate the

standard permit application, monitor the performance of the facility, and insure that the purposes of this program are met.

**E. Standard Permit Applications Deemed Unacceptable or Deficient**

1. Applications deemed unacceptable for technical review will be rejected. For the administrative authority to reconsider the application, the applicant must resubmit the entire standard permit application to the Office of Environmental Services, Permits Division, including the review fee, by a reasonable due date set by the administrative authority.

\* \* \*

[See Prior Text in E.2 - F.1.b]

c. one copy to the appropriate regional office; and

d. two copies to remain in the department's headquarters in Baton Rouge.

\* \* \*

[See Prior Text in F.2]

3. After the five copies are submitted to the Office of Environmental Services, Permits Division, notices will be placed in the department's bulletin (if one is available), the official journal of the state, and in the official journal of the parish where the facility is located. The Office of Environmental Services, Permits Division shall publish a notice of acceptance for review one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The notices will solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper will be reviewed by the Office of Environmental Services, Permits Division. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Permits Division. The applicant is responsible for providing the Office of Environmental Services, Permits Division with proof of publication.

\* \* \*

[See Prior Text in F.4]

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice (LAC 33:VII.513.F.3), request that the administrative authority consider whether a public hearing is necessary. If the administrative authority determines that the requests warrant it, a public hearing will be scheduled. If the administrative authority determines that the requests do not raise genuine and pertinent issues, the Office of Environmental Services, Permits Division will send the person requesting the hearing written notification of the determination. The request for a hearing must be in writing and must contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, notices will be published at least 20 days before a

fact-finding hearing in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. Those persons on the Office of Environmental Services, Permits Division's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

7. Receipt of Comments Following a Public Hearing. Comments received by the Office of Environmental Services, Permits Division until the close of business 30 days after the date of a public hearing will be reviewed by the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text in G - H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2519 (November 2000).

#### **§515. Permit Process for Existing Facilities Classified for Closure**

A. Closure Plan Review and Evaluation. LAC 33:VII.505 and LAC 33:VII.Chapter 7 establish the evaluation criteria used by the Office of Environmental Services, Permits Division.

##### **B. Submittal of Closure Plans**

1. Permit holders for facilities classified for closure shall submit to the Office of Environmental Services, Permits Division four bound copies of a closure plan within 60 days after issuance of the temporary permit for the facility. Each individual copy of the plan shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

\* \* \*

[See Prior Text in B.2 - 3]

##### **C. Closure Plans Determined Unacceptable or Deficient**

1. Closure plans that are determined unacceptable for a technical review will be rejected. The permit holder will be required to resubmit the entire application to the Office of Environmental Services, Permits Division, including the review fee, by a date set by the administrative authority.

\* \* \*

[See Prior Text in C.2]

D. Closure Plans Deemed Technically Complete. Closure plans that have been deemed technically complete will be approved. Within 30 days after receipt of closure plan approval, the permit holder shall submit to the Office of Environmental Services, Permits Division three copies of the closure plan which incorporate all revisions made during the closure plan review process. Additional copies will be required if deemed necessary by the administrative authority. Each copy shall be provided as a standard three-ring-bound

document measuring 8 1/2 by 11 inches, and shall include appropriate tabbing for all appendices, figures, etc. Closure plans must incorporate revisions made during the review process. Closure plans that present revisions made during the review process as a separate supplement to the closure plan shall not be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000).

#### **§517. Permit Modifications**

\* \* \*

[See Prior Text in A]

##### **1. Modification Requests**

a. The permit holder shall notify the Office of Environmental Services, Permits Division in advance of any change in a facility or deviation from a permit. Such notification shall detail the proposed modification and shall include an assessment of the effects of the modification on the environment and/or the operation. Modification details shall include, but not be limited to, a summary detailing the modification request and all appropriate drawings, narratives, etc., which shall illustrate and describe the originally permitted representations and the proposed modifications thereto. New language requested in the permit narrative and existing language requested to be deleted from the permit narrative shall be identified therein.

i. Initially, four copies of all modification requests shall be provided to the Office of Environmental Services, Permits Division. Each individual copy of the document shall be 8 1/2" by 11" and shall be bound in standard three-ring binder(s).

\* \* \*

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

b. All notifications of proposed changes in ownership of a permit for a facility are the responsibility of the permittee and shall include the following, to be submitted to the Office of Environmental Services, Permits Division:

\* \* \*

[See Prior Text in A.1.b.i - 2.a.xi]

b. Permit modifications which require public notice and that have been determined by the Office of Environmental Services, Permits Division to be technically complete will be accepted for public review. When the permit modification is accepted for public review, the permit holder must forward copies of the permit modification as follows:

i. two copies to the Office of Environmental Services, Permits Division main office in Baton Rouge;

ii. one copy to the appropriate regional office;

\* \* \*

[See Prior Text in A.2.b.iii - iv]

c. The permit holder shall provide the Office of Environmental Services, Permits Division with evidence that copies of the permit modification have been forwarded to the local parish governing authority and the parish public library.

d. After distribution of the permit modification, the permit holder is responsible for placing a notice in the

official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The notice will solicit comments from interested individuals and groups. Comments delivered or received within 30 days after the date the notices are published will be reviewed by the Office of Environmental Services, Permits Division. The notice shall be published in accordance with a sample public notice provided by the Office of Environmental Services, Permits Division. The permit holder is responsible for providing the Office of Environmental Services, Permits Division with proof of publication of the notice.

\* \* \*

[See Prior Text in A.2.e - 4]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000).

**Subchapter C. Permit Application**

**§521. Part II: Supplementary Information, All Processing and Disposal Facilities**

The following information is required in the permit application for solid waste processing and disposal facilities. All responses and exhibits must be identified in the following sequence to facilitate the evaluation. Additionally, all applicable sections of LAC 33:VII.Chapter 7 must be addressed and incorporated into the application responses. If a section does not apply, the applicant must state that it does not apply and explain why.

\* \* \*

[See Prior Text in A - F.5.c]

d. for an existing facility, all data on samples taken from monitoring wells in place at the time of the permit application must be included. (If this data exists in the department records, the administrative authority may allow references to the data in the permit application.) For an existing facility with no wells, groundwater data shall be submitted within 90 days after the installation of monitoring wells. For a new facility, groundwater data (one sampling event) shall be submitted before waste is accepted;

\* \* \*

[See Prior Text in F.5.e - M]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000).

**Chapter 7. Solid Waste Standards**

**Subchapter A. General Standards**

**§701. Standards Governing Industrial Solid Waste Generators**

**A. Annual Reports**

1. Generators of industrial solid waste shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division listing the types and quantities, in wet-weight tons per year, of industrial solid waste they have disposed of off site.

2. The generator's annual report shall name the transporter(s) who removed the industrial solid waste from the generator's site and the permitted solid waste processing or disposal facility or facilities that processed or disposed of the waste. The form to be used shall be obtained from the department or through the department's website at www.deq.state.la.us.

\* \* \*

[See Prior Text in A.3]

4. The report shall be submitted to the Office of Environmental Services, Environmental Assistance Division by August 1 of each reporting year.

\* \* \*

[See Prior Text in A.5 - B.1]

a. submit to the Office of Environmental Services, Permits Division a generator notification form (which is to be provided by the administrative authority) which includes analysis, analytical data, and/or process knowledge which confirms that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:Part V or by federal regulations; and

b. obtain an industrial waste code number from the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text in B.2 - 3]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000).

**Subchapter B. Landfills, Surface Impoundments, Landfarms**

**§709. Standards Governing All Solid Waste Disposal Facilities (Type I and II)**

\* \* \*

[See Prior Text in A - E.1.c.i]

ii. Construction of monitoring wells for facilities regulated by the department shall require approval of the administrative authority prior to construction.

\* \* \*

[See Prior Text in E.1.c.iii - iii.(e).(v)]

d. Post Construction. Within 90 days after construction of the wells, the permit holder or applicant must submit to the Office of Environmental Services, Permits Division well-completion details to verify that the wells were constructed according to the approved specifications and to document construction procedures. A permit modification fee will not be required. Well-completion details should include, but are not limited to:

\* \* \*

[See Prior Text in E.1.d.i - e.ii.(c)]

(d). The permit holder must notify the Office of Environmental Services, Permits Division of the plugging and abandonment of monitoring wells or geotechnical borings and keep records of such abandonments.

\* \* \*

[See Prior Text in E.1.f - 3.a]

b. Initial Sampling

i. For a new facility, monitoring wells must be sampled and the analytical data for a sampling event must be submitted to the Office of Environmental Assessment, Environmental Technology Division before waste is accepted.

ii. For an existing facility with no wells in place at the time of the application submittal or at the time at which the facility becomes subject to these regulations, the analytical data shall be submitted to the Office of Environmental Assessment, Environmental Technology Division within 90 days after installation of the monitoring wells.

\* \* \*

[See Prior Text in E.3.b.iii - d]

e. The permit holder or applicant must submit four bound copies (8 1/2 by 11 inches) of a report of all groundwater sampling results to the Office of Environmental Assessment, Environmental Technology Division no later than 90 days after each sampling event. The reports must be submitted on forms provided by the administrative authority and shall include at a minimum:

\* \* \*

[See Prior Text in E.3.e.i - f.i]

ii. submit to the Office of Environmental Assessment, Environmental Technology Division, within 14 days after the determination is made, a report that identifies which parameters or constituents were determined to have shown statistically significant changes from background levels; and

\* \* \*

[See Prior Text in E.3.f.iii - iii.(a)]

(b). submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating that a source other than the facility being sampled caused the contamination or that the statistically significant increase resulted from an error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality.

\* \* \*

[See Prior Text in E.3.f.iv - 4.b.ii]

c. No later than 90 days after the completion of the initial or subsequent sampling events for all Appendix C, Table 2 parameters or constituents required in Subsection E.4.b of this Section, the permit holder must submit a report to the Office of Environmental Assessment, Environmental Technology Division identifying the Appendix C, Table 2 parameters or constituents that have been detected. No later than 180 days after completion of the initial or subsequent sampling events for all Appendix C, Table 2 parameters or constituents required in Subsection E.4.b of this Section, the permit holder must:

\* \* \*

[See Prior Text in E.4.c.i - iii]

d. If the concentrations of all Appendix C, Table 2 parameters or constituents are shown to be at or below background values, using the statistical procedures in Subsection E.2.e of this Section, for two consecutive sampling events, the permit holder must notify the Office of Environmental Assessment, Environmental Technology Division, and upon written approval of the administrative authority, may return to detection monitoring.

\* \* \*

[See Prior Text in E.4.e]

f. If one or more Appendix C, Table 2 parameters or constituents are detected at statistically significant levels above the groundwater protection standard established under Subsection E.4.g of this Section, in any sampling event, using the statistical procedures in Subsection E.2.e of this Section, the permit holder must, within 14 days of the determination, notify all appropriate local government officials and submit a report to the Office of Environmental Assessment, Environmental Technology Division identifying the Appendix C, Table 2 parameters or constituents which have exceeded the groundwater protection standard. The permit holder must also:

i. within 90 days after the determination is made, submit four bound copies (8 1/2 x 11 inches) of an assessment plan to the Office of Environmental Assessment, Environmental Technology Division, as well as any necessary permit modification, to the Office of Environmental Services, Permits Division that provides for:

\* \* \*

[See Prior Text in E.4.f.i.(a) - iv]

v. may submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating that a source other than the facility being sampled caused the contamination, or the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration in writing, the permit holder must continue assessment monitoring at the facility in accordance with Subsection E.4 of this Section, or may return to detection monitoring if the Appendix C, Table 2 parameters or constituents are below background as specified in Subsection E.4.d of this Section. Until such a written approval is given, the permit holder must comply with Subsection E.4.f of this Section, including initiating an assessment of corrective action measures.

\* \* \*

[See Prior Text in E.4.g - 6]

a. Based on the results of the corrective measures assessment conducted under Subsection E.5 of this Section, the permit holder must select a remedy that, at a minimum, meets the standards of Subsection E.6.b of this Section. Within 180 days after initiation of the corrective measures assessment required in Subsection E.5 of this Section, the permit holder must submit four bound copies (8 1/2 by 11 inches) of a corrective-action plan to the Office of Environmental Assessment, Environmental Technology Division, describing the selected remedy, which will meet the requirements of Subsection E.6.b-d of this Section and be in accordance with LAC 33:I.Chapter 13. The corrective-action plan must also provide for a corrective-action

groundwater monitoring program as described in Subsection E.7.a.i of this Section.

\* \* \*

[See Prior Text in E.6.b - 7.a.ii]

b. A permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating, based on information developed after implementation of the corrective action plan has begun or other information, that compliance with requirements of Subsection E.6.b of this Section are not being achieved through the remedy selected. A revised corrective-action plan providing other methods or techniques that could practically achieve compliance with the requirements of Subsection E.6.b of this Section must accompany the demonstration.

\* \* \*

[See Prior Text in E.7.c]

d. The permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating that compliance with the requirements under Subsection E.6.b of this Section cannot be achieved with any currently available methods.

e. If the administrative authority approves, in writing, the demonstration submitted pursuant to Subsection E.7.d of this Section, the permit holder must, within 30 days of the approval, submit a plan to the Office of Environmental Assessment, Environmental Technology Division (which includes an implementation schedule) to implement alternate measures in accordance with LAC 33:I.Chapter 13:

\* \* \*

[See Prior Text in E.7.e.i - 8.b]

c. If assessment monitoring parameters or constituents are detected at concentrations significantly different from background in the resampling event in Subsection E.4.b of this Section, the permit holder must, within 14 days of the determination, submit a report to the Office of Environmental Assessment, Environmental Technology Division identifying the assessment monitoring parameters or constituents which are statistically different from background concentrations. The permit holder must also:

i. within 90 days after the determination is made, submit four bound copies (8 1/2 by 11 inches) of an assessment plan to the Office of Environmental Assessment, Environmental Technology Division, as well as any necessary permit modification, to the Office of Environmental Services, Permits Division that provides for:

\* \* \*

[See Prior Text in E.8.c.i.(a) - 9.a]

b. Within 270 days after the submission of the assessment plan, the permit holder must submit four bound copies (8 1/2 by 11 inches) of a corrective-action plan to remediate the groundwater to the Office of Environmental Assessment, Environmental Technology Division, describing the selected remedy, which shall also include:

\* \* \*

[See Prior Text in E.9.b.i - 10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1315 (October 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000).

#### ' 711. Standards Governing Landfills (Type I and II)

\* \* \*

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

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period and to determine remaining capacity shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or through the department's website at [www.deq.state.la.us](http://www.deq.state.la.us).

\* \* \*

[See Prior Text in C.1.a.ii - b.iii.(p)]

(q). copies of all documents received from and submitted to the department.

\* \* \*

[See Prior Text in C.2 - 2.a]

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility, as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

\* \* \*

[See Prior Text in D - D.3.a.i]

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Permits Division a comprehensive air-monitoring plan that will limit methane gas to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

\* \* \*

[See Prior Text in D.3.a.ii.(a) - iii]

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance);

(b). within seven days of detection submit a report to the Office of Environmental Compliance that provides the methane gas levels detected and a description of the steps taken to protect human health; and

(c). within 30 days of detection, submit a remediation plan to the Office of Environmental Assessment, Environmental Technology Division for the methane gas

releases to the administrative authority. The plan shall describe the nature and extent of the problems and the proposed remedy and shall include an implementation schedule. The plan must be implemented within 60 days of detection.

iv. The permit holder shall notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance) when strong odors occur at facility boundaries.

\* \* \*

[See Prior Text in D.3.a.v - c.i]

ii. A schedule of the type and frequency of vector control measures to be used shall be submitted to the Office of Environmental Services, Permits Division for approval in the operational plan.

\* \* \*

[See Prior Text in D.3.d - 5.c]

6. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Permits Division and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subsection D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Permits Division.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

\* \* \*

[See Prior Text in E.1.a - 3.c]

d. The permit holder shall update the parish mortgage and conveyance records by entering the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. A form to be used for this purpose is provided in Appendix F. The facility shall provide the Office of Environmental Services, Permits Division with a true copy of the document filed and certified by the parish clerk of court.

\* \* \*

[See Prior Text in E.4 - F.3]

a. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Compliance, Surveillance Division on the integrity of the final cap;

\* \* \*

[See Prior Text in F.3.b - d]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000).

### §713. Standards Governing Surface Impoundments (Type I and II)

\* \* \*

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

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. If applicable, the annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal and to determine remaining capacity during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or through the department's website at [www.deq.state.la.us](http://www.deq.state.la.us).

\* \* \*

[See Prior Text in C.1.a.ii - b.iii.(o)]

(p). copies of all documents received from or submitted to the department.

\* \* \*

[See Prior Text in C.2 - 2.a]

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility, as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

\* \* \*

[See Prior Text in D - D.3.a.i]

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Permits Division a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

\* \* \*

[See Prior Text in D.3.a.ii.(a) - iii]

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance);

(b). within seven days of detection, submit a report to the Office of Environmental Compliance that provides the methane gas levels detected and a description of the steps taken to protect human health; and

(c). within 30 days of detection, submit a remediation plan for the methane gas releases to the Office of Environmental Assessment, Environmental Technology Division. The plan shall describe the nature and extent of the problem and the proposed remedy, and shall include an implementation schedule. The plan must be implemented within 60 days of detection.

iv. The permit holder shall notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance) when strong odors occur at facility boundaries or when methane gas levels exceed the limit specified in Subsection D.3.a.ii of this Section.

\* \* \*

[See Prior Text in D.3.a.v - c]

d. If a leak in an impoundment is found, the administrative authority shall be notified in accordance with LAC 33:I. Chapter 39.

\* \* \*

[See Prior Text in D.3.e - 4]

#### 5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Permits Division and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subsection D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Permits Division.

#### E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

\* \* \*

[See Prior Text in E.1.a - 3.b.v]

vi. analyses to be sent to the Office of Environmental Services, Permits Division confirming that clean closure has been achieved;

\* \* \*

[See Prior Text in E.3.b.vii]

viii. a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services, Permits Division before backfilling takes place. The administrative authority will determine whether the facility has been closed properly.

\* \* \*

[See Prior Text in E.3.c - F.2.b]

i. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Compliance, Surveillance Division on the integrity of the final cap;

\* \* \*

[See Prior Text in F.2.b.ii - iv]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000).

#### §715. Standards Governing Landfarms (Type I and II)

\* \* \*

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

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight and dry-weight tons per year) received from in-state generators and from out-of-state generators during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at [www.deq.state.la.us](http://www.deq.state.la.us).

\* \* \*

[See Prior Text in C.1.a.ii - b.iii.(n)]

(o). copies of all documents received from or submitted to the department;

(p). a copy of the semiannual soil waste mixtures tests and analyses of the results with conclusions shall be submitted semiannually to the Office of Environmental Assessment, Environmental Technology Division or more frequently if deemed necessary by the administrative authority;

\* \* \*

[See Prior Text in C.1.b.iii.(q) - (r)]

(s). annual reports shall be submitted to the Office of Environmental Assessment, Environmental Technology Division for a minimum of three years (Type II landfarms) and 10 years (Type I landfarms) after closure and shall contain analyses of all test results of the soils. The post closure monitoring annual reporting may be reduced for certain types of landfarms if the permit-holder demonstrates to the administrative authority satisfaction that such is warranted.

\* \* \*

[See Prior Text in C.2 - 2.a]

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility, as required by the

Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

\* \* \*

[See Prior Text in D - D.3.a.i]

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Permits Division a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

\* \* \*

[See Prior Text in D.3.a. ii.(a) - iii]

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance);

(b). within seven days of detection, submit a report to the Office of Environmental Compliance, Surveillance Division that provides the methane gas levels detected and a description of the steps taken to protect human health; and

(c). within 60 days of detection, submit a remediation plan for the methane gas released to the Office of Environmental Assessment, Environmental Technology Division. The plan shall describe the nature and extent of the problem and the proposed remedy, and shall include an implementation schedule.

iv. The permit holder shall notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance) when strong odors occur at facility boundaries.

\* \* \*

[See Prior Text in D.3.a.v - k.ii.(a)]

(b). An operating plan for the facility shall be filed with the Office of Environmental Services, Permits Division that demonstrates how the animal feed will be distributed to preclude ingestion by humans and that describes the measures to be taken to safeguard against possible health hazards from the entry of cadmium or other heavy metals into the food chain, as may result from alternative land use.

\* \* \*

[See Prior Text in D.3 k.ii.(c) - 5]

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Permits Division and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subsection D.5.a of this Section shall be

conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Permits Division.

#### E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

\* \* \*

[See Prior Text in E.1.a - F.3.a]

b. Annual reports shall be submitted to the Office of Environmental Compliance, Surveillance Division for a period of three years after closure and shall contain results of analysis of all soil/waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251(December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000).

### Subchapter C. Solid Waste Processors

#### §717. Standards Governing All Solid Waste Processors (Type I-A and II-A)

\* \* \*

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

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at [www.deq.state.la.us](http://www.deq.state.la.us). The following applies to reports:

\* \* \*

[See Prior Text in F.1 a.ii - 2.a]

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility, as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

\* \* \*

[See Prior Text in G - G.3.h.ii]

(a). Testing procedures, schedules, and methods must be submitted to the Office of Environmental Services, Permits Division for review and approval before disposal operations begin. Disposal of ash shall be only in a permitted Type I facility. Processing of ash shall be only in a permitted Type I-A facility.

\* \* \*



[See Prior Text in G.3.h.ii.(b) - 5]

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Permits Division and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subsection G.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Permits Division.

\*\*\*

[See Prior Text in H]

I. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

\*\*\*

[See Prior Text in I.1.a - 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526 (November 2000), LR 26:2610 (November 2000).

**Subchapter D. Minor Processing and Disposal Facilities**

**§719. Standards Governing All Minor Processing and Disposal Facilities (Type III)**

\*\*\*

[See Prior Text in A - D.1]

2. A design for surfacing natural soils that do not meet the requirement in Subsection D.1 of this Section shall be prepared and installed under the supervision of a registered engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and geohydrology. Written certification by the engineer that the surface satisfies the requirements of Subsection D.1 of this Section shall be provided to the Office of Environmental Services, Permits Division.

\*\*\*

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000).

**§721. Construction and Demolition Debris and Woodwaste Landfills and Processing Facilities (Type III)**

\*\*\*

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

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental

Assistance Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at www.deq.state.la.us.

\*\*\*

[See Prior Text in B.1.a.ii - b.i]

ii. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the department.

\*\*\*

[See Prior Text in B.1.b.iii - 2]

3. Type III facilities receiving construction and demolition debris and woodwaste shall have the number and levels of certified operators employed at the facility as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

\*\*\*

[See Prior Text in B.3.a - C.4]

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Permits Division and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subsection C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Permits Division.

\*\*\*

[See Prior Text in D]

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

\*\*\*

[See Prior Text in D.1.a - 3.b]

c. The permit holder shall update the parish mortgage and conveyance records by entering the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. A form to be used for this purpose is provided in LAC 33:VII.Chapter 11.Appendix F. The facility shall provide the Office of Environmental

Services, Permits Division with a true copy of the document filed and certified by the parish clerk of court.

\* \* \*

[See Prior Text in D.4 - E.2]

3. Annual reports concerning the integrity of the cap shall be submitted to the Office of Environmental Compliance, Surveillance Division for a period of three years after closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000).

**§723. Composting Facilities (Type III)**

\* \* \*

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

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at [www.deq.state.la.us](http://www.deq.state.la.us).

\* \* \*

[See Prior Text in B.1.a.ii - b.i]

ii. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the department.

\* \* \*

[See Prior Text in B.1.b.iii - 2]

3. Type III facilities receiving solid waste for composting shall have the number and levels of certified operators employed at the facility as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

\* \* \*

[See Prior Text in C - D]

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

\* \* \*

[See Prior Text in D.1.a - 2.b]

c. The permit holder shall verify that the underlying soils have not been contaminated in the operation of the facility. If contamination exists, a remediation/removal

program developed to meet the standards of LAC 33:VII.713.E.3, 4, and 5 must be provided to the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text in D.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000).

**§725. Separation and Woodwaste Processing Facilities (Type III)**

\* \* \*

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

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at [www.deq.state.la.us](http://www.deq.state.la.us). The following applies to reports:

\* \* \*

[See Prior Text in B.1.a.ii - b.i]

ii. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text in B.1.b.iii - 2]

3. Type III facilities receiving solid waste for separation shall have the number and levels of certified operators employed at the facility as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

\* \* \*

[See Prior Text in C - C.5]

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Permits Division and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subsection C.5.a of this Section shall be conducted annually for all employees working at the facility.

A copy of the training program shall be filed with the Office of Environmental Services, Permits Division.

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

\*\*\*

[See Prior Text in D.1.a - 2.b]

c. The permit holder shall verify that the underlying soils have not been contaminated from the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.3, 4, and 5 must be provided to the Office of Environmental Services, Permits Division.

\*\*\*

[See Prior Text in D.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000).

**Subchapter E. Financial Assurance for All Processors and Disposers of Solid Waste**

**§727. Financial Assurance**

\*\*\*

[See Prior Text in A - A.1]

a. Permit holders or applicants for Type I and II facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$1 million per occurrence and \$1 million annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Management and Finance, Financial Services Division.

b. Permit holders or applicants for Type I-A and II-A facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$500,000 per occurrence, and \$500,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Management and Finance, Financial Services Division.

c. Permit holders or applicants for Type III facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$250,000 per occurrence, and \$250,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Management and Finance, Financial Services Division.

\*\*\*

[See Prior Text in A.1.d - d.i.(c).(iii)]

(iv). cancellation of the policy, whether by the insurer or the insured, will be effective only upon written

notice and upon lapse of 60 days after a copy of such written notice is received by the Office of Management and Finance, Financial Services Division;

(v). any other termination of the policy will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the Office of Management and Finance, Financial Services Division;

\*\*\*

[See Prior Text in A.1.d.i.(c).(vi)]

(d). the wording of the liability endorsement shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**Solid Waste Facility Liability Endorsement**

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 82231  
Baton Rouge, Louisiana 70884-2231  
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

\*\*\*

[See Prior Text in 1 - 4]

[Signature of authorized representative of insurer]  
[Typed name of authorized representative of insurer]  
[Title of authorized representative of insurer]  
[Address of authorized representative of insurer]

(e). the wording of the certificate of insurance shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**Solid Waste Facility Certificate Of Liability Insurance**

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 82231  
Baton Rouge, Louisiana 70884-2231  
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

\*\*\*

[See Prior Text in 1 - 3]

[Signature of authorized representative of insurer]  
[Typed name of authorized representative of insurer]  
[Title of authorized representative of insurer]  
[Address of authorized representative of insurer]

\*\*\*

[See Prior Text in A.1.d.ii - ii.(c)]

(d). The letter of credit must be irrevocable and issued for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the Office of Management and Finance,

Financial Services Division receive the notice, as evidenced by the return receipts.

(e). The wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**Solid Waste Facility Irrevocable Letter Of Credit**

Secretary

Louisiana Department of Environmental Quality

Post Office Box 82231

Baton Rouge, Louisiana 70884-2231

Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. [ ] at the request and for the account of [permit holder's or applicant's name and address] for its [list site identification number, site name, facility name, and facility permit number] at [location], Louisiana, in favor of any governmental body, person, or other entity for any sum or sums up to the aggregate amount of U.S. dollars [ ] upon presentation of:

\* \* \*

[See Prior Text in 1-2]

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the Uniform Customs and Practice for Documentary Letters of Credit (1983), International Chamber of Commerce Publication No. 400, shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.727.A.1.d.ii.(e), effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]

[date]

iii. Financial Test

(a). To meet this test, the applicant, permit holder, parent corporation of the applicant (corporate guarantor), or permit holder must submit to the Office of Management and Finance, Financial Services Division the

documents required by Subsection A.2 of this Section demonstrating that the requirements of that Subsection have been met. Use of the financial test may be disallowed on the basis of the accessibility of the assets of the permit holder, applicant, or parent corporation (corporate guarantor). If the applicant, permit holder, or parent corporation is using the financial test to demonstrate liability coverage and closure and post-closure care, only one letter from the chief financial officer is required.

\* \* \*

[See Prior Text in A.1.d.iii.(b) - iv.(a).(iii)]

(iv). the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial-test criteria, the guarantor shall send within 90 days, by certified mail, notice to the Office of Management and Finance, Financial Services Division, and to the permit holder or applicant, that he intends to provide alternative financial assurance as specified in Subsection A.1 of this Section, in the name of the permit holder or applicant, and that within 120 days after the end of said fiscal year the guarantor shall establish such financial assurance, unless the permit holder or applicant has done so;

(v). the guarantor agrees to notify the Office of Management and Finance, Financial Services Division by certified mail of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

\* \* \*

[See Prior Text in A.1.d.iv.(a).(vi) - (xi)]

(b). A corporate guarantee may be used to satisfy the requirements of this Section only if the attorney general(s) or insurance commissioner(s) of the state in which the guarantor is incorporated, and the state in which the facility covered by the guarantee is located, has submitted a written statement to the Office of Management and Finance, Financial Services Division that a corporate guarantee is a legally valid and enforceable obligation in that state.

\* \* \*

[See Prior Text in A.1.e - 2.a]

b. The applicant or permit holder shall submit to the Office of Management and Finance, Financial Services Division the estimated closure date and the estimated cost of closure and post-closure care in accordance with the following procedures:

\* \* \*

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

iii. The cost estimates must be adjusted within 30 days after each anniversary of the date on which the first cost estimate was prepared on the basis of either the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business* or a reestimation of the closure and post-closure costs in accordance with Subsection A.2.b.i and ii of this Section. The permit holder or applicant must revise the cost estimate whenever a change in the closure/post-closure plans increases or decreases the cost of the closure plan. The permit holder or applicant must submit a written notice of any such adjustment to the Office of Management and

Finance, Financial Services Division within 15 days following such adjustment.

\* \* \*

[See Prior Text in A.2.b.iv - c.iv]

d. Trust Funds. A permit holder or applicant may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the following requirements and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text in A.2.d.i - vii]

viii. After beginning final closure, a permit holder, or any other person authorized by the permit holder to perform closure and/or post-closure may request reimbursement for closure and/or post-closure expenditures by submitting itemized bills to the Office of Management and Finance, Financial Services Division. Within 60 days after receiving bills for such activities, the administrative authority will determine whether the closure and/or post-closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the trustee to make reimbursement in such amounts as the administrative authority specifies in writing. If the administrative authority has reason to believe that the cost of closure and/or post-closure will be significantly greater than the value of the trust fund, he may withhold reimbursement for such amounts as he deems prudent until he determines that the permit holder is no longer required to maintain financial assurance.

\* \* \*

[See Prior Text in A.2.d.ix (including Solid Waste Facility Trust Agreement/Standby Trust Agreement)]

e. Surety Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Management and Finance, Financial Services Division.

\* \* \*

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

vi. Whenever the current cost-estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the administrative authority.

\* \* \*

[See Prior Text in A.2.e.vii - viii (including Solid Waste Facility Financial Guarantee Bond)]

f. Performance Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Management and Finance, Financial Services Division.

\* \* \*

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

vi. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Section. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate after written approval of the administrative authority.

vii. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur before 120 days have elapsed beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

\* \* \*

[See Prior Text in A.2.f.viii (including Solid Waste Facility Performance Bond)]

g. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text in A.2.g.i - iii]

iv. The letter of credit must be irrevocable and issued for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the Office of Management and Finance, Financial Services Division by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts.

\* \* \*

[See Prior Text in A.2.g.v]

vi. Whenever the current cost estimates increase to an amount greater than the amount of the credit, the permit holder, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure and post-closure cost estimates upon written approval of the administrative authority.

\* \* \*

[See Prior Text in A.2.g.vii]

viii. The wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**Solid Waste Facility Irrevocable Letter Of Credit**

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 82231  
Baton Rouge, Louisiana 70804-2231  
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. \_\_\_\_\_ in favor of the Department of Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the [closure and/or post-closure] fund for its [list site identification number, site name, facility name, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars \$\_\_\_\_\_ upon presentation of:

1. A sight draft, bearing reference to the Letter of Credit No. \_\_\_\_\_ drawn by the administrative authority, together with;

2. A statement, signed by the administrative authority, declaring that the amount of the draft is payable into the standby trust fund pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001, et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the Uniform Customs and Practice for Documentary Letters of Credit (1983), International Chamber of Commerce Publication No. 400, shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.727.A.2.g.viii, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]

[date]

h. Insurance. A permit holder or applicant may satisfy the requirements of this Section by obtaining insurance that conforms to the requirements of this Subparagraph and submitting a certificate of such insurance

to the Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text in A.2.h.i - iv]

v. After beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure and post-closure may request reimbursement for closure or post-closure expenditures by submitting itemized bills to the Office of Management and Finance, Financial Services Division. Within 60 days after receiving such bills, the administrative authority will determine whether the expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing.

\* \* \*

[See Prior Text in A.2.h.vi - viii]

viii. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the permit holder and the Office of Management and Finance, Financial Services Division. Cancellation, termination, or failure to renew may not occur, however, before 120 days have elapsed, beginning on the date that both the administrative authority and the permit holder receive notice of cancellation, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration:

\* \* \*

[See Prior Text in A.2.h.viii.(a) - (e)]

ix. Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the permit holder, within 60 days after the increase, must either increase the face amount to at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure and post-closure cost estimates following written approval by the administrative authority.

\* \* \*

[See Prior Text in A.2.h.x - i.i.(b).(iii)]

ii. To demonstrate that he or she meets this test, the permit holder, applicant, or parent corporation of the permit holder or applicant must submit the following three items to the Office of Management and Finance, Financial Services Division:

\* \* \*

[See Prior Text in A.2.i.ii.(a) - iii]

iv. The permit holder, applicant, or parent corporation (if a corporate guarantor) of the permit holder or applicant shall provide to the Office of Management and Finance, Financial Services Division a letter from the chief financial officer certifying the following information:

\* \* \*

[See Prior Text in A.2.i.iv.(a)– (d)]

(e). The wording of the letter from the chief financial officer shall be identical to the wording as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**Solid Waste Facility Letter From The Chief Financial Officer**

(Liability Coverage, Closure, and/or Post-Closure) Secretary

Louisiana Department of Environmental Quality  
Post Office Box 82231  
Baton Rouge, Louisiana 70884-2231  
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

I am the chief financial officer of [name and address of firm, which may be either the permit holder, applicant, or parent corporation of the permit holder or applicant]. This letter is in support of this firm's use of the financial test to demonstrate financial responsibility for [insert "liability coverage," "closure," and/or "post-closure," as applicable] as specified in [insert "LAC 33:VII.727.A.1," "LAC 33:VII.727.A.2," or LAC 33:VII.727.A.1 and A.2"].

[Fill out the following four paragraphs regarding facilities and associated liability coverage, and closure and post -closure cost estimates. If your firm does not have facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, list the site identification number, site name, facility name, and facility permit number.]

\* \* \*

[See Prior Text in 1 – 4]

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

**Part A. Liability Coverage For Accidental Occurrences**

[Fill in Alternative I if the criteria of LAC 33:VII.727.A.2.i.i.(a) are used.]

| ALTERNATIVE I   |          |    |
|---|----------|----|
| 1. Amount of annual aggregate liability coverage to be demonstrated                   | \$ _____ |    |
| *2. Current assets  | \$ _____ |    |
| *3. Current liabilities   | \$ _____ |    |
| *4. Tangible net worth  | \$ _____ |    |
| *5. If less than 90 percent of assets are located in the U.S., give total U.S. assets | \$ _____ |    |
|   | YES      | NO |
| 6. Is line 4 at least \$10 million?   | —        | —  |
| 7. Is line 4 at least 6 times line 1?   | —        | —  |
| *8. Are at least 90 percent of assets located in                                      | —        | —  |

|                                       |   |   |
|---------------------------------------|---|---|
| the U.S.? If not, complete line 9.    |   |   |
| 9. Is line 4 at least 6 times line 1? | — | — |

[Fill in Alternative II if the criteria of LAC 33:VII.727.A.2.i.i.(b) are used.]

| ALTERNATIVE II   |          |    |
|--|----------|----|
| 1. Amount of annual aggregate liability coverage to be demonstrated                                | \$ _____ |    |
| 2. Current bond rating of most recent issuance of this firm and name of rating service             | _____    |    |
| 3. Date of issuance of bond  | _____    |    |
| 4. Date of maturity of bond  | _____    |    |
| *5. Tangible net worth   | \$ _____ |    |
| *6. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.) | \$ _____ |    |
|  | YES      | NO |
| 7. Is line 5 at least \$10 million?  | —        | —  |
| 8. Is line 5 at least 6 times line 1?  | —        | —  |
| *9. Are at least 90 percent of assets located in the U.S.? If not, complete line 10.               | —        | —  |
| 10. Is line 6 at least 6 times lines 1?  | —        | —  |

[Fill in Part B if you are using the financial test to demonstrate assurance only for closure and/or post-closure care.]

**Part B. Closure And/Or Post Closure**

[Fill in Alternative I if the criteria of LAC 33:VII.727.A.2.i.i.(a) are used.]

| ALTERNATIVE I   |          |    |
|---|----------|----|
| 1. Sum of current closure and/or post -closure estimate (total all cost estimates shown above)            | \$ _____ |    |
| *2. Tangible net worth  | \$ _____ |    |
| *3. Net worth   | \$ _____ |    |
| *4. Current Assets  | \$ _____ |    |
| *5. Current liabilities   | \$ _____ |    |
| *6. The sum of net income plus depreciation, depletion, and amortization                                  | \$ _____ |    |
| *7. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.) | \$ _____ |    |
|   | YES      | NO |
| 8. Is line 2 at least \$10 million?   | —        | —  |
| 9. Is line 2 at least 6 times line 1?   | —        | —  |
| *10. Are at least 90 percent of the firm's  | —        | —  |

|   |   |   |
|---|---|---|
| assets located in the U.S.? If not, complete line 11. |   |   |
| 11. Is line 7 at least 6 times line 1?                | — | — |

[Fill in Alternative II if the criteria of LAC 33:VII.727.A.2.i.i.(b) are used.]

| ALTERNATIVE II  |          |    |
|---|----------|----|
| 1. Sum of current closure and post-closure cost estimates (total of all cost estimates shown above)   | \$ _____ |    |
| 2. Current bond rating of most recent issuance of this firm and name of rating service  | _____    |    |
| 3. Date of issuance of bond   | _____    |    |
| 4. Date of maturity of bond   | _____    |    |
| *5. Tangible net worth (If any portion of the closure and/or post-closure cost estimate is included in "total liabilities" on your firm's financial statement, you may add the amount of that portion to this line) | \$ _____ |    |
| *6. Total assets in U.S. (required only if less than 90 percent of the firm's assets are located in the U.S.)   | \$ _____ |    |
|   | YES      | NO |
| 7. Is line 5 at least \$10 million?   | —        | —  |
| 8. Is line 5 at least 6 times line 1?   | —        | —  |
| 9. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 10.  | —        | —  |
| 10. Is line 6 at least 6 times line 1?  | —        | —  |

[Fill in Part C if you are using the financial test to demonstrate assurance for liability coverage, closure, and/or post-closure care.]

**Part C. Liability Coverage, Closure, And/Or Post-Closure**

[Fill in Alternative I if the criteria of LAC 33:VII.727.A.2.i.i.(a) are used.]

| ALTERNATIVE I   |          |
|---|----------|
| 1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above)   | \$ _____ |
| 2. Amount of annual aggregate liability coverage to be demonstrated   | \$ _____ |
| 3. Sum of lines 1 and 2   | \$ _____ |
| *4. Total liabilities (If any portion of your closure and/or post-closure cost estimates is included in your "total liabilities" in your firm's financial statements, you may deduct that portion from this line and add that amount to lines 5 and 6.) | \$ _____ |
| *5. Tangible net worth  | \$ _____ |
|   | \$ _____ |

|   |          |    |
|---|----------|----|
| *6. Net worth   | \$ _____ |    |
| *7. Current assets  | \$ _____ |    |
| *8. Current liabilities   | \$ _____ |    |
| *9. The sum of net income plus depreciation, depletion, and amortization                                | \$ _____ |    |
| *10. Total assets in the U.S. (required only if less than 90 percent of assets are located in the U.S.) | \$ _____ |    |
|   | YES      | NO |
| 11. Is line 5 at least \$10 million?  | —        | —  |
| 12. Is line 5 at least 6 times line 3?  | —        | —  |
| *13. Are at least 90 percent of assets located in the U.S.? If not, complete line 14.                   | —        | —  |
| 14. Is line 10 at least 6 times line 3?   | —        | —  |

[Fill in Alternative II if the criteria of LAC 33:VII.727.A.2.i.i.(b) are used.]

| ALTERNATIVE II   |          |    |
|--|----------|----|
| 1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above)  | \$ _____ |    |
| 2. Amount of annual aggregate liability coverage to be demonstrated  | \$ _____ |    |
| 3. Sum of lines 1 and 2  | \$ _____ |    |
| 4. Current bond rating of most recent issuance of this firm and name of rating service   | _____    |    |
| 5. Date of issuance of bond  | _____    |    |
| 6. Date of maturity of bond  | _____    |    |
| *7. Tangible net worth (If any portion of the closure and/or post-closure cost estimates is included in the "total liabilities" in your firm's financial statements, you may add that portion to this line.) | \$ _____ |    |
| *8. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.)   | \$ _____ |    |
|  | YES      | NO |
| 9. Is line 7 at least \$10 million?  | —        | —  |
| 10. Is line 7 at least 6 times line 3?   | —        | —  |
| *11. Are at least 90 percent of assets located in the U.S.? If not, complete line 12   | —        | —  |
| 12. Is line 8 at least 6 times line 3?   | —        | —  |

(The following is to be completed by all firms providing the financial test)

I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:VII.727.A.2.i.iv.(e).



[Signature of Chief Financial Officer for the Firm]

[Typed Name of Chief Financial Officer]

[Title]

[Date]

\* \* \*

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

vii. After initial submission of the items specified in Subsection A.2.i.ii of this Section, the permit holder, applicant, or parent corporation of the permit holder or applicant must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the close of each succeeding fiscal year. This information must include all three items specified in Subsection A.2.i.ii of this Section.

\* \* \*

[See Prior Text in A.2.i.viii - ix.(d)]

(e). Guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the Office of Management and Finance, Financial Services Division and to the permit holder or applicant that he intends to provide alternative financial assurance as specified in Subsection A.2 of this Section, in the name of the permit holder or applicant, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the permit holder or applicant has done so.

(f). The guarantor agrees to notify the Office of Management and Finance, Financial Services Division by certified mail of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding.

\* \* \*

[See Prior Text in A.2.i.ix.(g) - (h)]

(i). The guarantor agrees to remain bound under the guarantee for as long as the permit holder must comply with the applicable financial assurance requirements of Subsection A.2 of this Section for the above-listed facilities, except that the guarantor may cancel this guarantee by sending notice by certified mail to the Office of Management and Finance, Financial Services Division and the permit holder or applicant. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder or applicant, as evidenced by the return receipts.

\* \* \*

[See Prior Text in A.2.i.ix.(j) - j.iii.(d).(ii)]

(e). A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the Office of Management and Finance, Financial Services Division, that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

\* \* \*

[See Prior Text in A.2.j.iii.(f) - k.i.(a).(ii)]

(b). the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

(c). if a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the administrative authority, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the Office of Management and Finance, Financial Services Division. If the owner or operator fails to provide alternate financial assurance within the 90-day period, then the owner or operator must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text in A.2.k.ii - ii.(b)(ii)]

(c). If a local government guarantor no longer meets the requirements of Subsection A.2.j of this Section, the owner or operator must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the Office of Management and Finance, Financial Services Division. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

\* \* \*

[See Prior Text in A.2.l - m]

i. the administrative authority determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a registered professional engineer to the Office of Management and Finance, Financial Services Division so stating;

\* \* \*

[See Prior Text in A.2.m.ii - B]

1. A permit holder of a Type II landfill required to undertake a corrective action program under LAC 33:VII.709.E must provide to the Office of Management and Finance, Financial Services Division a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under LAC 33:VII.709.E. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period.

a. The permit holder must provide an annual adjustment of the estimate for inflation to the Office of Management and Finance, Financial Services Division until the corrective action program is completed in accordance with LAC 33:VII.709.E.

b. The permit holder must provide an increased corrective action cost estimate to the Office of Management and Finance, Financial Services Division and the amount of financial assurance provided under Subsection B.2 of this Section if changes in the corrective action program or

landfill conditions increase the maximum costs of corrective action.

c. Subject to approval of the administrative authority, the permit holder may provide a reduced corrective action cost estimate to the Office of Management and Finance, Financial Services Division and the amount of financial assurance provided under Subsection B.2 of this Section if the cost estimate exceeds the maximum remaining costs of corrective action. The permit holder must provide the Office of Management and Finance, Financial Services Division justification for the reduction of the corrective action cost estimate and the revised amount of financial assurance.

\*\*\*

[See Prior Text in B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1316 (October 1993), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2529 (November 2000).

**Chapter 9. Enforcement**

**§909. Closing Unauthorized and Promiscuous Dumps**

Unauthorized and promiscuous dumps shall be closed through the following procedure.

\*\*\*

[See Prior Text in A - C.2.e]

f. record in the parish mortgage and conveyance records a document describing the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name of the person with knowledge of the contents of the facility, as well as providing the chemical levels remaining, if present. A true copy of the document, filed and certified by the parish clerk of court, shall be sent to the Office of Environmental Compliance; and

\*\*\*

[See Prior Text in C.2.g - E.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000).

**Chapter 11. Beneficial-Use Facilities**

**§1105. Part I Application Form for Beneficial-Use Facilities**

The applicant shall complete a beneficial-use application Part I Form (see Appendix G of this Chapter). The following notes refer to the items on the form requiring that information:

\*\*\*

[See Prior Text in A - O]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the

Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000).

**§1109. Standards Governing Beneficial-Use Facilities**

\*\*\*

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

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste beneficially used, (expressed in wet-weight tons and dry-weight tons per year), during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual reporting period shall be submitted to the Office of Environmental Services, Environmental Assistance Division. A form for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at www.deq.state.la.us. The following standards apply to reports:

\*\*\*

[See Prior Text in F.1.a.ii - iv]

v. Facilities which receive industrial solid waste shall utilize, in their annual report, the seven-digit industrial waste number that has been assigned by the department to the industrial solid waste generator.

vi. Reports shall be submitted as provided in Subsection F.1.b.ii.(f) - (h) of this Section.

\*\*\*

[See Prior Text in F.1.b - b.ii.(e)]

(f). copy of the semiannually soil waste mixtures tests and analyses of the results, with conclusions, submitted semi annually to the Office of Environmental Assessment, Environmental Technology Division, or more frequently if deemed necessary by the administrative authority.

\*\*\*

[See Prior Text in F.1.b.ii.(g)]

(h). Annual reports of the analysis of all tests results on the soils; land-use, and crop information; calculated amounts of waste applied per acre; total amounts of nitrogen applied per acre; and cumulative metals loading per acre shall be submitted to the Office of Environmental Assessment, Environmental Technology Division.

\*\*\*

[See Prior Text in F.2 - H]

1. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intention to close or abandon any individual units within a facility and shall provide the following information:

\*\*\*

[See Prior Text in H.1.a - 2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000).

**Appendix A**

Example of a Public Notice to be Placed in the Local Newspaper for Intention to Submit a Permit Application to the Office of Environmental Services, Permits Division for Existing/Proposed Solid Waste Facilities

**Public Notice  
Of  
Intent To Submit Permit Application  
(Name Of Applicant/Facility)**

**Facility (Location), Parish (Location), Louisiana**

Notice is hereby given that (name of applicant; mailing address) does intend to submit to the Department of Environmental Quality, Office of Environmental Services, Permits Division, an application for a permit to operate a (type of solid waste facility) in (parish name), Range, Township, Section, which is approximately (identify the physical location of the site by direction and distance from the nearest town).

Comments concerning the facility may be filed with the secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality  
Office of Environmental Services  
Permits Division  
Post Office Box 82135  
Baton Rouge, Louisiana 70884-2135

**Appendix F  
Document to be Filed in the Parish Records Upon  
Final**

**Closure of a Solid Waste Disposal Facility**

(Name of permit holder) hereby notifies the public that the following described property was used for the disposal of solid waste. This site was closed on (date facility was closed) in accordance with the Louisiana Administrative Code, Title 33, Part VII. Inquiries regarding the contents of (the facility) may be directed to (name of person with knowledge of the contents of the facility) at (address of person with knowledge of the content of the facility).

**Property Description**

(Provide the specific description of the location of the facility)

Signature of Person Filing Parish Record

Typed Name and Title of Person Filing Parish Record

Date

(A true copy of the document must be certified by the parish clerk of court.)

**Chapter 103. Recycling and Waste Reduction Rules**

**§10307. Development of Local Plan**

\* \* \*

[See Prior Text in A – A.2.a]

b. an annual progress report must be submitted to the Office of Environmental Services, Environmental Assistance Division no later than December 31st of each year after submittal and approval.

\* \* \*

[See Prior Text in A.3 – C.6]

NOTE: The cost information should be made available to residents within the parish or municipal service area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:35 (January 1992) repromulgated LR 18:164 (February 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000).

**Subpart 3. Louisiana Resource Recovery and  
Development Authority**

**Chapter 151. General Provisions**

**§15103. Legislative Authority and Governance**

\* \* \*

[See Prior Text in A]

B. The authority is subject to the provisions of the act and, as to rulemaking, the Administrative Procedure Act (R.S. 49:950 et seq.). In addition, the actions and activities performed or carried out by the authority and its contractors in accordance with the act must be in conformity with applicable law, policies and rules of the state, in accordance with the Louisiana Solid Waste Management Plan, and in accordance with all applicable statutes, permitting procedures and regulations of the department.

C. The authority is a function and responsibility of the Department of Environmental Quality and operates as a functional division within the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000).

**§15109. Definition**

All terms used in these rules shall have their usual meaning unless the context otherwise requires or unless specifically defined in the act or in substantive regulations which have been promulgated by the authority or the department under Chapter 11 of Title 30 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000).

**§15111. Filings with the Authority**

Whenever these rules or the act permit or require the filing of any notice, petition, document, or other correspondence with the Louisiana Resource Recovery and Development Authority, such filing shall be addressed and mailed to Louisiana Resource Recovery and Development Authority, Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000).

**§15117. Public Participation**

A. The authority shall secure maximum input from interested groups and the public in the performance of its functions and shall provide information concerning its activities and solicit public participation by providing at least the following services:

\* \* \*

[See Prior Text in A.1 - 2]

3. entry of a summary of authority actions in a publication or by such other means as may be determined by the authority to be necessary or desirable; and

\* \* \*

[See Prior Text in A.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000).

**Part IX. Water Quality Regulations**

**Chapter 1. General Provisions**

**§101. Scope and Purpose**

These regulations establish requirements and procedures for permitting, enforcement, monitoring, and surveillance, and spill control activities of the Department of Environmental Quality.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000).

**§103. Authority**

These regulations are promulgated under authority of the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) by order of the secretary of the Department of Environmental Quality.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000).

**§107. Definitions**

\* \* \*

[See Prior Text]

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

\* \* \*

[See Prior Text]

*Assistant Secretary* – the assistant secretary of the appropriate office of the Department of Environmental Quality.

\* \* \*

[See Prior Text]

*DEQ* – the Department of Environmental Quality.

\* \* \*

[See Prior Text]

*Dissolved Oxygen*—the amount of oxygen dissolved in water, commonly expressed as a concentration in terms of milligrams per liter, mg/L.

*Drilling Fluids*—any fluid sent down the hole, including drilling muds and any specialty products, from the time a well is begun until final cessation of drilling in that hole.

\* \* \*

[See Prior Text]

*Hazardous Substance* – any hazardous material, hazardous waste, or reusable material which has corrosive, ignitable, infectious, or reactive characteristics as defined by department regulations.

\* \* \*

[See Prior Text]

*Migrating*—any movement by leaching, spilling, discharging, or any other uncontained or uncontrolled manner except as permitted by law or other regulations of the department.

\* \* \*

[See Prior Text]

*Nonpoint Source*—a diffuse source of water pollution that does not discharge through a point source but instead flows freely across exposed natural or man-made surfaces such as agricultural or urban runoff and runoff from construction, mining, or silvicultural activities.

*Operator*—the person or legal entity responsible for the operation and/or maintenance of a facility with a discharge covered by these regulations.

\* \* \*

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000).

**Chapter 3. Permits**

**§301. Scope**

\* \* \*

[See Prior Text in A]

B. Without first obtaining a LWDPDS permit from the department (with the exceptions noted in LAC 33:IX.301.D and F below), no person shall:

\* \* \*

[See Prior Text in B.1-C.7]

D. A person discharging or proposing to discharge the following types of wastes or wastewaters shall not be required to apply for a permit from the department pursuant to this regulation:

\* \* \*

[See Prior Text in D.1]

2. except as otherwise provided in this Chapter, storm sewer systems including canals and pumping stations operated and maintained by local, state, or federal agencies solely for the purposes of conveyance of storm water runoff, unless a particular storm water discharge has been identified by the department as a significant contributor to pollution; and the operator of such discharge has been notified of such determination. Such storm sewer systems are considered to be waters of the state and any facility or activity discharging into storm sewer systems shall be required to have permits according to the requirements of these regulations;

3. a discharge directed solely into a publicly or privately owned treatment works provided the owner of such treatment works has a valid discharge permit and the department has determined that the waste may be adequately treated by the treatment works;

\* \* \*

[See Prior Text in D.4-E.3]

4. after the state receives delegation of the federal NPDES program, a discharge to which the regional administrator of EPA objects in writing to the department;

\*\*\*

[See Prior Text in E.5-7]

F. Any unpermitted facility or activity that exists or is under construction on the effective date of these regulations and falls under the jurisdiction of LAC 33:IX.301.B shall submit a completed application to the Office of Environmental Services, Permits Division within 180 days of the effective date. Upon receipt of the application by the department within the prescribed 180 days, the facility shall be deemed in compliance with LAC 33:IX.301.B except where the administrative authority has initiated action against the facility following an investigation or complaint. All facilities or activities which meet the requirements outlined in LAC 33:IX.301.J.4 or LA C 33:IX.301.K.4 shall be exempt from the requirements of this Paragraph.

\*\*\*

[See Prior Text In G-J.2.b]

c. *Concentrated Animal Feeding Operation*—an animal feeding operation which meets the criteria in Appendix B or which the department designates under Paragraph 3 of this Section.

\*\*\*

[See Prior Text In J.3]

a. The department may designate any animal feeding operation as a concentrated animal feeding operation upon determining that it is a significant contributor of pollution to the waters of the state. In making this designation the department shall consider the following factors:

\*\*\*

[See Prior Text In J.3.a.i-b.ii]

4. A permit application shall not be required from a concentrated animal feeding operation until the department has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. However, all concentrated animal feeding operations which meet the criteria in Appendix B shall so notify the Office of Environmental Services, Permits Division within 180 days of the effective date of these regulations.

\*\*\*

[See Prior Text in K-K.1]

## 2. Definition

*Concentrated Aquatic Animal Production Facility*—a hatchery, fish farm, or other facility which meets the criteria in Appendix C of these regulations, or which the department designates under LAC 33:IX.301.K.3 of this Section.

\*\*\*

[See Prior Text in K.3]

a. The department may designate as a concentrated aquatic animal production facility any warm or cold water aquatic animal production facility upon determining that it is a significant contributor of pollution to waters of the state. In making this designation the department shall consider the following factors:

\*\*\*

[See Prior Text in K.3.a.i-iv]

4. A permit application shall not be required from a concentrated aquatic animal production facility until the

department has conducted an on-site inspection of the facility and has determined that the facility should and could be regulated under the permit program. However, all concentrated aquatic animal production facilities which meet the criteria in Appendix C shall so notify the Office of Environmental Services, Permits Division within 180 days of the effective date of these regulations.

\*\*\*

[See Prior Text In L-N]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000).

### §303. Permit Application Information

A. Any person desiring to obtain a LWDPDS permit from the department shall make application on forms prescribed by the department and shall submit such information as required in LAC 33:IX.303.E below. Such person shall submit any reasonable additional information deemed necessary by the department to complete or correct deficiencies in the application before processing of the application will be completed. No application shall be deemed complete and ready for disposition until all reasonable additional information has been supplied. A site visit by department personnel shall be required if determined to be necessary by the department. The department shall not make a final determination on any application until such time as the applicant has supplied the requested information and otherwise corrected any deficiencies.

B. All applications and supporting documents shall be filed in triplicate with the department.

\*\*\*

[See Prior Text In C-D]

E. All applicants for a LWDPDS permit shall provide the following information to the Office of Environmental Services, Permits Division using the application form provided by the department, unless the department determines that such information is not required for applicant's facility or activity:

\*\*\*

[See Prior Text In E.1-7]

8. A topographic map (or other map if a topographic map is unavailable) drawn to a reasonable scale and extending not less than one mile beyond the property boundaries of the site, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and when deemed necessary by the department, those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known by the applicant to be in the map area;

9. for each discharge outlet, a) the latitude and longitude to the nearest second [or if this information is unavailable to at least the nearest 15 seconds], b) the Section, Township, and Range information or other means, acceptable to the department, to locate each discharge outlet; and, c) the name of the immediate receiving water body and river mile point where applicable. When the discharge is to

an unnamed receiving water, the first named water, and the approximate distance thereto, shall be indicated;

\* \* \*

[See Prior Text In E.10-14]

15. An applicant is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. Analyses should be made using methods approved by the department.

\* \* \*

[See Prior Text In E.15.a-18]

19. A report of the history of water violations and enforcement actions for that facility (including, but not limited to, a summary of permit excursions for the last two years, administrative orders, compliance orders, notices of violation, cease and desist orders and any other enforcement actions either already resolved or still pending). The department may choose, at its discretion, to require a more in-depth report of violations and compliance for the applicant himself/herself covering any law, permit, or order concerning pollution.

\* \* \*

[See Prior Text In E.20-G]

1. The department may take enforcement action as prescribed by state law or regulation against any person who:

\* \* \*

[See Prior Text In G.1.a]

b. knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with the department pursuant to the state law or the rules and regulations pursuant to state law. Violations of this provision can subject the violator to the penalties provided for in the act for perjury or false statements.

2. The department may take enforcement action as prescribed by state law or regulation against any person who:

a. fails to correct deficiencies in the application; or upon becoming aware that any relevant facts or information were omitted in a permit application or in any report to the department, fails to promptly submit such facts or information;

b. fails to submit when requested in writing any additional information deemed necessary by the department;

\* \* \*

[See Prior Text In G.2.c]

3. Exception. In cases where the application is withdrawn by the applicant, a written notification must be provided to the Office of Environmental Services, Permits Division stating that no discharge or other activity that would require a permit under these regulations is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under LAC 33:IX.303.G.2.

\* \* \*

[See Prior Text In H- H.2.b]

c. the written authorization is submitted to the Office of Environmental Services, Permits Division.

3. If an authorization under LAC 33:IX.303.H of this Section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of LAC 33:IX.303.H.2 of this Section shall be submitted to the Office of Environmental Services, Permits Division prior to or together with any reports, information, or applications to be signed by an authorized representative.

\* \* \*

[See Prior Text In H.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2539 (November 2000).

### §307. Modification, Revocation and Reissuance

A. Any permittee shall report to the Office of Environmental Services, Permits Division any facility changes which result in increases in the quantity of pollutants discharged or decreases in the quality of the discharges. The permittee shall also report any facility changes which result in decreases in the quantity of pollutants discharged or increases in the quality of discharges of pollutants where such change is expected to last in excess of 180 days. Such report shall be by submission of a modified permit application or, if the discharge does not violate the effluent limitations specified in the permit, by submission of notice to the Office of Environmental Services, Permits Division of the nature of such facility changes. The permittee shall not commence any facility expansion, production increases, or process modifications which result in new or increased discharges of pollutants without receiving a modified LWDPs permit or written authorization from the Office of Environmental Services, Permits Division. The provisions of this Paragraph shall not apply to facility changes that were considered during the permitting process.

B. When the Office of Environmental Services, Permits Division receives any new information or receives a request for modification or revocation, such permit may, after an opportunity for hearing, be modified, or alternatively revoked and reissued, in whole or in part, for cause, including but not limited to:

\* \* \*

[See Prior Text In B.1-3]

4. the department has received new information; permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance;

\* \* \*

[See Prior Text In B.5-D.3]

4. allow for a change in ownership or operational control of a facility where the Office of Environmental Services, Permits Division determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the department (see LAC 33:IX.307.B.8 and 311.D);

\* \* \*

[See Prior Text In D.5-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2540 (November 2000).

**§309. Renewal and Termination**

A. At least 180 days prior to the expiration date of a LWDPS permit issued pursuant to state law and this regulation, a permittee who wishes to continue to operate under such permit shall submit an application for renewal to the Office of Environmental Services, Permits Division.

B. After receipt of an application for renewal of a LWDPS permit by a permittee, the department shall review the application and before issuing a draft permit shall be assured that:

\* \* \*

[See Prior Text In B.1]

2. the department has up-to-date information on the permittee's production levels, waste treatment practices and the nature, contents and frequency of the permittee's discharge; and

\* \* \*

[See Prior Text In B.3]

C. If the applicant submits a timely and complete application pursuant to LAC 33:IX.309.A, and the department, through no fault of the applicant, fails to act on the application on or before the expiration date of the existing permit, the permittee shall continue to operate the facility under the terms and conditions of the expired permit which shall remain in effect until final action on the application is taken by the department. If the application is denied or the terms of the new permit contested, the expired permit shall remain in effect until the appeal process has been completed and a final decision rendered unless the secretary finds that an emergency exists which requires that immediate action be taken and in such case any appeal or request for review shall not suspend the implementation of the action ordered. Permits continued under this Section remain fully effective and enforceable.

\* \* \*

[See Prior Text In D-H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22: 344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2541 (November 2000).

**§311. Standard Permit Conditions**

In addition to the following standard conditions required in all permits, the department shall establish additional requirements as deemed necessary on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the act, these regulations, and constitutional and statutory mandates.

\* \* \*

[See Prior Text In A-I]

1. The permittee shall allow an authorized representative of the department, upon proper presentation of credentials, to:

\* \* \*

[See Prior Text In I.1.a]

b. have access to and copy any records that the department or its authorized representative determines are necessary for the enforcement of these regulations. For records maintained in either a central or private office that is open only during normal office hours and is closed at the time of inspection, the records shall be made available as soon as the office is open, but in no case later than the close of business the next working day;

c. take photographs;

\* \* \*

[See Prior Text In I.1.d-3]

4. Upon written request copies of field notes, drawings, etc. taken by department personnel during an inspection shall be provided to the permittee after the final inspection report has been completed.

\* \* \*

[See Prior Text In J]

1. All sampling and analyses shall be performed in accordance with the analytical test procedures approved by the Office of Environmental Services, Permits Division. Where no approved sampling or test procedure is available, the permittee must:

a. provide the department with a detailed description of the procedure and literature references in the application; and

b. indicate a suitable analytical test procedure approved by the department.

\* \* \*

[See Prior Text In J.2-2.c]

3. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The permittee shall retain records of all monitoring information, including all calibration and maintenance records, all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit, for a period of at least three years from the date of the sample measurement or report. This period may be extended by request of the department at any time.

\* \* \*

[See Prior Text In J.4-7]

8. Those permittees that choose to employ off-site (contractual or in-house) laboratories to perform required analyses shall not be required to maintain quality assurance or laboratory instrument calibration and maintenance records at their facility but shall provide the names and addresses of all contractual laboratories in their monitoring reports to the state. These records must, however, be maintained by the off-site laboratory and must be available for inspection without advance notice during normal working hours. Upon request, a permittee may be required to supply this information to the department.

\* \* \*

[See Prior Text In J.9-10]

11. If the permittee monitors any pollutant at a designated outfall more frequently than required by the permit, using test procedures approved by the department or

as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

\* \* \*

[See Prior Text In J.12]

13. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the department in the permit.

14. The permittee shall report any noncompliance as required by R.S. 30:2025(J), R.S. 30:2076(D) or departmental regulations promulgated under these statutes. In addition, all maximum limitation excursions shall be reported in writing to the Office of Environmental Compliance, Enforcement Division within five days of the time the permittee becomes aware of the excursions.

\* \* \*

[See Prior Text In J.15- K]

1. Bypass is permitted only under the following conditions, and the department may take enforcement action against a permittee for bypass, unless:

\* \* \*

[See Prior Text In K.1.a-c]

i. if the permittee knows in advance of the need for a bypass, it shall submit to the Office of Environmental Services, Permits Division prior written notice, at least 10 days before the date of the bypass if possible;

ii. if the permittee does not know in advance of the need for a bypass, notice shall be submitted to the Office of Environmental Services, Permits Division within 24 hours after the initiation of the bypass unless an earlier notice is required in R.S. 30:2025(J).

2. The department may approve an anticipated bypass, after considering its adverse effects, if it is determined by the department that it will meet the applicable conditions listed in LAC 33:IX.311.K.1.

\* \* \*

[See Prior Text In K.3]

4. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if the bypass is required for essential maintenance to assure efficient operation. Any bypass that meets the requirements of this Paragraph and is expected to or does continue for longer than seven days shall be reported in writing to the Office of Environmental Services, Permits Division within 10 working days of initiation of the bypass. These bypasses are not subject to the provisions of LAC 33:IX.311.K.1 and 2.

\* \* \*

[See Prior Text In L-L.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2541 (November 2000).

**§313. Fact Sheets**

A. The fact sheet shall briefly set forth the principal facts considered in preparing the draft permit. The department shall send this fact sheet to the applicant and, on request, to any other interested party. A fact sheet shall be prepared for every:

\* \* \*

[See Prior Text In A.1-2]

3. draft permit which the department determines is the subject of widespread public interest or raises major issues.

\* \* \*

[See Prior Text In B-B.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2542 (November 2000).

**§315. Public Information**

A. A public notice shall be issued for every draft permit generated by the department, and it shall contain:

\* \* \*

[See Prior Text In A.1-4]

5. a concise description of the procedures for the formulation of final determinations including information on the comment period prescribed in LAC 33:IX.315.D or other means by which interested persons may comment on the tentative determinations; and

6. the address and telephone number of the office where more information on the application may be obtained or where copies of the draft permit and fact sheet (where applicable) may be inspected or copied subject to the rules in LAC 33:IX.315.F.

B. The department shall send a copy of the public notice to all persons on a mailing list developed by the department and to any person who requests a copy of the public notice for that particular action. Distribution to the mailing list may be accomplished through mailing of a departmental bulletin.

C. The department shall send the public notice to the applicant who shall be responsible for publication of the notice once in the official state journal and once in any other local newspapers specified by the department. Upon publication, the applicant shall send the Office of Environmental Services, Permits Division a copy of the certificate of publication. The costs of publication shall be borne by the applicant.

D. The department shall provide a period of not less than 30 days nor more than 60 days following the date of the public notice during which time interested persons may submit their written views on the tentative determination with respect to the permit application and may request a public hearing. All written comments submitted during the period for comment shall be retained by the department and considered in the formulation of the final determinations for the permit application.

\* \* \*

[See Prior Text In E]

1. At the time that any final permit is issued, the department shall also issue a response to comments which shall be delivered to any person who commented and shall be available to the public. This response shall:

\* \* \*

[See Prior Text In E.1.a-F.1]

2. under the observation and supervision of the staff or a departmental contractor;

\* \* \*

[See Prior Text In F.3]



4. no recorded information shall be removed from the department, except as provided herein.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2542 (November 2000).

### §317. Special Permits/Programs

#### A. General Permits

1. The department may issue general permits for certain categories of minor facilities or activities where individual permits are not necessary in order to adequately protect the environment or the public health. Before a general permit is issued the following conditions must be met:

\* \* \*

[See Prior Text In A.1.a-3]

4. In order for the department to maintain an updated list, a facility or activity that is covered by a general permit may be required to register with the department in accordance with the requirements of the general permit.

\* \* \*

[See Prior Text In A.5-6]

7. The department may revoke the authorization to discharge in accordance with a general permit as it applies to any person and require such person to apply for and obtain an individual permit if:

\* \* \*

[See Prior Text In A.7.a-B]

1. To promote the development of water pollution control technology for innovative processes or techniques, the department may issue experimental permits that do not contain provisions generally found in permits provided that the applicant submits clear, cogent, and convincing proof that the process or technique has a reasonable and substantial chance for success.

\* \* \*

[See Prior Text In B.2-C]

1. The department may issue a temporary or interim permit to a person to allow discharge of pollutants where:

\* \* \*

[See Prior Text In C.1.a-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2543 (November 2000).

## Chapter 5. Enforcement

### §501. General

\* \* \*

[See Prior Text In A-D]

E. Upon delegation of the NPDES program, the department shall notify the regional administrator of NPDES permit violations and of the means by which the department proposes to correct or require the correction of such violations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2543 (November 2000).

### §503. Investigations

A. Any person may file an oral or written complaint concerning an alleged violation or environmental problem with the Office of Environmental Compliance by telephone at (225) 763-3908, during office hours; (225) 342-1234, after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us. The complainant may remain anonymous, if desired, and such a request for anonymity shall not be considered as a prejudicial factor in evaluation of the appropriate response to the complaint.

\* \* \*

[See Prior Text In B]

1. when the department has reason to believe, due to prior investigation or personal knowledge by the staff of the situation, that the complaint is spurious;

2. when the department has previously investigated the situation described in the complaint and, in the judgement of the staff, additional investigation is unwarranted; or

\* \* \*

[See Prior Text In B.3-C]

D. All facts concerning any violation discovered during an investigation shall be fully documented in a written report prepared by the investigator. A copy of any such report shall be maintained in the department's files under the name of the alleged violator and shall be made available to the permittee on request.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2543 (November 2000).

### §507. Civil and Criminal Enforcement

A. The administrative authority may file any civil action necessary in an appropriate court to enforce the provisions of the act and these regulations including, but not limited to, assessment or collection of penalties, recovery of damages, and enforcement of an order, permit or license. In such suits the administrative authority shall be represented by the attorney general and the department shall immediately compile and transmit to the attorney general all information and reports in the department records necessary for evaluation and preparation of suit.

B. At any time the administrative authority determines that a criminal violation of the act may have occurred, it shall notify the district attorney for the appropriate jurisdiction. The department shall thereafter provide the district attorney with all factual and technical information necessary for evaluation of the violations. Failure of the district attorney to initiate prosecution after notification by the administrative authority shall not preclude appropriate enforcement action by the administrative authority.

C. Upon institution of any civil suit by the administrative authority through the attorney general or upon institution by any district attorney of any criminal proceeding for a violation under the act or rules, the department shall fully

cooperate in, and provide appropriate technical and legal assistance for the prosecution of such actions.

\* \* \*

[See Prior Text In D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2543 (November 2000).

## Chapter 7. Effluent Standards

### §708. Exploration for and Production of Oil and Natural Gas

\* \* \*

[See Prior Text in A-C.1.b.iii]

iv. in the event of an unauthorized discharge of oil, produced water, or any other product or waste material, a remedial response must be immediately initiated and the Office of Environmental Compliance, Surveillance Division shall be notified in accordance with LAC 33:I.3901 et seq. The remedial response shall include immediate removal of discharged materials and, to the extent practicable, decontamination of any water, soil, sediment, or vegetation adversely impacted by the unauthorized discharge. If immediate cleanup is not considered to be an appropriate remedial measure, the responsible party shall notify the Office of Environmental Compliance, Surveillance Division of the alternative remedial plan and shall promptly implement said plan upon approval by the department. Submission of an alternate plan shall in no way relieve the responsible party of its duty to contain and mitigate the effects of the discharge;

v. Use of detergents, emulsifiers, or dispersants to clean up spilled oil is prohibited unless the use has been specifically approved by the department or is necessary to maintain a safe work environment (i.e., minimization of the potential for personnel injury due to slipping hazards). In all such cases, initial cleanup shall be done by physical removal. Detergents, emulsifiers, or dispersants shall not be employed to sink, obscure, or camouflage spilled materials or to in any way hinder observation of a spill event.

\* \* \*

[See Prior Text In C.1.b.vi-2.b.viii]

ix. There shall be no discharge of produced water within the boundaries of any state or federal wildlife management area, refuge, park, or scenic stream or into any water body determined by the department to be of special ecological significance.

\* \* \*

[See Prior Text In C.2.b.x- c.iii]

iv. Produced water shall not be discharged within the boundaries of any state or federal wildlife management area, refuge, or park or into any water body determined by the department to be of special ecological significance.

\* \* \*

[See Prior Text In C.2.c.v]

d. Radioactivity and Toxicity Analyses. A radioactivity measurement, acute toxicity test, and chronic toxicity test shall be conducted using test methods approved by the administrative authority on representative samples of all existing produced water discharges that flow to the

surface waters of the state. The results of the radioactivity analysis and the average daily discharge rate (barrels per day) shall be submitted to the department by August 20, 1989. The results of the toxicity analyses and the average daily discharge rate (barrels per day) shall be submitted to the department by February 20, 1990.

\* \* \*

[See Prior Text In C.2.e-3.c]

d. Drilling fluids or drill cuttings shall not be discharged within the boundaries of state or federal wildlife management areas, refuges, parks, or scenic streams or into any water body determined by the department to be of special ecological significance.

e. The discharge of drill cuttings or bulk drilling fluids (if allowed) must not occur within 1,300 feet (via water) of an active oyster lease, live natural oyster or other molluscan reef, designated oyster seed bed, or sea grass bed. No discharge shall be made in such a manner as to allow deposition of drill cuttings or drilling fluids in or upon any active oyster lease, live natural reef, or seed bed. If the discharge is to take place within one mile of an area containing oyster leases, a lease map must be forwarded to the Office of Environmental Services, Permits Division showing the location of the discharge and surrounding leases. If the applicant considers any oyster lease, live natural oyster or other molluscan reef, or designated seed bed within 1,300 feet of a discharge of drilling fluids or drill cuttings to be inactive, written documentation and evidence must be submitted to the Office of Environmental Services, Permits Division for a determination to be made as to the acceptability of such a discharge.

\* \* \*

[See Prior Text In C.3.f-4.a]

b. The discharge of stormwater runoff generated in conjunction with exploration and production activities conducted in any region not designated as upland must be reflected in a valid LWDPs permit unless appropriate prior dispensation has been received from the department.

\* \* \*

[See Prior Text In C.4.c-5.b.ii]

c. Each discharge will require specific prior approval from a representative of the Office of Environmental Services, Permits Division. An analysis of the treated water shall be submitted to and approved by a representative of the Office of Environmental Services, Permits Division prior to discharge.

\* \* \*

[See Prior Text In C.5.c.i-iii]

d. Dilution shall not be used to comply with any of the discharge limitations unless specific written authorization from the Office of Environmental Services, Permits Division has been obtained. The only parameter for which dilution will be considered is chloride. Formal written requests for approval to allow dilution of chloride levels should be addressed to the Office of Environmental Services, Permits Division. Consideration of written requests to allow dilution of chloride levels in drilling site reserve pits, ring levee borrow ditches, shale barges, drilling fluid dewatering systems, and abandoned or inactive oil field production pits will be made on a case-by-case basis and only if the following conditions can be met:

\* \* \*

[See Prior Text In C.5.d.i-iv]

v. the Office of Environmental Services, Permits Division representative concludes that no adverse environmental effects will result from the discharge of pretreated and diluted wastewater.

e. An on-site inspection by Office of Environmental Services, Permits Division personnel may be required prior to discharge approval.

f. Additional monitoring, including daily and 24-hour composite sampling, may be required for any specific discharge event or site at the discretion of the department.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:261 (April 1989), amended LR 17:263 (March 1991), LR 23:860 (July 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2544 (November 2000).

**§709. Miscellaneous Small Dischargers**

\*\*\*

[See Prior Text In A-B.4]

5. When a discharge, or group of discharges, results in a violation of water quality standards, the department reserves the right to impose more stringent requirements.

\*\*\*

[See Prior Text In C-H.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2545 (November 2000).

**Chapter 9. Spill Prevention and Control**

**§905. Requirements for Preparation and Implementation of Plans**

A. Operators of facilities in operation or under construction on or before the effective date of these regulations that meet the criteria outlined in LAC 33:IX.903 shall prepare a plan within 180 days of the effective date of these regulations. The plan shall be fully implemented as soon as possible after preparation, but not later than one year after it was prepared. The Office of Environmental Services, Permits Division may, upon written request, grant additional implementation time to existing facilities in those cases where substantial upgrading or modification may be required in order to comply with this Chapter.

\*\*\*

[See Prior Text In B]

C. Operators of facilities for which a plan is required shall keep a complete copy of the plan at the facility if the facility is normally attended at least eight hours per day, or at the nearest office within the state if the facility is not so attended. The plan shall be made available to authorized representatives of the department for on-site review during normal working hours. Plans need not be submitted to the department unless a request to do so has been made by an authorized representative of the department.

D. Amendment of Plans by the Department. After review of the plan by the department and/or upon receiving notice of a spill pursuant to the notification requirements of R.S. 30:2025(J), the department may require the operator of the

facility to amend the plan if it finds that the plan does not meet the requirements of this Chapter.

\*\*\*

[See Prior Text In E-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2545 (November 2000).

**§907. Guidelines for the Preparation and Implementation of a Plan**

A. The plan shall be prepared in accordance with sound engineering practices. If the plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, these items shall be discussed, and the details of installation and operational start-up shall be explained individually. The department recognizes that the designs of major facilities differ and that in certain cases the appropriate methods for spill prevention and control must be site-specific. While the guidelines presented herein suggest the use of specific methodologies for this purpose, alternate methods may be employed if it can be demonstrated to the satisfaction of the department that the alternate methods will adequately prevent and control spills, and that they are reasonably equivalent to the suggested methods. A complete plan shall follow the sequence outlined in LAC 33:IX.903.B-E.

\*\*\*

[See Prior Text In B-J]

K. Verification by the Department. Facilities at which this Chapter applies may be inspected by an authorized representative of the department to assure implementation and adequacy of the plan. Such inspections shall be covered by the conditions provided for in LAC 33:IX.311.I of these regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2545 (November 2000).

**Chapter 11. Surface Water Quality Standards**

**§1105. Definitions**

\*\*\*

[See Prior Text]

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

\*\*\*

[See Prior Text]

*Nonpoint Source*—a diffuse source of water pollution that does not discharge through a point source but instead flows freely across exposed natural or man-made surfaces such as agricultural or urban runoff and runoff from construction, mining, or silviculture activities.

*Person*—any individual, municipality, public or private corporation, partnership, firm, the United States Government and any agent or subdivision thereof, or any other juridical person which shall include, but not limited to, trusts, joint stock companies, associations, the State of Louisiana,

political subdivisions of the state, commissions, and interstate bodies.

\* \* \*

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 26:2545 (November 2000).

**§1109. Policy**

Water quality standards policies concerned with the protection and enhancement of water quality in the state are discussed in this Section. Policy statements on antidegradation, water use, water body exception categories, compliance schedules and variances, short-term activity authorization, errors, severability, revisions to standards, and sample collection and analytical procedures are described.

\* \* \*

[See Prior Text in A-A.1]

2. The administrative authority will not approve any wastewater discharge or certify any activity for federal permit that would impair water quality or use of state waters. Waste discharges must comply with applicable state and federal laws for the attainment of water quality goals. Any new, existing, or expanded point source or nonpoint source discharging into state waters, including any land clearing which is the subject of a federal permit application, will be required to provide the necessary level of waste treatment to protect state waters as determined by the administrative authority. Further, the highest statutory and regulatory requirements shall be achieved for all existing point sources and best management practices (BMPs) for nonpoint sources. Additionally, no degradation shall be allowed in high-quality waters that constitute outstanding natural resources, such as waters in the Louisiana Natural and Scenic Rivers System or waters of ecological significance as designated by the department. Those water bodies presently designated as outstanding natural resources are listed in LAC 33:IX.1123.

\* \* \*

[See Prior Text in A.3-B.3.f]

C. Water Body Exception Categories. Poor water quality will be viewed as a problem to be solved, not as an impediment to categorizing water bodies or assigning designated uses. However, some water bodies, because of natural water quality or physical limitations, may qualify for an excepted use classification. This classification will be made on a case-by-case basis. Whenever data indicate that an excepted classification is warranted, the department will recommend the exception to the state administrative authority for approval. In all cases where exceptions are proposed, the concurrence of the regional administrator of the EPA must be obtained and the opportunity for public participation must be provided during the exceptions review process. In most cases, the proposed exception will be considered during the public participation process along with a permit application or management plan update. Exceptions are allowed for the following three categories of water bodies: certain intermittent streams, man-made water bodies, and naturally dystrophic waters. Applications for excepted

water use classifications may be considered for certain water bodies which satisfy one of the following descriptions.

\* \* \*

[See Prior Text in C.1-D]

1. Upon permit issuance, modification, or renewal, compliance schedules may be incorporated into a permit to allow a permittee adequate time to make treatment facility modifications necessary to comply with water quality-based permit limitations determined to be necessary to implement new or revised water quality standards. Compliance shall be achieved at the earliest practicable time. The department will establish interim conditions which may consist of, but are not limited to, compliance schedules, monitoring requirements, temporary limits, and milestone dates so as to measure progress toward final project completion (e.g., design completion, construction start, construction completion, date of compliance).

2. A variance from statewide criteria may be allowed in certain cases where the appropriateness of the criteria is questionable. The variance provides a period of time during which issues concerning the appropriateness of the criteria may be resolved. A variance shall be valid for no more than three years. Any person may request that the department grant a variance. A variance may be granted only after appropriate public participation and EPA review and approval. Variances from criteria will be allowed for anticipated nonattainment of water quality standards due to one or more of the reasons listed in LAC 33:IX.1109.B.3. Other reasons for approval of a variance may be considered on a case-by-case basis.

\* \* \*

[See Prior Text in E-H.2]

I. Sample Collection and Analytical Procedures. Procedures for collecting and analyzing samples to be used to determine whether the standards have been attained shall be subject to the following requirements as well as those specified in the department's Quality Assurance (QA) Plan for water monitoring and analysis.

\* \* \*

[See Prior Text in I.1-2]

3. Collection and preservation of samples will be in accordance with accepted practices as specified in the department's QA Plan.

\* \* \*

[See Prior Text in I.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:966 (October 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2546 (November 2000).

**§1111. Water Use Designations**

There are seven water uses designated for surface waters in Louisiana: primary contact recreation, secondary contact recreation, fish and wildlife propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters. Designated uses assigned to each subsegment apply to all water bodies (listed water body and tributaries/distributaries of the listed water body) contained in that subsegment unless unique chemical, physical, and/or biological conditions preclude such uses. However, the

designated uses of drinking water supply, oyster propagation, and/or outstanding natural resource waters apply only to the water bodies specifically named in Table 3 (LAC 33:IX.1123) and not to any tributaries and distributaries to such water body which are typically contained in separate subsegments. A description of each designated use follows.

\* \* \*

[See Prior Text in A-F]

G. Outstanding Natural Resource Waters. Outstanding natural resource waters include water bodies designated for preservation, protection, reclamation, or enhancement of wilderness, aesthetic qualities, and ecological regimes, such as those designated under the Louisiana Natural and Scenic Rivers System or those designated by the department as waters of ecological significance. Characteristics of outstanding natural resource waters include, but are not limited to, highly diverse or unique instream and/or riparian habitat, high species diversity, balanced trophic structure, unique species, or similar qualities. This use designation applies only to the water bodies specifically identified in Table 3 (LAC 33:IX.1123) and not to their tributaries or distributaries unless so specified.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 26:2546 (November 2000).

### §1113. Criteria

\* \* \*

[See Prior Text in A-A.1]

2. Quality criteria for the waters of Louisiana are based on their present and potential uses and the existing water quality indicated by data accumulated through monitoring programs of the department and other state and federal agencies as well as universities and private sources. In some cases, available water quality and flow data are not adequate to establish criteria. Criteria in these cases are established on the basis of the best information available from waterbodies which are similar in hydrology, water quality, and physical configuration.

3. General and numerical water quality criteria may be modified to take into account site-specific, local conditions. Whenever data acquired from the sources named in LAC 33:IX.1113.A.2 or other sources indicate that criteria should be modified, the department will develop and recommend revised site-specific criteria. The revised criteria will be submitted to the EPA for approval and promulgated in accordance with established procedures including, but not limited to, those in the Louisiana Administrative Procedure Act, R.S. 49:950, et seq.

\* \* \*

[See Prior Text in B-B.11]

12. Biological and Aquatic Community Integrity. The biological and community structure and function in state waters shall be maintained, protected, and restored except where not attainable and feasible as defined in LAC 33:IX.1109.B.3. This is the ideal condition of the aquatic

community inhabiting the unimpaired water bodies of a specified habitat and region as measured by community structure and function. The biological integrity will be guided by the fish and wildlife propagation use designated for that particular water body. Fish and wildlife propagation uses are defined in LAC 33:IX.1111.C. The condition of these aquatic communities shall be determined from the measures of physical, chemical, and biological characteristics of each surface water body type, according to its designated use (LAC 33:IX.1123). Reference site conditions will represent naturally attainable conditions. These sites should be the least impacted and most representative of water body types. Such reference sites or segments of water bodies shall be those observed to support the greatest variety and abundance of aquatic life in the region as is expected to be or has been recorded during past surveys in natural settings essentially undisturbed by human impacts, development, or discharges. This condition shall be determined by consistent sampling and reliable measures of selected, indicative communities of animals and/or invertebrates as established by the department and may be used in conjunction with acceptable chemical, physical, and microbial water quality measurements and records as deemed for this purpose.

\* \* \*

[See Prior Text in B.13-C.1]

2. Chlorides, Sulfates, and Total Dissolved Solids. Numerical criteria for these parameters generally represent the arithmetic mean of existing data from the nearest sampling location plus three standard deviations. For estuarine and coastal marine waters subsegments in Table 3 that have no listed criteria (i.e., designated N/A), criteria will be established on a case-by-case basis using field determination of ambient conditions and the designated uses. For water bodies not specifically listed in the Numerical Criteria and Designated Table, increases over background levels of chlorides, sulfates, and total dissolved solids may be permitted. Such increases will be permitted at the discretion of the department on a case-by-case basis and shall not cause in-stream concentrations to exceed 250, 250, and 500 mg/L for chlorides, sulfates, and total dissolved solids, respectively, except where a use attainability analysis indicates that higher levels will not affect the designated uses. In permitting such increases, the department shall consider their potential effects on resident biota and downstream water bodies in addition to the background conditions. Under no circumstances shall an allowed increase over background conditions cause any numerical criteria to be exceeded in any listed water body or any other general or numerical criteria to be exceeded in either listed or unlisted water bodies.

\* \* \*

[See Prior Text in C.3-Table 1A.Footnote d]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 26:2547 (November 2000).

## §1115. Application Of Standards

\* \* \*

[See Prior Text in A-A.1]

2. An established water quality value (criterion) represents the maximum general or numerical concentration limit or characteristic (with the exception of dissolved oxygen and pH) of a constituent in a waterbody segment that is allowed by the state. For some toxic substances, however, criteria provide both acute and chronic limits for the protection of aquatic life in fresh and marine waters, and separate limits for the protection of human health. Criteria apply at all times, except where natural conditions cause them to be exceeded or where specific exemptions in the standards apply. Water uses, pollution sources, natural conditions, and the water quality criteria are all considered in the department's determination of appropriate permit limits for each wastewater discharge to a waterbody.

\* \* \*

[See Prior Text in A.3-C.7.b]

c. These specified flows will not be appropriate under some circumstances, and alternative formulations will be required to determine appropriate effluent limitations for equivalent protection of human health and aquatic life uses of the stream. These exceptions may include, but are not limited to, seasonally variable effluent discharge rates, hold and release treatment systems, and effluent dominated sites. The department may approve an alternative which is protective of designated uses, to be determined on a case-by-case basis.

\* \* \*

[See Prior Text in C.8-10]

11. In those cases, such as wetlands, where unique site-specific conditions or other considerations preclude the application of specific mixing zone requirements, the department may specify definable, geometric limits for mixing zones.

12. In those cases where unique site-specific conditions preclude the application of the flow requirements for Category 2 water bodies as stated in Tables 2a and 2b, the department may on a case-by-case basis approve an alternative flow when determining 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) permitted effluent concentrations. Any flow specifications shall be protective of designated uses.

13. In cases for which a diffuser has been approved or required for use with a wastewater discharge, the department may increase the dilution allowed for the application of acute aquatic life criteria at the edge of the zone of initial dilution. The dilution allowed will be determined by the department after consideration of receiving water body characteristics and diffuser capabilities. No increase in dilution will be allowed at the edge of the mixing zone for the application of chronic aquatic life criteria. Physical constraints of a particular water body may preclude the approval and use of a diffuser. The following conditions must be met with the use of a diffuser:

\* \* \*

[See Prior Text in C.13.a-f]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745

(October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November, 1991), amended LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 26:2548 (November 2000).

## §1119. Implementation Plan for Antidegradation Policy

\* \* \*

[See Prior Text in A-A.1]

2. This Section explains the specific procedures used by the department as the state's designated water quality management agency to implement the Antidegradation Policy.

\* \* \*

[See Prior Text in B]

1. Procedures and methods by which the Antidegradation Policy is implemented are described in several documents produced under the Water Quality Management (WQM) Process ("The Water Quality Standards (WQS)," "The Water Quality Inventory," "The Water Quality Management Plan," "The Continuing Planning Process"; and "The Water Pollution Control Program Plan"). These documents are available from the department.

\* \* \*

[See Prior Text in B.2-2.e]

f. Enforcement activities of the department help eliminate or ameliorate water quality degradation caused by both permitted and unpermitted discharges. Enforcement actions are directed at dischargers found to be in violation of the Water Control Law or effluent limits detailed in a wastewater permit.

g. The state's Continuing Planning Process (CPP) document describes those administrative, technical, and programmatic processes used by the state to implement its water pollution control program. The document contains detailed descriptions of each phase of implementation, from the planning of monitoring efforts, to the assessment and reporting of resulting data, to the decision-making process for carrying out policy promulgated by the department. To maintain an annual schedule of water quality needs and activities, the department also developed the Water Pollution Control Program Plan consistent with Section 106 of the Clean Water Act.

\* \* \*

[See Prior Text in C-C.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2548 (November 2000).

## §1121. Regulation of Toxic Substances Based on the General Criteria

\* \* \*

[See Prior Text In A-B]

1. When determining the need for limits based on water quality, the Office of Environmental Services, Permits Division may identify data needs and request that the permittee submit additional data along with the application. Permits may be placed into three categories:

\* \* \*

[See Prior Text In B.1.a-3.b.ii]

iii. Multiple toxicity tests using more than one species of test organisms will normally be required. The following tests and species are considered applicable to and representative of Louisiana waters. Other applicable tests and test species may also be used after approval by the department. In general, some combination of the following tests and species will be required.

\*\*\*

[See Prior Text In B.3.b.iii.(a)-(b).(vi)]

(c). If a control test reveals upstream ambient water to be toxic, the discharger will redo the toxicity tests using EPA- and department-approved reconstituted water with hardness, alkalinity, pH, and conductivity comparable to the ambient stream for dilution. The department will evaluate the toxicity data if upstream toxicity is indicated.

4. For waterbodies whose designated use is as a drinking water supply, the department will calculate the in-stream concentration for all pollutants discharged for which EPA has promulgated a maximum contaminant level (MCL). The permittee will be required to submit to the Office of Environmental Services, Permits Division sufficient effluent characterization data to make these calculations. Where dilution calculations indicate that in-stream concentrations may exceed the MCL requirements at appropriate flow conditions, the permittee may be required to conduct in-stream chemical monitoring or monitoring at the water supply.

5. To protect human health by eliminating chronic exposure to potentially toxic amounts of pollutants from aquatic species consumed by humans, the department will calculate the in-stream concentrations of all applicable pollutants for which EPA has published human health criteria in the Quality Criteria for Water, 1986, EPA 440/5-86-001, or subsequent revisions. The permittee will be required to submit to the Office of Environmental Services, Permits Division sufficient effluent characterization data to make these calculations. For operational considerations, if dilution calculations show that after mixing, a suspected carcinogen would be present in the receiving waterbody at a concentration associated with a 10<sup>-6</sup> risk level, in-stream chemical monitoring may be required of the appropriate dischargers. The department will list the waterbody as a priority waterbody and develop a wasteload allocation or make other consideration for it.

C. Options for Implementing Whole Effluent Toxicity Permit Requirements. The option or combination of options to be selected by the department from the following will depend on data availability at the time of permit application and on whether toxicity is known or suspected.

\*\*\*

[See Prior Text In C.1-E.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 26:2548 (November 2000).

## Chapter 13. Louisiana Water Pollution Control Fee System Regulation

### §1301. Scope and Purpose

It is the purpose of these regulations to establish a fee system for funding the operation and activities under these regulations of the Department of Environmental Quality in accordance with the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 18:731 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2549 (November 2000).

### §1307. Definitions

\*\*\*

[See Prior Text In A]

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

\*\*\*

[See Prior Text]

*Department*—the Department of Environmental Quality.

*Due Date*—the date indicated on the invoice.

\*\*\*

[See Prior Text]

*New, Modified, or Reissued Permit Fee*—the fee applicable to any such permit action.

*Permit or License*—for the purposes of the Louisiana Water Pollution Control Fee System, written authorization issued by the administrative authority to discharge, emit, or dispose of liquid, gaseous, semi-solid or solid waste or reusable materials, or radioactive material from or at a site or facility, including all conditions set forth therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 18:731 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2549 (November 2000).

### §1311. Instructions For Completing Municipal Facility Annual Fee Rating Worksheet

\*\*\*

[See Prior Text in A-B.2.Table 1]

3. Determine the total daily average wastewater discharge to the receiving water based upon the information supplied to the department in the permit application. If there are multiple discharges, the total of all daily average discharges should be used. Under the selected wastewater type, where applicable, answer yes or no and complete the formula.

\*\*\*

[See Prior Text in C-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:627 (September 1988), LR 18:732 (July 1992), LR 24:327 (February 1998), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:2549 (November 2000).

**§1315. Instructions For Completing Industrial Facility Annual Fee Rating Worksheet**

\* \* \*

[See Prior Text in A-B.2.Table 2]

3. Determine the total daily average wastewater discharge to the receiving water based upon the information supplied to the department in the permit application. If there are multiple discharges, the total of all daily average discharges should be used. Under the selected wastewater type, where applicable, answer yes or no and complete the formula.

\* \* \*

[See Prior Text in C-G]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 18:733 (July 1992), amended LR 24:327 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000).

**Chapter 15. Water Quality Certification Procedures**

**§1505. Definitions**

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

\* \* \*

[See Prior Text]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2074(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000).

**§1507. Procedures For Issuance Of Water Quality Certification**

\* \* \*

[See Prior Text in A]

1. Application Requirements. Any person, desiring issuance of a state water quality certification, shall file an application for certification with the Department of Environmental Quality at its office in Baton Rouge. The application should include:

\* \* \*

[See Prior Text In A.1.a-n.iv]

2. Processing Fee. A one-time processing fee will be assessed all applicants to help defray the costs of this expanded program. The fee schedule will be as follows:

- noncommercial activities - \$25/application
- commercial activities - \$265/application

Payment shall accompany the application for certification. The department shall consider the application incomplete and initiation of the application review process will not begin until payment of the processing fee is received. Payment shall be by check or money order to Department of Environmental Quality, Office of Management and Finance, Financial Services Division and shall be nonrefundable.

\* \* \*

[See Prior Text In A.3]

4. Approved Land Management Plan Requirement. Applicants whose applications involve the clearing of land

for agricultural purposes shall submit to the Office of Environmental Services, Permits Division an approved land management plan for the land to be cleared before the application will be deemed adequate.

\* \* \*

[See Prior Text In A.5-8]

B. Alternative Application Submittal. Any applicant may elect to submit to the Office of Environmental Services, Permits Division a duplicate of the proposed federal permit application in lieu of a separate application for state certification. Such submittal must include a cover letter requesting state certification and indicating that the attached copy of a federal permit application is to serve as the application for state certification.

\* \* \*

[See Prior Text In C-H.2]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2074(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000).

**Chapter 21. Municipal Facilities Revolving Loan Fund**

**§2109. Priority System**

\* \* \*

[See Prior Text In A]

B. Determination of Priority for Participation in the Program. Any municipality which has the authority under applicable law to undertake a wastewater facility project and desires to apply for a loan may submit a completed Pre-Application Form (RF-100) to the Office of Environmental Assessment, Environmental Technology Division. Such projects shall be included on the next fiscal year's state project priority list in accordance with the priority system.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2011(D)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000).

**§2111. Application For Loan**

\* \* \*

[See Prior Text In A-E.4]

F. Plans and Specifications. The applicant shall submit plans and specifications to the Office of Environmental Assessment, Environmental Technology Division for review to insure the proposed project meets minimum technical and administrative requirements of federal and state law, is biddable and constructable and will satisfy discharge requirements in accordance with the project's National Pollution Discharge Elimination System (NPDES) and/or State Pollutant Discharge Elimination System permit.

\* \* \*

[See Prior Text In G-H]

I. Financial and Management Capability. The applicant is required to submit to the Office of Environmental Assessment, Environmental Technology Division sufficient information to demonstrate its legal, institutional, managerial, and financial capability to insure the adequate



building, operation, maintenance of the facility and debt repayment of the loan.

\* \* \*

[See Prior Text In J-M]

N. Sludge Management Plan. The applicant shall submit a plan to the Office of Environmental Assessment, Environmental Technology Division that complies with the Department of Environmental Quality rules and regulations.

\* \* \*

[See Prior Text In O-P]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000).

**§2115. Construction of Wastewater Facility Project**

\* \* \*

[See Prior Text In A-B.2.c]

d. submit to the Office of Environmental Assessment, Environmental Technology Division all change orders for review and approval.

C. Bid Proposals. The applicant shall submit to the Office of Environmental Assessment, Environmental Technology Division for review a complete statement of work to be performed, the terms and conditions of the proposed contract to be awarded, a clear explanation of the methods of bidding and of evaluating bid prices and the limits of work for each item on the proposal form.

\* \* \*

[See Prior Text In D-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000).

**§2119. Miscellaneous**

A. Annual Audit. The Office of Management and Finance, Financial Services Division shall conduct, or have conducted, an annual audit of the fiscal operation of the revolving loan fund for submission to the governor and the legislature.

\* \* \*

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000).

**§2123. Appendix 2-Construction Grants Priority System**

\* \* \*

[See Prior Text In A-A.5]

6. To this end, the Louisiana Department of Environmental Quality has derived the state of Louisiana construction grants priority system.

\* \* \*

[See Prior Text In A.7-D.2.i]

3. It is the responsibility of each authorized project representative to maintain current and accurate information for his/her project, and to submit any revised or updated project information to the Office of Environmental Assessment, Environmental Technology Division each year for use in preparing the project priority list. Only project information received by April 1 will be considered for inclusion on the next fiscal year's project priority list.

\* \* \*

[See Prior Text In D.4-19]

20. Those projects which have already received federal assistance for Step 1 or Step 2 work must complete and submit the required grant documents to the Office of Environmental Assessment, Environmental Technology Division within the time period allotted. Failure to submit the required documents or a request for a time extension by the scheduled project completion date may result in the removal of the project from the fundable portion of the project priority list.

\* \* \*

[See Prior Text In D.21- F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 17:342 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000).

**§2125. Appendix 3. State Environmental Review Process**

A. General. As required by the provisions of Section 602(b)(6) of the 1987 Amendments to the Clean Water Act, the department shall conduct an interdisciplinary environmental review consistent with the National Environmental Policy Act of the project proposed for funding through the municipal facilities revolving loan fund. This review will insure that the project will comply with the applicable local, state and federal laws and department rules relating to the protection and enhancement of the environment. Based upon the staff's review, the secretary, or his duly authorized representative, will make formal determinations regarding the potential social and environmental impacts of the proposed project. As necessary, the determination will include mitigative provisions as a condition of financial assistance for building and no financial assistance will be provided until a final environmental determination has been made. Nothing in these rules shall prohibit any public, private or governmental party from seeking administrative or legal relief from the determinations of the department. Potential applicants to the municipal facilities revolving loan fund should obtain guidance from the staff regarding the scope of the environmental review to be conducted by the department and the environmental information which the applicant will be required to submit to the Office of Environmental Assessment, Environmental Technology Division in support of the proposed project.

\* \* \*

[See Prior Text In A.1.-C.5.Guidelines for Louisiana Revolving Loans Fund Environmental Review Process]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000).

**Chapter 22. Drinking Water Revolving Loan Fund**  
**§2209. Application Requirements and Loan Conditions**

\* \* \*

[See Prior Text In A-B.1]

2. Financial Information. The applicant is required to submit to the Office of Environmental Assessment, Environmental Technology Division sufficient information to demonstrate its legal, institutional, managerial, and financial capability to ensure the construction, operation, and maintenance of the drinking water facilities and repayment of the loan, interest, and administrative fees.

3. Site Certificate. The applicant must submit to the Office of Environmental Assessment, Environmental Technology Division a certificate executed by an attorney certifying that the applicant has acquired all property sites, easements, rights-of-way, or specific use permits necessary for construction, operation, and maintenance of the project described in the approved system improvement plan.

\* \* \*

[See Prior Text In C-E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:29 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000).

**Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program**  
**Subchapter B. Permit Application and Special LPDES Program Requirements**

**§2331. Application for a Permit**

A. Duty to Apply. Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only facility and who does not have an effective permit, except persons covered by general permits under LAC 33:IX.2345, excluded under LAC 33:IX.2315, or a user of a privately owned treatment works unless the state administrative authority requires otherwise under LAC 33:IX.2361.M, shall submit a complete application (which shall include a BMP program if necessary under LAC 33:IX.2565) to the Office of Environmental Services, Permits Division in accordance with this Section and LAC 33:IX.Chapter 23.Subchapters E-G

\* \* \*

[See Prior Text In B- C.1.b]

c. Any other existing treatment works treating domestic sewage not addressed under LAC 33:IX.2331.C.1.a or b must submit the information listed in LAC 33:IX.2331.C.1.c.i-v, to the Office of Environmental Services, Permits Division within one year after publication of a standard applicable to its sewage sludge use or disposal practice(s). The Office of Environmental Services, Permits Division shall determine when such treatment works treating domestic sewage must apply for a permit. The following information must be submitted:

\* \* \*

[See Prior Text In C.1.c.i-d]

e. Any treatment works treating domestic sewage that commences operations after promulgation of an applicable standard for sewage sludge use or disposal shall submit an application to the Office of Environmental Services, Permits Division at least 180 days prior to the date proposed for commencing operations.

\* \* \*

[See Prior Text In D-E]

F. Information Requirements. All applicants for LPDES permits shall provide the following information to the Office of Environmental Services, Permits Division, using the application form provided by the state administrative authority (additional information required of applicants is set forth in Subsections G-K of this Section and LAC 33:IX.1701):

\* \* \*

[See Prior Text In F.1-9]

G. Application Requirements for Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. Existing manufacturing, commercial, mining, and silvicultural dischargers applying for LPDES permits, except for those facilities subject to the requirements of Subsection H of this Section, shall provide the following information to the Office of Environmental Services, Permits Division, using application forms provided by the state administrative authority:

\* \* \*

[See Prior Text In G.1-13]

H. Application Requirements for Manufacturing, Commercial, Mining and Silvicultural Facilities Which Discharge Only Nonprocess Wastewater. Except for stormwater discharges, all manufacturing, commercial, mining and silvicultural dischargers applying for LPDES permits which discharge only nonprocess wastewater not regulated by an effluent limitations guideline or new source performance standard shall provide the following information to the Office of Environmental Services, Permits Division, using application forms provided by the state administrative authority:

\* \* \*

[See Prior Text In H.1-Note 3.e]

[This revision continues that suspension.]<sup>1</sup>

<sup>1</sup> **Editorial Note:** The words "This revision" refer to the document published at 48 FR 14153, Apr. 1, 1983.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000).

**§2341. Storm Water Discharges**

\* \* \*

[See Prior Text In A-C.1.e]

2. Group Application for Discharges Associated with Industrial Activity. In lieu of individual applications or notice of intent to be covered by a general permit for storm water discharges associated with industrial activity, a group application may be filed by an entity representing a group of applicants (except facilities that have existing individual LPDES permits for storm water) that are part of the same subcategory (see 40 CFR subchapter N, part 405 to 471) or,

where such grouping is inapplicable, are sufficiently similar as to be appropriate for general permit coverage under LAC 33:IX.2345. The part 1 application shall be submitted to the Office of Environmental Services, Permits Division, for approval. Once a part 1 application is approved, group applicants are to submit Part 2 of the group application to the Office of Environmental Services, Permits Division. A group application shall consist of:

\* \* \*

[See Prior Text In C.2.a-b]

D. Application Requirements for Large and Medium Municipal Separate Storm Sewer Discharges. The operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the state administrative authority under LAC 33:IX.2341.A.1.e, may submit a jurisdiction-wide or system-wide permit application to the Office of Environmental Services, Permits Division. Where more than one public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent or interconnected municipal separate storm sewer systems), such operators may be a co-applicant to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under LAC 33:IX.2341.A.1.e shall include:

\* \* \*

[See Prior Text In D.1-E.2.a]

i. except as provided in LAC 33:IX.2341.E.2.a.ii, part 1 of the application shall be submitted to the department by September 30, 1991;

\* \* \*

[See Prior Text In E.2.a.ii-c]

i. except as provided in LAC 33:IX.2341.E.2.c.ii, part 2 of the application shall be submitted to the department by October 1, 1992;

\* \* \*

[See Prior Text In E.2.c.ii-d.i]

ii. Facilities that are owned or operated by a municipality and that are rejected as members of part 1 group application shall submit an individual application to the department no later than 180 days after the date of receipt of the notice of rejection or October 1, 1992, whichever is later.

e. A facility listed under LAC 33:IX.2341.B.14.a-k may add on to a group application submitted in accordance with LAC 33:IX.2341.E.2.a at the discretion of the department, and only upon a showing of good cause by the facility and the group applicant; the request for the addition of the facility shall be made no later than February 18, 1992; the addition of the facility shall not cause the percentage of the facilities that are required to submit quantitative data to be less than 10%, unless there are over 100 facilities in the group that are submitting quantitative data; approval to become part of group application must be obtained from the group or the trade association representing the individual facilities.

\* \* \*

[See Prior Text In E.3- G.2.c]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000).

### §2345. General Permits

\* \* \*

[See Prior Text In A - B.2]

a. Except as provided in LAC 33:IX.2345.B.2.e and f, dischargers (or treatment works treating domestic sewage) seeking coverage under a general permit shall submit to the Office of Environmental Services, Permits Division a written notice of intent to be covered by the general permit. A discharger (or treatment works treating domestic sewage) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge, (or in the case of sludge disposal permit, to engage in a sludge use or disposal practice), under the terms of the general permit unless the general permit, in accordance with LAC 33:IX.2345.B.2.e, contains a provision that a notice of intent is not required or the state administrative authority notifies a discharger (or treatment works treating domestic sewage) that it is covered by a general permit in accordance with LAC 33:IX.2345.B.2.f. A complete and timely, notice of intent (NOI), to be covered in accordance with general permit requirements, fulfills the requirements for permit applications for purposes of LAC 33:IX.2321, 2331, and 2341.

\* \* \*

[See Prior Text In B.2.b-C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000).

### Subchapter C. Permit Conditions

#### §2355. Conditions Applicable to All Permits

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2357. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

\* \* \*

[See Prior Text In A-M.3]

a. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Office of Environmental Services, Permits Division, if possible at least 10 days before the date of the bypass.

\* \* \*

[See Prior Text In M.3.b-N.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000).

**§2357. Additional Conditions Applicable to Specified Categories of LPDES Permits**

The following conditions, in addition to those set forth in LAC 33:IX.2355, apply to all LPDES permits within the categories specified below:

A. Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. In addition to the reporting requirements under LAC 33:IX.2355.L, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Office of Environmental Services, Permits Division as soon as they know or have reason to believe:

\*\*\*

[See Prior Text In A.1-B.3.b]

C. Municipal Separate Storm Sewer Systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the state administrative authority under LAC 33:IX.2341.A.1.e must submit an annual report to the Office of Environmental Services, Permits Division by the anniversary of the date of the issuance of the permit for such system. The report shall include:

\*\*\*

[See Prior Text In C.1-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000).

**§2363. Calculating LPDES Permit Conditions**

\*\*\*

[See Prior Text In A-B.2.b.ii]

(a) the permit shall require the permittee to notify the Office of Environmental Services, Permits Division at least two business days prior to a month in which the permittee expects to operate at a level higher than the lowest production level identified in the permit. The notice shall specify the anticipated level and the period during which the permittee expects to operate at the alternate level. If the notice covers more than one month, the notice shall specify the reasons for the anticipated production level increase. New notice of discharge at alternate levels is required to cover a period or production level not covered by prior notice or, if during two consecutive months otherwise covered by a notice, the production level at the permitted facility does not in fact meet the higher level designated in the notice.

(b) the permittee shall comply with the limitations, standards, or prohibitions that correspond to the lowest level of production specified in the permit, unless the permittee has notified the Office of Environmental Services, Permits Division under LAC 33:IX.2363.B.2.b.ii.(a), in which case the permittee shall comply with the lower of the actual level of production during each month or the level specified in the notice.

(c) The permittee shall submit to the Office of Environmental Services, Permits Division with the DMR the level of production that actually occurred during each month and the limitations, standards, or prohibitions applicable to that level of production.

\*\*\*

[See Prior Text In C-I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000).

**Subchapter E. General Program Requirements**

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

\*\*\*

[See Prior Text In A-D.1]

a. name and address of the DEQ division processing the permit action for which a notice is being given;

\*\*\*

[See Prior Text In D.1.b-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000).

**§2417. Public Comments and Requests for Public Hearings**

During the public comment period provided under LAC 33:IX.2415, any interested person may submit written comments to the Office of Environmental Services, Permits Division on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in LAC 33:IX.2427.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000).

**§2419. Public Hearings**

\*\*\*

[See Prior Text In A.1-4]

B. Any person may submit to the Office of Environmental Services, Permits Division oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under LAC 33:IX.2415 shall automatically be extended to the close of any public hearing under this Section. The hearing officer may also extend the comment period by so stating at the hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000).

**Subchapter L. Criteria for Determining Alternative Effluent Limitations Under Section 316(a) of the Act**

**§2515. Early Screening of Applications for Section 316(a) of the Act Variances**

\* \* \*

[See Prior Text In A-A.4]

B. After submitting the early screening information under LAC 33:IX.2515.A, the discharger shall consult with the state administrative authority at the earliest practicable time (but not later than 30 days after the application is filed) to discuss the discharger's early screening information. Within 60 days after the application is filed, the discharger shall submit for the Office of Environmental Services, Permits Division's approval a detailed plan of study which the discharger will undertake to support its section 316(a) of the Act demonstration. The discharger shall specify the nature and extent of the following type of information to be included in the plan of study: biological, hydrographical and meteorological data; physical monitoring data; engineering or diffusion models; laboratory studies; representative important species; and other relevant information. In selecting representative important species, special consideration shall be given to species mentioned in applicable water quality standards. After the discharger submits its detailed plan of study, the state administrative authority shall either approve the plan or specify any necessary revisions to the plan. The discharger shall provide any additional information or studies which the state administrative authority subsequently determines necessary to support the demonstration, including such studies or inspections as may be necessary to select representative important species. The discharger may provide any additional information or studies which the discharger feels are appropriate to support the demonstration.

\* \* \*

[See Prior Text In C-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000).

**Subchapter R. Toxic Pollutant Effluent Standards and Prohibitions**

**§2609. Compliance**

A. 1. Within 60 days from the date of promulgation of any toxic pollutant effluent standard or prohibition each owner or operator with a discharge subject to that standard or prohibition must notify the Office of Environmental Services, Permits Division of such discharge. Such notification shall include such information and follow such procedures as the state administrative authority may require.

\* \* \*

[See Prior Text In B-G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000).

**Subchapter T. General Pretreatment Regulations for Existing and New Sources of Pollution**

**§2713. Removal Credits**

\* \* \*

[See Prior Text In A-F]

1. Effect of Authorization. Once a POTW has received authorization to grant removal credits for a particular pollutant regulated in a categorical pretreatment standard it may automatically extend that removal credit to the same pollutant when it is regulated in other categorical standards, unless granting the removal credit will cause the POTW to violate the sludge requirements identified in LAC 33:IX.2713.A.3.d or its LPDES permit limits and conditions as required by LAC 33:IX.2713.A.3.e. If a POTW elects at a later time to extend removal credits to a certain categorical pretreatment standard, industrial subcategory or one or more industrial users that initially were not granted removal credits, it must notify the Office of Environmental Services, Permits Division.

\* \* \*

[See Prior Text In F.2- H.2.c]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000).

**§2717. POTW Pretreatment Programs and/or Authorization to Revise Pretreatment Standards: Submission for Approval**

A. Who Approves Program. A POTW requesting approval of a POTW pretreatment program shall develop a program description which includes the information set forth in Subsection B.1-4 of this Section. This description shall be submitted to the Office of Environmental Services, Permits Division which will make a determination on the request for program approval in accordance with the procedures described in LAC 33:IX.2721.

\* \* \*

[See Prior Text In B-D]

E. Approval Authority Action. Any POTW requesting POTW pretreatment program approval shall submit to the Office of Environmental Services, Permits Division three copies of the submission described in Subsection B of this Section, and, if appropriate, Subsection D of this Section. Within 60 days after receiving the submission, the Office of Environmental Services, Permits Division shall make a preliminary determination of whether the submission meets the requirements of Subsection B of this Section and, if appropriate, Subsection D of this Section. If the approval authority makes the preliminary determination that the submission meets these requirements, the approval authority shall:

\* \* \*

[See Prior Text In E.1- G.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000).

**§2721. Approval Procedures for POTW Pretreatment Programs and POTW Granting of Removal Credits**

The following procedures shall be adopted in approving or denying requests for approval of POTW Pretreatment Programs and applications for removal credit authorization.

\*\*\*

[See Prior Text In A-B.1.a.ii]

b. the public notice shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the submission to the Office of Environmental Services, Permits Division; and

\*\*\*

[See Prior Text In B.1.c- F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 25:1093 (June 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000).

**§2723. Reporting Requirements for POTWs and Industrial Users**

\*\*\*

[See Prior Text In A-G.1]

2. If sampling performed by an industrial user indicates a violation, the user shall notify the Office of Environmental Services, Permits Division within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation, except the industrial user is not required to resample if:

\*\*\*

[See Prior Text In G.2.a-K.2]

3. not later than 14 days following each date in the schedule and the final date for compliance, the POTW shall submit a progress report to the Office of Environmental Services, Permits Division including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the POTW to return to the schedule established. In no event shall more than nine months elapse between such progress reports to the Office of Environmental Services, Permits Division.

\*\*\*

[See Prior Text In L-P.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000).

**§2725. Variances from Categorical Pretreatment Standards for Fundamentally Different Factors**

\*\*\*

[See Prior Text In A-G]

1. Requests for a variance and supporting information must be submitted in writing to the Office of Environmental

Services, Permits Division or to the administrator (or his delegate), as appropriate.

\*\*\*

[See Prior Text In G.2- J.1.c]

2. The public notice shall provide for a period not less than 30 days following the date of the public notice during which time interested persons may review the request and submit their written views on the request to the Office of Environmental Services, Permits Division.

\*\*\*

[See Prior Text In J.3-L.2.b.iv]

c. notify the Office of Environmental Services, Permits Division and the POTW of his or her determination; and

\*\*\*

[See Prior Text In L.2.d- M.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000).

**§2735. Modification of POTW Pretreatment Programs**

\*\*\*

[See Prior Text In A-C]

1. The POTW shall submit to the Office of Environmental Services, Permits Division a statement of the basis for the desired program modification, a modified program description (see LAC 33:IX.2717.B), or such other documents the approval authority determines to be necessary under the circumstances.

\*\*\*

[See Prior Text In C.2-D]

1. The POTW shall notify the Office of Environmental Services, Permits Division of any other (i.e., nonsubstantial) modifications to its pretreatment program at least 45 days prior to when they are to be implemented by the POTW, in a statement similar to that provided for in Subsection C.1 of this Section.

\*\*\*

[See Prior Text In D.2-E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), LR 25:1093 (June 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000).

**Subchapter V. Additional Requirements Applicable to the LPDES Program**

**§2763. Request for Nondisclosure of Confidential Information**

\*\*\*

[See Prior Text In A]

1. information determined to be confidential by the department shall be segregated from any information determined to be nonconfidential, provided in cases where confidential information cannot be reasonably extracted or separated from nonconfidential information, the whole document shall be confidential. Confidential information shall be maintained in a locked file separate from

nonconfidential information. The file shall be labeled "confidential," with access appropriately controlled;

\*\*\*

[See Prior Text In A.2]

3. except for members of the department staff, authorized persons shall review a confidential file under the supervision of a department staff member. Confidential information shall be removed from the file no longer than is strictly necessary.

B. In accordance with R.S. 30:2030 and 30:2074(D), the department may remove confidential information from its files and return it to the provider when such information is no longer necessary or required for the purposes of the act, these regulations, or any order or under the terms and conditions of any license or permit, and the provider has requested such action in writing.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000).

**§2765. Additional LPDES Permit Application Requirements**

A. In addition to the requirements in LAC 33:IX.2331.F, all applicants shall provide the following information to the administrative authority using the application form provided by the department, unless the department determines that such information is not required for the applicant's facility or activity:

\*\*\*

[See Prior Text In A.1-2]

B. In addition to the requirements in LAC 33:I.1701 and LAC 33:IX.2331.G.1, H.1, and K.1, all applicants shall provide the following information to the administrative authority using the application form provided by the department, unless the department determines that such information is not required for the applicant's facility or activity:

\*\*\*

[See Prior Text In B.1]

2. the section, township, and range information or other means acceptable to the department to locate each discharge; and

\*\*\*

[See Prior Text In B.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2557 (November 2000).

**§2767. Enforcement Actions**

A. The department may take enforcement action as prescribed by state law or regulation against any person who:

\*\*\*

[See Prior Text In A.1]

2. knowingly makes any false statement, representation, or certification in any application, record,

report, or other documents filed with the department pursuant to the act or these regulations. Violations of this provision may subject the violator to the penalties provided for in the act for perjury or false statements;

3. fails to correct deficiencies in the application; or upon becoming aware that any relevant facts or information were omitted in a permit application or in any report to the department, fails to promptly submit such facts or information;

\*\*\*

[See Prior Text In A.4-6]

B. Exception. In cases where the application is withdrawn by the applicant, a written notification shall be provided to the Office of Environmental Services, Permits Division stating that no discharge or other activity that would require a permit from the Office of Environmental Services, Permits Division is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under LAC 33:IX.2767.A.3 and 4.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:726 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2557 (November 2000).

**§2773. Inspection and Entry**

\*\*\*

[See Prior Text In A-A.1]

2. have access to and copy any records that the department or its authorized representative determines are necessary for the enforcement of these regulations. For records maintained in either a central or private office that is open only during normal office hours and is closed at the time of inspection, the records shall be made available as soon as the office is open, but in no case later than the close of business the next working day.

\*\*\*

[See Prior Text In B-C]

D. Upon written request copies of field notes, drawings, etc., taken by department personnel during an inspection shall be provided to the permittee after the final inspection report has been completed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2557 (November 2000).

**§2781. Public Notice and Availability of Information**

A. In addition to the requirements in LAC 33:IX.2415, publication of the notice one time in the newspaper(s) specified by the department and submission of proof of publication will be required. The costs of publication shall be borne by the applicant.

\*\*\*

[See Prior Text In B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945

(September 1995), amended by the Water Pollution Control Division, LR 23:726 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2557 (November 2000).

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part XI. Underground Storage Tanks**

**Chapter 1. Program Applicability and Definitions**

**§103. Definitions**

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless specifically defined otherwise in LAC 33:XI.1105 or 1301.

\* \* \*

[See Prior Text]

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

\* \* \*

[See Prior Text]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000).

**Chapter 3. Registration Requirements, Standards, and Fee Schedule**

**§301. Registration Requirements**

**A. Existing UST Systems**

1. All owners of existing UST systems (as defined in LAC 33:XI.103) were required to register such systems by May 8, 1986, (USTs installed after that date were required to be registered within 30 days of bringing such tanks into use) on a form approved by the department. Tanks filled with a solid, inert material before January 1, 1974, are not required to be registered with the department. No owner or operator shall allow a regulated substance to be placed into an existing UST system that has not been registered.

\* \* \*

[See Prior Text In A.2]

3. All existing UST systems previously registered with the department shall be considered to be in compliance with this requirement if the information on file with the department is current and accurate. Maintaining current and accurate information with the department includes notifying the department's Office of Environmental Services, Permits Division of changes in ownership, or of changes in UST system descriptions resulting from upgrading, by filing an amended registration form within 30 days of the change in ownership or in description of the UST system.

**B. New UST Systems.** Upon the effective date of these regulations, all owners of new UST systems (as defined in LAC 33:XI.103) must, within 30 days of bringing such tanks into use, register them on a form approved by the department. Registration forms shall be filed with the Office of Environmental Services, Permits Division. The following registration requirements apply to new UST systems:

\* \* \*

[See Prior Text In B.1 – C]

1. Any person who sells a UST system shall so notify the Office of Environmental Services, Permits Division in writing within 30 days after the date of the transaction.

2. Any person who acquires a UST system shall submit to the Office of Environmental Services, Permits Division an amended registration form within 30 days after the date of acquisition.

\* \* \*

[See Prior Text In C.3]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000).

**§303. Standards for UST Systems**

\* \* \*

[See Prior Text In A – A.4.b.ii]

c. **Notification of Installation.** The owner and operator must notify the Office of Environmental Compliance, Surveillance Division in writing at least 30 days before beginning installation of a new UST system. This notification must indicate the number of active or abandoned water wells within 50 feet of the UST system and the type of system to be installed. It must also indicate the methods to be used to comply with LAC 33:XI.Chapter 7.

\* \* \*

[See Prior Text In B – B.5]

a. The owner and operator must notify the Office of Environmental Services, Permits Division in writing at least 30 days before beginning a UST system upgrade.

b. An amended registration form must be submitted to the Office of Environmental Services, Permits Division within 30 days after the UST system is upgraded. The owner and operator must certify compliance with LAC 33:XI.303.B on the amended registration form. Beginning January 20, 1992, the amended registration form shall include the name and department-issued certificate number of the individual exercising supervisory control over those steps in the upgrade that involve repair critical junctures or installation critical junctures (as defined in LAC 33:XI.1303) of an UST system.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000).

**Chapter 5. General Operating Requirements**

**§507. Repairs Allowed**

Owners and operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:

A. Except in emergencies, the owner and operator shall notify the department's Office of Environmental



Compliance, Surveillance Division in advance of the necessity for conducting a repair to a UST system.

\*\*\*

[See Prior Text In B – G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000).

**Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response**

**§703. Requirements for Use of Release Detection Methods**

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[See Prior Text In A- A.1.c.Table]

2. When a release detection method operated in accordance with the performance standards in LAC 33:XI.701.A and B indicates that a release may have occurred, owners and operators must notify the Office of Environmental Compliance in accordance with LAC 33:XI.707–713.

\*\*\*

[See Prior Text In A.3- C.2.e.ii]

iii. obtain approval from the Office of Environmental Compliance, Surveillance Division to use the alternate release detection method before the installation and operation of the new UST system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000).

**§707. Reporting of Suspected Releases**

All persons having knowledge of any of the conditions listed below shall notify the Office of Environmental Compliance by telephone at (225) 763-3908, during office hours; (225) 342-1234, after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance) within 24 hours after becoming aware of the occurrence. After discovery of any of the following conditions, owners and operators of UST systems shall follow the procedures specified in LAC 33:XI.711:

\*\*\*

[See Prior Text In A- C.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000).

**§713. Reporting and Cleanup of Spills and Overfills**

A. Owners and operators of UST systems must contain and immediately clean up a spill or overfill, report it to the Office of Environmental Compliance by telephone at (225) 763-3908, during office hours; (225) 342-1234, after hours, weekends, and holidays; or by e-mail utilizing the Incident

Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance) within 24 hours and begin corrective action in accordance with LAC 33:XI.715 in the following cases:

\*\*\*

[See Prior Text In A.1-3]

B. Owners and operators of UST systems must contain and immediately clean up a spill or overfill of petroleum that is less than one barrel and a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, owners and operators must immediately notify the department:

Office of Environmental Compliance

(225) 763-3908, during office hours

(225) 342-1234, after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance)

Note: A release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center, under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to appropriate authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986 (40 CFR 355.40).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000).

**§715. Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances**

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[See Prior Text In A- B]

Report the release to the:

Office of Environmental Compliance

(225) 763-3908, during office hours

(225) 342-1234, after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at [www.deq.state.la.us/surveillance](http://www.deq.state.la.us/surveillance)

\*\*\*

[See Prior Text In B.2- C.1.f]

2. Within 20 days after release confirmation, owners and operators must submit a report to the Office of Environmental Compliance, Surveillance Division summarizing the initial abatement steps taken under Subsection C.1 of this Section and any resulting information or data.

\*\*\*

[See Prior Text In D- D.1.e]

2. Within 45 days of release confirmation, owners and operators must submit the information collected in compliance with Subsection D.1 of this Section to the Office of Environmental Compliance, Surveillance Division in a manner that demonstrates its applicability and technical

adequacy, or in a format and according to the schedule required by the department.

E. Free Product Removal. At sites where investigations under Subsection C.1.f of this Section indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable as determined by the Office of Environmental Compliance, Surveillance Division, while continuing, as necessary, any actions initiated under Subsections B–D of this Section, or preparing for actions required under Subsections F–G of this Section. To meet the requirements of this Subsection, owners and operators must do the following:

\* \* \*

[See Prior Text In E.1- 3]

4. Unless directed to do otherwise by the department, prepare and submit to the Office of Environmental Compliance, Surveillance Division, within 45 days after confirming a release, a free product removal report that provides at least the following information:

\* \* \*

[See Prior Text In E.4.a- G. 4]

a. notify the department's Office of Environmental Assessment, Remediation Services Division of their intention to begin cleanup;

\* \* \*

[See Prior Text In G.4.b- H.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of the Secretary, LR 24:2253 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000).

#### **Chapter 9. Out-of-Service UST Systems and Closure §905. Permanent Closure and Changes-in-Service**

A. At least 30 days before beginning either permanent closure or a change-in-service under Subsections B and C of this Section, owners and operators must notify the Office of Environmental Compliance, Surveillance Division of their intent to permanently close or make the change-in-service unless such action is in response to corrective action. Beginning January 20, 1992, all owners and operators must ensure that an individual exercising supervisory control over closure critical junctures (as defined in LAC 33:XI.1303) is certified in accordance with LAC 33:XI.Chapter 13. The assessment of the excavation zone required under LAC 33:XI.907 must be performed after the department is notified but before the permanent closure or change-in-service is completed.

\* \* \*

[See Prior Text In B- Note]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000).

#### **§907. Assessing the Site at Closure or Change-in-Service**

A. Before permanent closure or a change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site, utilizing the procedure approved by the department. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. Results of this assessment must be submitted in duplicate to the Office of Environmental Compliance, Surveillance Division within 60 days following permanent closure or change in service. The assessment results shall include a site diagram indicating locations where samples were collected and a written statement specifying which USTs have been closed. The requirements of this Section are satisfied if one of the external release detection methods allowed in LAC 33:XI.701.A.5 is operating in accordance with the requirements in LAC 33:XI.701.A at the time of closure and indicates that no release has occurred.

\* \* \*

[See Prior Text In B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000).

#### **Chapter 11. Financial Responsibility**

##### **§1111. Financial Test of Self-Insurance**

\* \* \*

[See Prior Text In A- C.5.b]

D. To demonstrate that it meets the financial test under Subsection B or C of this Section, the chief financial officer of the owner or operator, or guarantor, must sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted. To prepare this letter, the owner or operator must use the form required by the department. This form may be obtained from the department's Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text In Letter from Chief Financial Officer - F]

G. If the owner or operator fails to obtain alternate assurance within 150 days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the administrative authority that he or she no longer meets the requirements of the financial test, the owner or operator must notify the Office of Management and Finance, Financial Services Division of such failure within 10 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000).

**§1113. Guarantee**

\* \* \*

[See Prior Text In A-A.2]

B. Within 120 days of the close of each financial reporting year the guarantor must demonstrate that it meets the financial test criteria of LAC 33:XI.1111 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in LAC 33:XI.1111.D and must deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within 120 days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator and to the Office of Management and Finance, Financial Services Division. If the Office of Management and Finance, Financial Services Division notifies the guarantor that he no longer meets the requirements of the financial test of LAC 33:XI.1111.B or C and D, the guarantor must notify the owner or operator within 10 days of receiving such notification from the Office of Management and Finance, Financial Services Division. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in LAC 33:XI.1139.C.

\* \* \*

[See Prior Text In C-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and R.S. 30:2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000).

**§1121. Use of the Underground Motor Fuel Storage Tank Trust**

The administrative authority was authorized by R.S. 30:2194 through 2195.10 to receive and administer the Underground Motor Fuel Storage Tank Trust (UMFSTT) to provide financial responsibility for owners or operators of underground motor fuel storage tanks. Under the conditions described in this Section, an owner or operator who is eligible for participation in the UMFSTT may use this mechanism to partially fulfill the financial responsibility requirements for eligible USTs. To use the UMFSTT as a mechanism for meeting the requirements of LAC 33:XI.1107, the owner or operator must be an "eligible participant," as defined in Subsection A of this Section. In addition, the owner or operator must use one of the other mechanisms described in LAC 33:XI.1111–1119 or 1123–1125 to demonstrate financial responsibility for the amounts specified in Subsection C of this Section, which are the responsibility of the participant and not covered by the UMFSTT.

A. Definitions. The following terms shall have the meanings ascribed to them as used in this Section.

\* \* \*

[See Prior Text]

*Eligible Participant*—any owner or operator of an underground motor fuel storage tank that has registered said tank with the department and who has met the financial responsibility requirements specified in LAC 33:XI.1121.B.

*Response Action*—any activity, including, but not limited to, assessment, planning, design, engineering, construction, operation of recovery system, or ancillary services that are carried out in response to any discharge or release or threatened release of motor fuels into the groundwater or subsurface soils.

\* \* \*

[See Prior Text]

*Third-Party Claim*—any civil action brought or asserted by any person against any owner of any UST for damages to person or property when damages are the direct result of the contamination of groundwater and/or subsurface soils by motor fuels released during operation of storage tanks covered by this Section.

*Underground Motor Fuel Storage Tank*—a UST used only to contain an accumulation of motor fuels.

\* \* \*

[See Prior Text In B- D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000).

**§1123. Trust Fund**

\* \* \*

[See Prior Text In A- C]

D. If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the Office of Management and Finance, Financial Services Division for release of the excess.

E. If other financial assurance as specified in this Chapter is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Office of Management and Finance, Financial Services Division for release of the excess.

\* \* \*

[See Prior Text In F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000).

**§1129. Cancellation or Nonrenewal by a Provider of Financial Assurance**

\* \* \*

[See Prior Text In A- A.2]

B. If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in LAC 33:XI.1131, the owner or operator must obtain alternate coverage as specified in this Section within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner

or operator must notify the Office of Management and Finance, Financial Services Division of such failure and submit:

\* \* \*

[See Prior Text In B.1- 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000).

#### **§1131. Reporting by Owner or Operator**

A. An owner or operator must submit to the Office of Management and Finance, Financial Services Division the appropriate forms listed in LAC 33:XI.1133.B documenting current evidence of financial responsibility as follows:

\* \* \*

[See Prior Text In A.1-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000).

#### **§1139. Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance**

A. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor, the owner or operator must notify the Office of Management and Finance, Financial Services Division by certified mail of such commencement and submit the appropriate forms listed in LAC 33:XI.1133.B documenting current financial responsibility.

\* \* \*

[See Prior Text In B]

C. An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator must obtain alternate financial assurance as specified in this Chapter within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, he must notify the Office of Management and Finance, Financial Services Division.

\* \* \*

[See Prior Text In D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000).

### **Chapter 13. Certification Requirements for Persons Who Install, Repair, or Close**

#### **Underground Storage Tank Systems**

#### **§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates**

\* \* \*

[See Prior Text In A-B]

1. To qualify for an examination, a person need not be a resident of Louisiana. A person must provide to the Office of Environmental Services, Permits Division payment of the examination fee and meet the following requirements to be eligible for a UST certification examination:

\* \* \*

[See Prior Text In B.1.a-F]

1. All UST certificates and certificate renewals shall expire December 31 of every second year. Applications for certificate renewal and payment of the renewal fee should be submitted to the Office of Environmental Services, Permits Division by November 1 of each year they expire. A person whose certificate has expired prior to his or her submission of evidence of compliance with LAC 33:XI.1305.F.2 shall be considered a new applicant for certification.

\* \* \*

[See Prior Text In F.2-G.2]

H. Changes in Employment. It is incumbent upon a certified person to provide written notification to the Office of Environmental Services, Permits Division within 20 days after his or her knowledge of a change in employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000).

#### **§1309. Approval of Continuing Training Courses**

A. No course in continuing education submitted to the Office of Environmental Services, Permits Division will be considered for approval unless the course:

\* \* \*

[See Prior Text In A.1- 2]

B. Applications for approval of specific training programs shall be submitted to the Office of Environmental Services, Permits Division in writing. Such submissions shall contain a complete course outline; training material; sample certificates; methodology for verifying attendance; date, time and location of the course; the name of the offering organization; the credentials of the instructors; and a certification that the technology or methods that will be presented in the training program will satisfy department rules, and state and federal laws governing UST system installation, repair, or closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000).

**Part XV. Radiation Protection**

**Chapter 1. General Provisions**

**§102. Definitions and Abbreviations**

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

\*\*\*

[See Prior Text]

*Act*—the Louisiana Environmental Quality Act, (R.S. 30:2001 et seq).

\*\*\*

[See Prior Text]

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

\*\*\*

[See Prior Text]

*Authorized Nuclear Pharmacist*—a pharmacist who is:

- 1. board certified as a nuclear pharmacist by the Board of Pharmaceutical Specialties;
- 2. identified as an authorized nuclear pharmacist on a department, licensing state, Nuclear Regulatory Commission, or agreement state license that authorizes the use of radioactive material in the practice of nuclear pharmacy; or
- 3. identified as an authorized nuclear pharmacist on a permit issued by the department, licensing state, Nuclear Regulatory Commission, or agreement state specific licensee of broad scope authorized to permit the use of radioactive material in the practice of nuclear pharmacy.

*Authorized User*—a physician, dentist, or podiatrist who is:

- 1. board certified by at least one of the boards listed in LAC 33:XV.763.C.1, D.1, E.1, F.1, H.1, or I.1;
- 2. identified as an authorized user on a department, licensing state, Nuclear Regulatory Commission, or agreement state license that authorizes the medical use of radioactive material; or
- 3. identified as an authorized user on a permit issued by the department, licensing state, Nuclear Regulatory Commission, or agreement state specific licensee of broad scope authorized to permit the medical use of radioactive material.

*Background Radiation*—radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices. Background radiation does not include sources of radiation from radioactive materials regulated by the department.

\*\*\*

[See Prior Text]

*Depleted Uranium*—the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

*Dose*—a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these regulations, *radiation dose* is an equivalent term.

\*\*\*

[See Prior Text]

*Emergency*—any condition existing outside of the bounds of nuclear operating sites owned or licensed by a federal agency, and further any condition existing within or outside of the jurisdictional confines of a facility licensed or registered by the department and arising from the presence of by-product material, source material, special nuclear material, or any other radioactive material or source of radiation that is endangering or could reasonably be expected to endanger the health and safety of the public or to contaminate the environment (R.S. 30:2105).

\*\*\*

[See Prior Text]

*Inspection*—an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the department and/or administrative authority.

\*\*\*

[See Prior Text]

*Licensed (or Registered) Material*—radioactive material received, possessed, used, transferred, or disposed of under a general or specific license (or registration) issued by the department.

*Licensee*—any person who is licensed by the department in accordance with the act and regulations promulgated by the administrative authority (R.S. 30:2105).

*Licenses*—general licenses and specific licenses.

1. *General License*—a license effective pursuant to regulations promulgated by the administrative authority without the filing of an application to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing, by-product, source or special nuclear materials, technologically enhanced natural radioactive material, or other radioactive material occurring naturally or produced artificially.

2. *Specific License*—a license issued after application to the department to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing by-product, source, or special nuclear materials, technologically enhanced natural radioactive material, or other radioactive material occurring naturally or produced artificially (R.S. 30:2105).

\*\*\*

[See Prior Text]

*Occupational Dose*—the dose received by an individual in the course of employment in which the individual's assigned duties for the licensee or registrant involve exposure to sources of radiation and/or radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received: from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with LAC 33:XV.725, from voluntary participation in medical research programs, or as a member of the public.

*Ore Refineries*—all processors of ore containing natural radioactivity.

\*\*\*

[See Prior Text]

*Qualified Expert*—an individual who has demonstrated to the satisfaction of the department that he or she possesses the knowledge and training to measure ionizing radiation parameters, to evaluate safety techniques, and to advise regarding radiation protection needs.

\*\*\*

[See Prior Text]

*Registrant*—any person who owns or possesses any radioactive material or device capable of emitting radiation and who is legally obligated to register with the department pursuant to these regulations and the act.

\*\*\*

[See Prior Text]

*Worker*—an individual engaged in work under a license or registration issued by the department and controlled by a licensee or registrant, but not including the licensee or registrant.

\*\*\*

[See Prior Text]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000).

### §105. Inspections

A. Each licensee and registrant shall afford the department, at all reasonable times, opportunity to inspect sources of radiation and the premises and facilities wherein such sources of radiation are used or stored.

B. Each licensee and registrant shall make available to the department for inspection, upon reasonable notice, records maintained pursuant to these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2564 (November 2000).

### §106. Tests

A. Each licensee and registrant shall perform, upon instructions from the department, or shall permit the department to perform, such reasonable tests as the department deems appropriate or necessary including, but not limited to, tests of:

\*\*\*

[See Prior Text A.1-4]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2564 (November 2000).

### §110. Prohibited Uses

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[See Prior Text in A-C]

D. Sources of radiation shall not be used for the purpose of screening or inspecting individuals for concealed weapons, hazardous materials, stolen property, illegal goods, or contraband without prior written approval from the department.

\*\*\*

[See Prior Text in E-Note]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2564 (November 2000).

### §111. Interpretations

Except as specifically authorized by the department in writing, no interpretation of the meaning of these regulations by any officer or employee of the department will be recognized to be legally binding upon the department in any manner whatsoever.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2564 (November 2000).

### §113. Appeal Procedure, Administrative Review

A. Any person affected by the regulatory actions of the department or administrative authority shall comply with R.S. 30:2024.

\*\*\*

[See Prior Text in B]

1. Any person who alleges that he or she has been aggrieved by the final actions or decision of the department or administrative authority may make application to the administrative authority, in writing, within 20 days after the occurrence of the alleged grievance or 20 days after the promulgation of any directive, order, decision or other written decision or declaration of the administrative authority.

\*\*\*

[See Prior Text in B.2-F]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2564 (November 2000).

### §115. Communications

All communications and reports concerning these regulations, and applications filed thereunder, should be addressed to the department at its offices located in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2564 (November 2000).

#### **§116. Public Participation in Licensing Actions**

\* \* \*

[See Prior Text in A-A.1]

a. A complete application as specified by the department and/or the administrative authority must be filed with appropriate fees, if required. Applications that lack necessary information for proper evaluation will be returned to the applicant within 60 days of receipt of application with a list of additional data required.

b. Applications that are deemed by the department to be complete will be accepted for review. The applicant will be notified of such acceptance for review within 60 days of receipt of the application.

\* \* \*

[See Prior Text in A.2-4.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565 (November 2000).

### **Chapter 2. Registration Radiation Machine and Facilities**

#### **§204. Application for Registration of Radiation Machines and Facilities**

A. Each person having a radiation machine or facility not presently registered shall do the following:

1. apply for registration of such facility and each radiation machine with the Office of Environmental Services, Permits Division prior to the operation of a radiation machine facility. Application for registration shall be completed on Form DRC-6 furnished by the department upon request in writing and shall contain all the information required by the form and accompanying instructions. The registration of the first radiation producing machine at a facility constitutes registration of the facility itself;

\* \* \*

[See Prior Text in A.2]

3. each registrant shall prohibit any person from furnishing radiation machine servicing or services as described in LAC 33:XV.205.A to his or her radiation machine facility until such person provides satisfactory evidence that he or she has been registered with the department as a provider of services in accordance with LAC 33:XV.205.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565 (November 2000).

#### **§205. Application for Registration of Servicing and Services**

A. Each person who is engaged in the business of installing or offering to install radiation machines or is engaged in the business of furnishing or offering to furnish radiation machine servicing or services in this state shall apply for registration of such services with the Office of Environmental Services, Permits Division within 30 days after the effective date of this Chapter or thereafter prior to furnishing or offering to furnish any such services.

B. Application for registration shall be completed on Form DRC-22 furnished by the Office of Environmental Services, Permits Division upon request in writing and shall contain all information required by the form and accompanying instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565 (November 2000).

#### **§206. Issuance of Registration Certificate**

\* \* \*

[See Prior Text in A]

B. The department may incorporate in the registration certificate, at the time of the issuance or thereafter by appropriate rule, regulation, or order, such additional requirements, affirmative obligations, and conditions with respect to the registrant's receipt, possession, use, and transfer of sources of radiation as it deems appropriate or necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565 (November 2000).

#### **§207. Expiration of Registration Certificate**

Except as provided by LAC 33:XV.208.B, each registration certificate shall expire at the end of 60 days after notification of expiration by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565 (November 2000).

#### **§208. Renewal of Registration Certificate**

\* \* \*

[See Prior Text in A]

B. In any case in which a registrant, not less than 30 days prior to the expiration of his or her existing registration certificate, has filed Form DRC-6 application in proper form for renewal, such existing registration certificate shall not expire until the application status has been finally determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565 (November 2000).

### §209. Report of Changes

The registrant shall notify the Office of Environmental Services, Permits Division in writing before making any change that would render the information contained in the application for registration and/or registration certificate no longer accurate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000).

### §210. Approval Not Implied

No person, in any advertisement, shall refer to the fact that a facility or machine is registered with the department pursuant to the provisions of LAC 33:XV.204, and no person shall state or imply that any activity under such registration has been approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000).

### §211. Assembler and/or Transferor Obligation

A. Any person who sells, leases, transfers, lends, disposes, assembles, or installs radiation machines in this state shall notify the Office of Environmental Services, Permits Division at 15-day intervals of:

\* \* \*

[See Prior Text in A.1-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000).

### §212. Out-of-State Radiation Machines

\* \* \*

[See Prior Text in A]

1. the person proposing to bring such machine into the state shall give written notice to the Office of Environmental Services, Permits Division at least three working days before such machine is to be used in the state. Additional requirements for work involving industrial radiography at temporary job sites may be found in LAC 33:XV.Chapter 5. The notice shall include:

\* \* \*

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

2. if, for a specific case, the three-working-day period would impose an undue hardship on the person, upon written application to the Office of Environmental Services, Permits Division, permission to proceed sooner may be granted.

\* \* \*

[See Prior Text in B-B.1]

2. supply the department with such other information as the department may reasonably request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000).

### §213. Modification, Revocation, and Termination of Registration Certificate

\* \* \*

[See Prior Text in A-C]

D. The department will terminate a registration certificate upon written request by the registrant, provided the registrant no longer possesses the registered device or provided the registrant has rendered the unit permanently incapable of producing radiation. The registrant shall notify the Office of Environmental Services, Permits Division within 60 days of the final disposition of the X-ray machine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000).

## Chapter 3. Licensing of Radioactive Material Subchapter B. Licenses

### §320. Types of Licenses

A. Licenses for radioactive materials are of two types: general and specific.

1. General licenses provided in this Chapter are effective without the filing of application with the Office of Environmental Services, Permits Division or the issuance of licensing documents to the particular persons, although the filing of certain information with the Office of Environmental Services, Permits Division may be required by the particular general license. The general licensee is subject to all other applicable portions of these regulations and to any limitations of the general license.

2. Specific licenses require the submission of an application to the Office of Environmental Services, Permits Division and the issuance of a licensing document by the administrative authority. The licensee is subject to all applicable portions of these regulations as well as to any limitations specified in the licensing document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000).



## Subchapter C. General Licenses

### §321. General Licenses: Source Material

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[See Prior Text in A-B]

C. Persons who receive, possess, use, or transfer source material pursuant to the general license in LAC 33:XV.321.A.1 are prohibited from administering source material or the radiation therefrom, either externally or internally, to human beings except as may be authorized by the department in a specific license.

\*\*\*

[See Prior Text in D-E.3]

a. Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by LAC 33:XV.321.E.1 shall file Form DRC-21, "General License Certificate—Use of Depleted Uranium Under General License," with the Office of Environmental Services, Permits Division. Form DRC-21 will be furnished by the Office of Environmental Services, Permits Division upon written request. The form shall be submitted within 30 days after the first receipt or acquisition of such depleted uranium. The general licensee shall furnish on Form DRC-21 the following information and such other information as may be required by that form:

\*\*\*

[See Prior Text in E.3.a.i-iii]

b. The licensee possessing or using depleted uranium under the general license established by LAC 33:XV.321.E.1 shall report in writing to the Office of Environmental Services, Permits Division any changes in information furnished by him in Form DRC-21, "General License Certificate—Use of Depleted Uranium Under General License." The report shall be submitted within 30 days after the effective date of such change.

\*\*\*

[See Prior Text in E.4-4.c]

d. within 30 days of any transfer, shall report in writing to the Office of Environmental Services, Permits Division, the name and address of the person receiving the depleted uranium pursuant to such transfer; and

\*\*\*

[See Prior Text in E.4.e-5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000).

### §322. General Licenses: Radioactive Material Other Than Source Material

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[See Prior Text in A-D.3.d]

e. upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie or more of removable radioactive material, immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding an applicable specific license from the administrative

authority, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state to repair such devices, or disposed of by transfer to a person authorized by an applicable specific license to receive the radioactive material contained in the device and, within 30 days, furnish to the Office of Environmental Compliance, Surveillance Division a report containing a brief description of the event and the remedial action taken;

\*\*\*

[See Prior Text in D.3.f]

g. except as provided in LAC 33:XV.322.D.3.h, transfer or dispose of the device containing radioactive material only by transfer to a specific licensee of the department, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state whose specific license authorizes him or her to receive the device and within 30 days after transfer of a device to a specific licensee shall furnish to the Office of Environmental Services, Permits Division a report containing identification of the device by manufacturer's name and model number and the name and address of the person receiving the device. No report is required if the device is transferred to the specific licensee in order to obtain a replacement device;

\*\*\*

[See Prior Text in D.3.h]

i. where the device remains in use at a particular location. In such case the transferor shall give the transferee a copy of this regulation and any safety documents identified in the label on the device and within 30 days of the transfer, report to the Office of Environmental Services, Permits Division the manufacturer's name and model number of device transferred, the name and address of the transferee, and the name and/or position of an individual who may constitute a point of contact between the department and the transferee; or

\*\*\*

[See Prior Text in D.3.h.ii-J.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000).

## Subchapter D. Specific Licenses

### §324. Filing Application for Specific Licenses

A. Applications for specific licenses shall be filed on a form prescribed by the Office of Environmental Services, Permits Division or in any other manner specified by the department.

B. The department may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the department to determine whether the application should be granted or denied or whether a license should be modified or revoked.

\*\*\*

[See Prior Text in C-D]

E. In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the department, provided such references are clear and specific.

F. Applications and documents submitted to the department shall be available for public inspection unless the administrative authority makes a written determination of confidentiality in accordance with LAC 33:I.Chapter 5.

G. If the department determines that any material should not be afforded confidentiality, a written denial of the request will be issued to the requestor in accordance with LAC 33:I.Chapter 5.

\* \* \*

[See Prior Text in H-J.6]

7. Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying off-site response organizations and the department. Also, responsibilities for developing, maintaining, and updating the plan will be included;

8. Notification and Coordination. A commitment to and a brief description of the means to promptly notify off-site response organizations and request off-site assistance, including medical assistance for the treatment of contaminated injured on-site workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the Office of Environmental Compliance by telephone at (225) 765-0160 immediately after notification of the appropriate off-site response organizations and not later than one hour after the licensee declares an emergency<sup>1</sup>;

9. Information to be Communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off-site response organizations and to the department;

\* \* \*

[See Prior Text in J.10-13]

K. The licensee shall allow the off-site response organizations expected to respond in case of accident 60 days to comment on the licensee's emergency plan before submitting it to the Office of Environmental Services, Permits Division. The licensee shall provide any comments received within the 60 days to the Office of Environmental Services, Permits Division with the emergency plan.

<sup>1</sup>These reporting requirements do not supersede or release licensees of complying with requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 20:179 (February 1994), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000).

### **§325. General Requirements for the Issuance of Specific Licenses**

A. A license application will be approved if the department determines that:

\* \* \*

[See Prior Text in A.1-4]

B. Environmental Report, Commencement of Construction. In the case of an application for a license to receive and possess radioactive material for commercial waste disposal by land burial, or for the conduct of any other activity that the department determines will significantly affect the quality of the environment, construction of the plant or facility in which the activity will be conducted shall not commence until the department has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion shall be grounds for denial of a license to receive and possess radioactive material in such plant or facility. As used in this Section the term *commencement of construction* means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

\* \* \*

[See Prior Text in C-C.1]

a. The amount of funds to be ensured by such financial assurance arrangements shall be based on department-approved cost estimates.

\* \* \*

[See Prior Text in C.1.b.-D.2.a]

b. submit a certification that financial assurance arrangement for decommissioning has been provided in the amount prescribed by Subsection D.4 of this Section using one of the methods described in Subsection D.6 of this Section. For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued, but prior to the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of Subsection D.6 of this Section shall be submitted to the Office of Environmental Services, Permits Division before receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to the Office of Environmental Services, Permits Division, as part of the certification, a copy of the financial instrument obtained to satisfy the requirements of Subsection D.6 of this Section .

\* \* \*

[See Prior Text in D.3-6.b]

i. The financial assurance method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Office of Environmental Services, Permits Division, the beneficiary, and the licensee of its intention not to renew. The financial assurance method or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement

acceptable to the department within 30 days after receipt of notification of cancellation.

ii. The financial assurance method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the department. An acceptable trustee includes an appropriate state or federal government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

iii. The financial assurance method or insurance must remain in effect until the department has terminated the license.

\* \* \*

[See Prior Text in D.6.c-d]

7. Each person licensed under this Chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, licensees shall transfer all records described in this Paragraph to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the department considers important to decommissioning consists of the following:

\* \* \*

[See Prior Text in D.7.a-d.iv]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 23:1140 (September 1997), LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000), LR 26:2568 (November 2000).

**§326. Special Requirements for Issuance of Certain Specific Licenses for Radioactive Material**

A. Specific Licenses for Irradiators. The department shall approve an application for a specific license for the use of licensed material in an irradiator in accordance with LAC 33:XV.Chapter 17, if the applicant meets the following requirements:

\* \* \*

[See Prior Text in A.1-2.c]

d. means employed by the applicant to test each operator's understanding of the department's regulations and licensing requirements and the irradiator operating, safety, and emergency procedures; and

\* \* \*

[See Prior Text in A.2.e-5]

6. if the applicant intends to perform leak testing, the applicant shall establish procedures for performing leak testing of dry-source-storage sealed sources and submit a description of these procedures to the department. The description shall include:

\* \* \*

[See Prior Text in A.6.a-d]

7. if licensee personnel are to load or unload sources, the applicant shall describe the qualifications and training of

the personnel and the procedures to be used. If the applicant intends to contract for source loading or unloading at its facility, the loading or unloading shall be done by a person specifically authorized by the department, the Nuclear Regulatory Commission, an agreement state, or a licensing state to load or unload irradiator sources; and

\* \* \*

[See Prior Text in A.8-E.1]

a. The applicant will have an adequate program for training radiographers and submits to the Office of Environmental Services, Permits Division a schedule or description of such program that specifies the:

\* \* \*

[See Prior Text in E.1.a.i-iv]

b. The applicant has established and submits to the Office of Environmental Services, Permits Division satisfactory written operating and emergency procedures as described in LAC 33:XV.576.

\* \* \*

[See Prior Text in E.1.c]

d. The applicant submits to the Office of Environmental Services, Permits Division a description of his or her overall organizational structure pertaining to the industrial radiography program, including specified delegations of authority and responsibility for operation of the program.

e. The applicant who desires to conduct his or her own leak tests has established adequate procedures to be followed in leak testing sealed sources for possible leakage and contamination and submits to the Office of Environmental Services, Permits Division a description of such procedures including:

\* \* \*

[See Prior Text in E.1.e.i-f]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000).

**§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material**

\* \* \*

[See Prior Text in A-A.1]

a. the applicant submits to the Office of Environmental Services, Permits Division a description of the product or material into which the radioactive material will be introduced, the intended use of the radioactive material, and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioactive material in the product or material at the time of transfer.

\* \* \*

[See Prior Text in A.1.b]

2. Each person licensed under LAC 33:XV.328.A shall file an annual report with the Office of Environmental Services, Permits Division that shall identify the type and quantity of each product or material into which radioactive material has been introduced during the reporting period; name and address of the person who owned or possessed the product or material into which radioactive material has been introduced, at the time of introduction; the type and quantity of radionuclide introduced into each such product or material; and the initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made pursuant to LAC 33:XV.328.A during the reporting period, the report shall so indicate. The report shall cover the year ending June 30 and shall be filed within 30 calendar days thereafter.

\*\*\*

[See Prior Text in B-B.1.a.ii]

iii. the applicant submits copies of prototype labels and brochures, and the Office of Environmental Services, Permits Division approves such labels and brochures.

\*\*\*

[See Prior Text in B.1.b.iv.(c)]

c. Each person licensed under LAC 33:XV.328.B shall maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under LAC 33:XV.304.B or the equivalent regulations of the licensing state and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license shall be filed with the Office of Environmental Services, Permits Division. Each report shall cover the year ending June 30 and shall be filed within 30 calendar days thereafter. If no transfers of radioactive material have been made pursuant to LAC 33:XV.328.B during the reporting period, the report shall so indicate.

\*\*\*

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

b. the applicant submits to the Office of Environmental Services, Permits Division sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance of the following:

\*\*\*

[See Prior Text in D.1.b.i-iii.(c)]

c. Each device bears a durable, legible, clearly visible label or labels approved by the department that contain in a clearly identified and separate statement:

\*\*\*

[See Prior Text in D.1.c.i-iii.(b)]

2. In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material, or for both, the applicant shall include in his or her application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices and by design features that have a significant bearing on the probability or consequences of

leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the department will consider information that includes, but is not limited to:

\*\*\*

[See Prior Text in D.2.a-4.b]

c. report to the Office of Environmental Services, Permits Division all transfers of such devices to persons for use under the general license in LAC 33:XV.322.D. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. If no transfers have been made to persons generally licensed under LAC 33:XV.322.D during the reporting period, the report shall so indicate. The report shall cover each calendar quarter and shall be filed within 30 days thereafter.

\*\*\*

[See Prior Text in D.4.d-J.1.a]

b. the applicant submits to the Office of Environmental Services, Permits Division evidence that the applicant is at least one of the following:

\*\*\*

[See Prior Text in J.1.b.i-iv]

c. the applicant submits to the Office of Environmental Services, Permits Division information on the radionuclide, chemical and physical form, packaging including maximum activity per package, and shielding provided by the radioactive material that is appropriate for safe handling and storage of radiopharmaceuticals by group licensees; and

\*\*\*

[See Prior Text in J.1.d-2.c]

d. may designate a pharmacist (as defined in LAC 33:XV.102) as an authorized nuclear pharmacist if the individual is identified as of December 2, 1994, as an *authorized user* on a nuclear pharmacy license issued by the department under these regulations; and

e. shall provide to the Office of Environmental Services, Permits Division a copy of each individual's certification by the Board Of Pharmaceutical Specialties and the department, licensing state, Nuclear Regulatory Commission, or agreement state license or the permit issued by a licensee of broad scope and a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the license allows the individual to work as an authorized nuclear pharmacist, in accordance with Subsection J.2.b.i and iii of this Section.

\*\*\*

[See Prior Text in J.3-K.1.e.ii]

(a). states that the contents are exempt from department licensing requirements; and

\*\*\*

[See Prior Text in K.1.e.ii.(b)]

f. the applicant submits copies of prototype labels and brochures and the department approves these labels and brochures.

\* \* \*

[See Prior Text in K.2-L.1.a]

b. the applicant submits to the Office of Environmental Services, Permits Division sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

\* \* \*

[See Prior Text in L.1.b.i-2.a]

b. In determining the acceptance interval for tests of leakage of radioactive material, the department will consider information that includes, but is not limited to:

\* \* \*

[See Prior Text in L.2.b.i-M.1.a]

b. the applicant submits to the Office of Environmental Services, Permits Division sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one calendar quarter a radiation dose in excess of 10 percent of the limits specified in LAC 33:XV.410.A; and

c. the applicant submits to the Office of Environmental Services, Permits Division sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device;

\* \* \*

[See Prior Text in M.2-4.d.ii]

e. report to the Office of Environmental Services, Permits Division all transfers of industrial products or devices to persons for use under the general license in LAC 33:XV.321.E. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under LAC 33:XV.321.E during the reporting period, the report shall so indicate;

\* \* \*

[See Prior Text in M.4.f-g]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000).

### **§331. Specific Terms and Conditions of Licenses**

\* \* \*

[See Prior Text in A]

B. No license issued or granted under this Chapter and no right to possess or utilize radioactive material granted by any license issued pursuant to this Chapter shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the department shall, after securing full information, find that the transfer is in accordance with the provisions of the act, now or hereafter in effect, and with all valid rules, regulations, and orders of the department, and shall give its consent in writing.

\* \* \*

[See Prior Text in C]

D. Each licensee shall notify the Office of Environmental Services, Permits Division in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license. This notification requirement applies to all specific licenses issued under Chapter 3 of these regulations.

E. Each licensee shall notify the Office of Environmental Services, Permits Division, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the *United States Code* by or against:

\* \* \*

[See Prior Text in E.1-F]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2571 (November 2000).

### **§332. Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas**

\* \* \*

[See Prior Text in A]

B. Each licensee shall notify the Office of Environmental Services, Permits Division immediately, in writing, and request termination of the license when the licensee decides to terminate all activities involving radioactive material authorized under the license. This notification and request for termination of the license must include the reports and information specified in LAC 33:XV.332.D.1.e.

\* \* \*

[See Prior Text in C-C.1]

2. notify the Office of Environmental Services, Permits Division, in writing, if the licensee decides not to renew the license.

\* \* \*

[See Prior Text in D-D.1.c]

d. submit a completed form to the Office of Environmental Services, Permits Division that certifies information concerning the disposition of materials; and

e. submit a radiation survey report to the Office of Environmental Services, Permits Division to confirm the absence of radioactive material or to establish the levels of residual radioactive contamination, unless the licensee

demonstrates the absence of residual radioactive contamination in some other manner. The licensee shall, as appropriate:

\* \* \*

[See Prior Text in D.1.e.i-2]

a. In addition to the information required under Subsection D.1.d and e of this Section, the licensee shall submit a plan for completion of decommissioning, if required by the license condition or if the procedures necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the department and could increase potential health and safety impacts to workers or to the public such as in any of the following cases:

\* \* \*

[See Prior Text in D.2.a.i-c.vi]

d. The proposed decommissioning plan will be approved by the department if the information therein demonstrates that the decommissioning will be completed as soon as is reasonable and that the health and safety of workers and the public will be adequately protected.

3. Upon approval of the decommissioning plan by the department, the licensee shall complete decommissioning in accordance with the approved plan. As a final step in decommissioning, the licensee shall again submit the information required in LAC 33:XV.332.D.1.e and shall certify the disposition of accumulated wastes from decommissioning.

4. If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. The department will notify the licensee, in writing, of the termination of the license.

\* \* \*

[See Prior Text in D.5]

a. If detectable levels of residual radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual radioactive material present as contamination until the department notifies the licensee in writing that the license is terminated. During this time the licensee is subject to the provisions of LAC 33:XV.332.E.

\* \* \*

[See Prior Text in D.5.b]

c. Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the department determines that:

\* \* \*

[See Prior Text in D.5.c.i-6]

a. Within 60 days of the occurrence of any of the following, each licensee shall provide notification to the Office of Environmental Services, Permits Division in writing of such occurrence and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is suitable for release for unrestricted use, or submit within 12 months of notification a decommissioning plan, if required by Subsection D.2 of this Section, and begin decommissioning upon approval of that plan if:

\* \* \*

[See Prior Text in D.6.a.i-b.i]

ii. Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the department.

c. The department may grant a request to extend the time periods established in Subsection D.6.a of this Section if the department determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request shall be submitted no later than 30 days before notification in accordance with Subsection D.6.a of this Section. The schedule for decommissioning set forth in Subsection D.6.a of this Section may not commence until the department has made a determination on the request.

d. The department may approve an alternative schedule for submittal of a decommissioning plan required in accordance with Subsection D.6.a of this Section if the department determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

\* \* \*

[See Prior Text in D.6.e.-e.ii]

iii. The department may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area and license termination, if appropriate, if the department determines that the alternative is warranted by consideration of the following:

\* \* \*

[See Prior Text in D.6.e.iii.(a)-(d)]

(e). other site-specific factors that the department may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, groundwater treatment activities, monitored natural groundwater restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

\* \* \*

[See Prior Text in E-E.1]

2. continue to control entry to restricted areas until they are suitable for release for unrestricted use and the department notifies the licensee in writing that the license is terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2094 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2571 (November 2000).

### §333. Renewal of Licenses

\* \* \*

[See Prior Text in A]

B. In any case in which a licensee, not less than 30 calendar days prior to expiration of his or her existing license, has filed an application in proper form for renewal or for a new license authorizing the same activities, such

existing license shall not expire until the application has been finally determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2572 (November 2000).

### **§335. Department Action on Applications to Renew or Amend**

In considering an application by a licensee to renew or amend his or her license, the department will apply the criteria set forth in LAC 33:XV.325, 326, 327, and 328 and in Chapters 5, 7, 13, and 20 of these regulations as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2573 (November 2000).

### **§340. Transfer of Material**

\* \* \*

[See Prior Text in A-B]

1. to the department (a licensee may transfer radioactive material to the department only after receiving prior approval from the department);

\* \* \*

[See Prior Text in B.2-4]

5. as otherwise authorized by the department in writing.

C. Before transferring radioactive material to a specific licensee of the department, the U.S. Nuclear Regulatory Commission, another agreement state, or a licensing state, or to a general licensee who is required to register with the department, the U.S. Nuclear Regulatory Commission, any other agreement state, or a licensing state, prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.

\* \* \*

[See Prior Text in D-D.3]

4. the transferor may obtain other sources of information compiled by a reporting service from official records of the department, the U.S. Nuclear Regulatory Commission, or the licensing agency of any other agreement state, or licensing state as to the identity of licensees and the scope and expiration dates of licenses and registration;

5. when none of the methods of verification described in LAC 33:XV.340.D.1-4 are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the department, the U.S. Nuclear Regulatory Commission, or the licensing agency of any other agreement state or licensing state that the transferee is licensed to receive the radioactive material.

\* \* \*

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2573 (November 2000).

### **§341. Reporting Requirements for General and Specific Licenses**

A. Immediate Report. Each licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 as soon as possible but not later than four hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

B. Twenty-four Hour Report. Each licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 within 24 hours after the discovery of any of the following events involving licensed material:

\* \* \*

[See Prior Text in B.1-C]

1. licensees shall make reports required by LAC 33:XV.341.A and B by telephone to the Office of Environmental Compliance at (225) 765-0160. To the extent that the information is available at the time of notification, the information provided in these reports must include:

\* \* \*

[See Prior Text in C.1.a-e]

2. each licensee who makes a report required by LAC 33:XV.341.A or B shall submit a written follow-up report within 30 days of the initial report to the Office of Environmental Compliance. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be sent to the department. The reports must include the following:

\* \* \*

[See Prior Text in C.2.a-f]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21:554 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2573 (November 2000).

### **§351. Financial Assurance Arrangements**

\* \* \*

[See Prior Text in A-D.3]

4. any other licensee that the department determines to have the potential to default, abandon, or otherwise cause liabilities that would endanger public health and safety.

E. The department may reevaluate, at any time, the adequacy of an existing financial assurance arrangement and may require an adjustment by either increasing or decreasing the amount of the financial assurance arrangement required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2573 (November 2000).

### Subchapter E. Reciprocity

#### §390. Reciprocal Recognition of Licenses

A. Subject to these regulations, any person who holds a specific license from the U.S. Nuclear Regulatory Commission, any other agreement state, or any licensing state and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state for any period of time deemed appropriate by the department provided that the following conditions are met:

\* \* \*

[See Prior Text in A.1]

2. for each separate location in Louisiana, the out-of-state licensee notifies the Office of Environmental Services, Permits Division in writing at least three working or business days prior to engaging in such activity. Such notification shall indicate the location, period, and type of proposed possession and use within the state and shall be accompanied by a copy of the pertinent licensing document. If, for a specific case, the three working or business day period would impose an undue hardship on the out-of-state licensee, he or she may, upon written application to the Office of Environmental Services, Permits Division, obtain permission to proceed sooner. The department may waive the requirement for filing additional written notifications following the receipt of the initial written notification from a person engaging in activities under the general license provided in LAC 33:XV.390.A;

\* \* \*

[See Prior Text in A.3]

4. the out-of-state licensee maintains a current copy of the appropriate license and all amendments thereto with the department;

5. the out-of-state licensee supplies such other information as the department may request;

6. any out-of-state licensee who establishes a permanent office in Louisiana shall notify the Office of Environmental Services, Permits Division within 10 calendar days of establishing such office and shall, upon direction by the department and within 30 calendar days, make application for a radioactive material license in accordance with LAC 33:XV.326.E;

\* \* \*

[See Prior Text in A.7-B]

1. such person shall file a report with the Office of Environmental Services, Permits Division within 30 calendar days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device.

\* \* \*

[See Prior Text in B.2-4]

C. The department may withdraw, limit, or qualify its acceptance of any specific license or equivalent licensing document issued by another regulatory agency, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public welfare and safety or property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000).

### Appendix D

#### Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on obtaining a parent company guarantee that funds will be available for decommissioning costs and on a demonstration that the parent company passes a financial test. This appendix establishes criteria for passing the financial test and for obtaining the parent company guarantee.

\* \* \*

[See Prior Text in A-A.2.c]

B. The parent company's independent certified public accountant must have compared the data used by the parent company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure the licensee shall inform the Office of Management and Finance, Financial Services Division within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

\* \* \*

[See Prior Text in C]

D. If the parent company no longer meets the requirements of Subsection A of this Appendix, the licensee must send notice to the Office of Management and Finance, Financial Services Division of intent to establish alternate financial assurance as specified in these regulations. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the parent company no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

\* \* \*

[See Prior Text in E]

1. The parent company guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the department, as evidenced by the return receipt.



2. If the licensee fails to provide alternate financial assurance as specified in these regulations within 90 days after receipt by the licensee and the department of a notice of cancellation of the parent company guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the licensee.

3. The parent company guarantee and financial test provisions must remain in effect until the department has terminated the license.

4. If a trust is established for decommissioning costs, the trustee and trust must be acceptable to the department. An acceptable trustee includes an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000).

#### **Chapter 4. Standards for Protection Against Radiation**

##### **Subchapter A. General Provisions**

###### **§401. Purpose**

A. This Chapter establishes standards for protection against ionizing radiation resulting from activities conducted pursuant to licenses or registrations issued by the department. These regulations are issued in accordance with R.S. 30:2101 et seq.

\* \* \*

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:969 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2575 (November 2000).

###### **§402. Scope**

Except as specifically provided in other chapters of these regulations, this Chapter applies to persons licensed or registered by the department to receive, possess, use, transfer, or dispose of sources of radiation or to operate a production or utilization facility under these regulations. The limits in this Chapter do not apply to doses due to background radiation, to exposure from any medical administration the individual has received, to exposure from individuals administered radioactive material and released in accordance with LAC 33:XV.725, or to exposure from voluntary participation in medical research programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 24:2095 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2575 (November 2000).

#### **Subchapter B. Radiation Protection Programs**

##### **§413. Determination of Internal Exposure**

\* \* \*

[See Prior Text in A-C.1]

2. upon prior approval of the department, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material, for example, aerosol size distribution or density; and

\* \* \*

[See Prior Text in C.3-H.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2575 (November 2000).

##### **§414. Determination of Prior Occupational Dose**

\* \* \*

[See Prior Text in A-C.1]

2. accept, as the record of lifetime cumulative radiation dose, an up-to-date department Form DRC-4 or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure or the individual's current employer, if the individual is not employed by the licensee or registrant; and

\* \* \*

[See Prior Text in C.3]

D. The licensee or registrant shall record the exposure history, as required by LAC 33:XV.414.A, on department Form DRC-4, or other clear and legible record, of all the information required on that form. The form or record shall show each period in which the individual received occupational exposure to radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report in preparing department Form DRC-4 or equivalent. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on department Form DRC-4 or equivalent indicating the periods of time for which data are not available.

E. Licensees or registrants are not required to partition the historical dose between external dose equivalent(s) and internal committed dose equivalent(s). Further, occupational exposure histories obtained and recorded on department Form DRC-4 or equivalent before January 1, 1994, may not have included effective dose equivalent, but may be used in the absence of specific information on the intake of radionuclides by the individual.

\* \* \*

[See Prior Text in F-F.2]

G. The licensee or registrant shall retain the records on department Form DRC-4 or equivalent until the department terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing department Form DRC-4 or equivalent for three years after the record is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:970 (October 1996), LR 24:2095 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2575 (November 2000).

**§421. Radiation Dose Limits for Individual Members of the Public**

\* \* \*

[See Prior Text in A-B]

C. A licensee, registrant, or an applicant for a license or registration may apply for prior department authorization to operate up to an annual dose limit for an individual member of the public of 5 mSv (0.5 rem). This application shall include the following information:

\* \* \*

[See Prior Text in C.1-D]

E. The department may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:970 (October 1996), LR 24:2095 (November 1998), repromulgated LR 24:2243 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2576 (November 2000).

**§422. Compliance with Dose Limits for Individual Members of the Public**

\* \* \*

[See Prior Text in A-B.2.b]

C. Upon approval from the department, the licensee or registrant may adjust the effluent concentration values in Appendix B, Table II, for members of the public, to take into account the actual physical and chemical characteristics of the effluents, such as aerosol size distribution, solubility, density, radioactive decay equilibrium, and chemical form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:971 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2576 (November 2000).

**§426. Testing for Leakage or Contamination of Sealed Sources**

\* \* \*

[See Prior Text in A-A.1]

2. each sealed source that is designed not to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the department, after evaluation of information specified by LAC 33:XV.328.L.2, an agreement state, a licensing state, or the Nuclear Regulatory Commission;

3. each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the department, after evaluation of information specified by LAC 33:XV.328.L.2, an agreement state, a licensing state, or the Nuclear Regulatory Commission;

\* \* \*

[See Prior Text in A.4-B.6]

C. Tests for leakage or contamination from sealed sources shall be performed by persons specifically authorized by the department, an agreement state, a licensing state, or the U.S. Nuclear Regulatory Commission to perform such services.

D. Test results shall be kept in units of becquerel or microcurie and maintained for inspection by the department. Records of test results for sealed sources shall be made in accordance with LAC 33:XV.473.

\* \* \*

[See Prior Text in E-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:971 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2576 (November 2000).

**Subchapter D. Control of Exposure From External Sources in Restricted Areas**

**§436. Control of Access to High Radiation Areas**

\* \* \*

[See Prior Text in A-B]

C. The licensee or registrant may apply to the Office of Environmental Services, Permits Division for approval of alternative methods for controlling access to high radiation areas.

\* \* \*

[See Prior Text in D-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2576 (November 2000).

**§438. Control of Access to Very High Radiation Areas - Irradiators**

\* \* \*

[See Prior Text in A-B.9.b]

c. the licensee or registrant shall submit to the Office of Environmental Services, Permits Division and adhere to a schedule for periodic tests of the entry control and warning systems;

\* \* \*

[See Prior Text in B.10-11]

C. Licensees, registrants, or applicants for licenses or registrations for sources of radiation within the purview of LAC 33:XV.438.B which will be used in a variety of positions or in locations, such as open fields or forests, that make it impracticable to comply with certain requirements

of LAC 33:XV.438.B, such as those for the automatic control of radiation levels, may apply to the Office of Environmental Services, Permits Division for approval of alternative safety measures. Alternative safety measures shall provide personnel protection at least equivalent to those specified in LAC 33:XV.438.B. At least one of the alternative measures shall include an entry-preventing interlock control based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where such sources of radiation are used.

\* \* \*

[See Prior Text in D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2576 (November 2000).

### **Subchapter E. Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas**

#### **§442. Use of Individual Respiratory Protection Equipment**

\* \* \*

[See Prior Text in A-A.1]

2. the licensee or registrant may use equipment that has not been tested or certified by NIOSH/MSHA, has not had certification extended by NIOSH/MSHA, or for which there is no schedule for testing or certification, provided the licensee or registrant has submitted to the Office of Environmental Services, Permits Division and the Office of Environmental Services, Permits Division has approved an application for authorized use of that equipment, including a demonstration by testing, or a demonstration on the basis of test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use;

\* \* \*

[See Prior Text in A.3-B.1]

2. the licensee or registrant shall obtain authorization from the department before assigning respiratory protection factors in excess of those specified in Appendix A. The department may authorize a licensee or registrant to use higher protection factors on receipt of an application that:

\* \* \*

[See Prior Text in B.2.a-C]

D. The licensee or registrant shall notify the Office of Environmental Services, Permits Division in writing at least 30 days before the date that respiratory protection equipment is first used pursuant to either LAC 33:XV.442.A or B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 2:972 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000).

### **Subchapter G. Precautionary Procedures**

#### **§450. Caution Signs**

A. Standard Radiation Symbol. Unless otherwise authorized by the department, the symbol prescribed by this Section shall use the colors magenta or purple or black on yellow background. The symbol prescribed is the three-bladed design as follows:

\* \* \*

[See Prior Text in A.1-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000).

#### **§455. Procedures for Receiving and Opening Packages**

\* \* \*

[See Prior Text in A-C]

D. The licensee or registrant shall immediately notify the final delivery carrier and, by telephone and telegram, mailgram, or facsimile, the Office of Environmental Compliance at (225) 765-0160 when:

\* \* \*

[See Prior Text in D.1-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000).

### **Subchapter H. Waste Disposal**

#### **§461. Method for Obtaining Approval of Proposed Disposal Procedures**

A. A licensee or registrant or applicant for a license or registration may apply to the Office of Environmental Services, Permits Division for approval of proposed procedures, not otherwise authorized in these regulations, to dispose of licensed or registered sources of radiation generated in the licensee's or registrant's operations. Each application shall include:

\* \* \*

[See Prior Text in A.1-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000).

#### **§463. Treatment or Disposal by Incineration**

A licensee or registrant may treat or dispose of licensed or registered sources of radiation by incineration only in the form and concentration specified in LAC 33:XV.464 or as specifically approved by the department in accordance with LAC 33:XV.461.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 22:973 (October 1996), amended by the Office

of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000).

### **Subchapter I. Records**

#### **§471. Records of Radiation Protection Programs**

\* \* \*

[See Prior Text in A-A.2]

B. The licensee or registrant shall retain the records required by LAC 33:XV.471.A.1 until the department terminates each pertinent license or registration requiring the record. The licensee or registrant shall retain the records required by LAC 33:XV.471.A.2 for three years after the record is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2578 (November 2000).

#### **§472. Records of Surveys**

\* \* \*

[See Prior Text in A]

B. The licensee or registrant shall retain each of the following records until the department terminates each pertinent license or registration requiring the record:

\* \* \*

[See Prior Text in B.1-4]

C. Upon termination of the license or registration, the licensee or registrant shall permanently store records or shall make provision with the department for transfer to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2578 (November 2000).

#### **§473. Records of Tests for Leakage or Contamination from Sealed Sources**

Records of tests for leakage or contamination from sealed sources required by LAC 33:XV.426 shall be kept in units of becquerel or microcurie and maintained for inspection by the department for five years after the records are made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2578 (November 2000).

#### **§474. Records of Prior Occupational Dose**

A. The licensee or registrant shall retain the records of prior occupational dose and exposure history as specified in LAC 33:XV.414 on department Form DRC-4 or equivalent until the department terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing Form DRC-4 or equivalent for three years after the record is made.

B. Upon termination of the license or registration, the licensee or registrant shall permanently store records on department Form DRC-4 or equivalent or shall make provision with the department for transfer to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2578 (November 2000).

#### **§475. Records of Planned Special Exposures**

\* \* \*

[See Prior Text in A-A.7]

B. The licensee or registrant shall retain the records until the department terminates each pertinent license or registration requiring these records.

C. Upon termination of the license or registration, the licensee or registrant shall permanently store records or shall make provision with the department for transfer to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2578 (November 2000).

#### **§476. Records of Individual Monitoring Results**

\* \* \*

[See Prior Text in A-B]

C. Recordkeeping Format. The licensee or registrant shall maintain the records specified in LAC 33:XV.476.A on department Form DRC-5, in accordance with the instructions for department Form DRC-5, or in clear and legible records containing all the information required by department Form DRC-5.

\* \* \*

[See Prior Text in D]

E. The licensee or registrant shall retain each required form or record until the department terminates each pertinent license or registration requiring the record.

F. Upon termination of the license or registration, the licensee or registrant shall permanently store records on department Form DRC-4 or equivalent, or shall make provision with the department for transfer to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2578 (November 2000).

#### **§477. Records of Dose to Individual Members of the Public**

\* \* \*

[See Prior Text in A]

B. The licensee or registrant shall retain the records required by LAC 33:XV.477.A until the department terminates each pertinent license or registration requiring the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2578 (November 2000).

**§478. Records of Waste Disposal**

\*\*\*

[See Prior Text in A]

B. The licensee or registrant shall retain the records required by LAC 33:XV.478.A until the department terminates each pertinent license or registration requiring the record. Requirements for disposition of these records, prior to license termination, are located in LAC 33:XV.342.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), 1018 (May 2000), LR 26:2579 (November 2000).

**Subchapter J. Reports**

**§485. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation**

A. Telephone Reports. Each licensee or registrant shall report to the Office of Environmental Compliance by telephone at (225) 765-0160 as follows:

\*\*\*

[See Prior Text in A.1-3]

B. Written Reports. Each licensee or registrant required to make a report pursuant to LAC 33:XV.485.A shall, within 30 days after making the telephone report, make a written report to the Office of Environmental Compliance setting forth the following information:

\*\*\*

[See Prior Text in B.1-C]

D. The licensee or registrant shall prepare any report filed with the Office of Environmental Compliance pursuant to this Section so that names of individuals who may have received exposure to radiation are stated in a separate and detachable portion of the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000).

**§486. Notification of Incidents**

A. Immediate Notification. Notwithstanding other requirements for notification, each licensee or registrant shall immediately report to the Office of Environmental Compliance by telephone at (225) 765-0160 each event involving a source of radiation possessed by the licensee or registrant that may have caused or threatens to cause any of the following conditions:

\*\*\*

[See Prior Text in A.1-2]

B. Twenty-four Hour Notification. Each licensee or registrant shall, within 24 hours of discovery of the event, report to the Office of Environmental Compliance by telephone at (225) 765-0160 each event involving loss of control of a licensed or registered source of radiation possessed by the licensee or registrant that may have caused, or threatens to cause, any of the following conditions:

\*\*\*

[See Prior Text in B.1-2]

C. Licensees or registrants shall make the reports required by Subsections A and B of this Section through initial contact by telephone and shall confirm the initial contact by telegram, mailgram, or facsimile to the Office of Environmental Compliance, or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance.

D. The licensee or registrant shall prepare each report filed with the department in accordance with this Section so that names of individuals who have received exposure to sources of radiation are stated in a separate and detachable portion of the report.

\*\*\*

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000).

**§487. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits**

A. Reportable Events. In addition to the notification required by LAC 33:XV.486, each licensee or registrant shall submit a written report to the Office of Environmental Compliance within 30 days after learning of any of the following occurrences:

\*\*\*

[See Prior Text in A.1-B.2]

C. All licensees or registrants who make reports pursuant to LAC 33:XV.487.A shall submit the report in writing to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000).

**§488. Reports of Planned Special Exposures**

The licensee or registrant shall submit a written report to the Office of Environmental Services, Permits Division within 30 days following any planned special exposure conducted in accordance with LAC 33:XV.415, informing the department that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by LAC 33:XV.475.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000).

**§490. Reports of Individual Monitoring**

A. This Section applies to each person licensed or registered by the department to:

\*\*\*

[See Prior Text in A.1-3]

<sup>a</sup>The department may require as a license condition, or by rule or regulation, reports from licensees or registrants who are licensed or registered to use radionuclides not on this list, in quantities sufficient to cause comparable radiation levels.

B. Each licensee or registrant in a category listed in LAC 33:XV.490.A shall submit to the Office of Environmental Services, Permits Division an annual report of the results of individual monitoring carried out by the licensee or registrant for each individual for whom monitoring was required by LAC 33:XV.431 during that year. The licensee or registrant may include additional data for individuals for whom monitoring was provided but not required. The licensee or registrant shall use department Form DRC-5 or equivalent or electronic media containing all the information required by department Form DRC-5.

C. The licensee or registrant shall file the report required by LAC 33:XV.490.B, covering the preceding year, on or before April 30 of each year. The licensee or registrant shall submit the report to the Office of Environmental Services, Permits Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000).

#### §491. Notifications and Reports to Individuals

\* \* \*

[See Prior Text in A]

B. When a licensee or registrant is required pursuant to LAC 33:XV.487 to report to the department any exposure of an individual to radiation or radioactive material, the licensee or registrant shall also notify the individual. Such notice shall be transmitted at a time not later than the transmittal to the department and shall comply with the provisions of LAC 33:XV.1013.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000).

#### §492. Reports of Leaking or Contamination From Sealed Sources

The licensee or registrant shall file a report within five days with the Office of Environmental Compliance, or e-mail at surveillance@deq.state.la.us, if the test for leakage or contamination required pursuant to LAC 33:XV.426 indicates a sealed source is leaking or a source of contamination. The report shall include the equipment involved, the test results, and the corrective action taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000).

#### Subchapter K. Additional Requirements

##### §496. Vacating Premises

Each specific licensee or registrant shall, no less than 30 days before vacating or relinquishing possession or control of premises which may have been contaminated with

radioactive material as a result of his activities, notify the Office of Environmental Services, Permits Division in writing of intent to vacate. When deemed necessary by the department, the licensee shall decontaminate the premises in such a manner as the department may specify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000).

#### Appendix A

\* \* \*

[See Prior Text in Appendix.A.Table.Protection

Factors for Respirators-Endnote 8.a]

<sup>b</sup> The design of the supplied-air hood or helmet, with a minimum flow of six cubic feet per minute (0.17 m<sup>3</sup>/min) of air, may determine its overall efficiency and the protection it provides. For example, some hoods aspirate contaminated air into the breathing zone when the wearer works with hands-over-head. This aspiration may be overcome if a short cape-like extension to the hood is worn under a coat or overalls. Other limitations specified by the department shall be considered before using a hood in certain types of atmospheres. See endnote 9.

\* \* \*

[See Prior Text in Endnote 9-Note.2]

#### Appendix D

##### Requirements for Transfer of Low-Level Radioactive Waste for Disposal at Land Disposal Facilities and Manifests

\* \* \*

[See Prior Text in A]

1. Licensees are not required by the department to comply with the manifesting requirements of this Appendix when they ship:

\* \* \*

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

E. As used in this Appendix, the following definitions apply:

\* \* \*

[See Prior Text]

*Computer-Readable Medium*—a medium from which the department's computer can transfer the information from the medium into its memory. This medium shall be in an ASCII compatible format.

\* \* \*

[See Prior Text ]

*Decontamination Facility*—a facility operating under a department, Nuclear Regulatory Commission, or agreement state license whose principal purpose is decontamination of equipment or materials to accomplish recycle, reuse, or other waste management objectives and, for purposes of this Appendix, is not considered to be a consignee for LLW shipments.

\* \* \*

[See Prior Text]

*Electronic Media*—media from which the department's computer can transfer the information from the media into its memory. This media shall be in an ASCII compatible format.

\* \* \*

[See Prior Text]

*Generator*—a licensee operating under a department, Nuclear Regulatory Commission, or agreement state license who is a waste generator as defined in this Appendix, or is the licensee to whom waste can be attributed within the context of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (e.g., waste generated as a result of decontamination or recycle activities).

\*\*\*

[See Prior Text]

*Waste Collector*—an entity, operating under a department, Nuclear Regulatory Commission, or agreement state license, whose principal purpose is to collect and consolidate waste generated by others, and to transfer this waste, without processing or repackaging the collected waste, to another licensed waste collector, licensed waste processor, or licensed land disposal facility.

\*\*\*

[See Prior Text]

*Waste Generator*—an entity, operating under a department, Nuclear Regulatory Commission, or agreement state license, who possesses any material or component that contains radioactivity or is radioactively contaminated for which the licensee foresees no further use and transfers this material or component to a licensed land disposal facility or to a licensed waste collector or processor for handling or treatment prior to disposal. A licensee performing processing or decontamination services may be a *waste generator* if the transfer of low-level radioactive waste from its facility is defined as *residual waste*.

*Waste Processor*—an entity, operating under a department, Nuclear Regulatory Commission, or agreement state license, whose principal purpose is to process, repackage, or otherwise treat low-level radioactive material or waste generated by others prior to eventual transfer of waste to a licensed low-level radioactive waste land disposal facility.

*Waste Type*—a waste within a disposal container having a unique physical description (i.e., a specific waste descriptor code or description or a waste sorbed on or solidified in a specifically defined media).

\*\*\*

[See Prior Text in F-F.5.b.v.]

G Certification. An authorized representative of the waste generator, processor, or collector shall certify, by signing and dating the shipment manifest, that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the U.S. Department of Transportation and the department. A collector, in signing the certification, is certifying that nothing has been done to the collected waste that would invalidate the waste generator's certification.

\*\*\*

[See Prior Text in H-H.2.g]

h. notify the shipper and the Office of Environmental Services, Permits Division when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

\*\*\*

[See Prior Text in H.3-3.j]

k. notify the shipper and the Office of Environmental Services, Permits Division when any

shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

\*\*\*

[See Prior Text in H.4.4.a]

b. maintain copies of all completed manifests and electronically store the information required by LAC 33:XV.1333.G until the department terminates the license; and

c. notify the shipper and the Office of Environmental Services, Permits Division when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

\*\*\*

[See Prior Text in H.5-5.a]

b. be traced and reported. The investigation shall include tracing the shipment and filing a report with the Office of Environmental Services, Permits Division. Each licensee who conducts a trace investigation shall file a written report with the Office of Environmental Services, Permits Division within two weeks of completion of the investigation.

## **Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations**

### **§503. Definitions**

As used in this Chapter, the following definitions apply:

\*\*\*

[See Prior Text]

*Instructor*—any individual who has been authorized by the department to provide instruction to radiographer trainees in accordance with LAC 33:XV.575.A.

\*\*\*

[See Prior Text]

*Radiographer Assistant*—any individual who:

a. has five years of documented experience as a radiographer who previously qualified under these regulations prior to January 1, 1995;

b. has a documented record of safely performing industrial radiography; and

c. has received confirmation from the department that such individual is acceptable to be a radiographers assistant.

\*\*\*

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000).

## **Subchapter A. Equipment Control**

### **§543. Radiation Survey Instruments**

\*\*\*

[See Prior Text in A-B.3]

C. Records of these calibrations shall be maintained for two years after the calibration date for inspection by the department.

\*\*\*

[See Prior Text in D]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000).

**§544. Leak Testing, Repair, Tagging, Opening, Modification, and Replacement of Sealed Sources**

\* \* \*

[See Prior Text in A-B]

C. The leak test shall be capable of detecting the presence of 0.005 microcurie (185 Bq) of removable contamination on the sealed source. An acceptable leak test for sealed sources in the possession of a radiography licensee would be to test at the nearest accessible point to the sealed source storage position, or other appropriate measuring point, by a procedure which has been approved pursuant to LAC 33:XV.326.E.1.e. Records of leak test results shall be kept in units of microcuries (becquerels) and maintained for inspection by the department for two years.

D. Any test conducted pursuant to LAC 33:XV.544.B and C that reveals the presence of 0.005 microcurie (185 Bq) or more of removable radioactive material shall be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the equipment involved from use and shall cause it to be decontaminated and repaired or to be disposed of in accordance with LAC 33:XV. Within five calendar days after obtaining results of the test, the licensee shall file a written report with the Office of Environmental Compliance describing the equipment involved, the test results, and the corrective action taken.

\* \* \*

[See Prior Text in E]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000).

**§545. Quarterly Inventory**

Each licensee shall conduct a quarterly physical inventory to account for all sealed sources and licensed devices received or possessed under his or her license. The records of the inventories shall be maintained for inspection by the department for at least two consecutive years from the date of the inventory and shall include the quantities and kinds of radioactive material, the location of sealed sources, the date of the inventory, the name of individual(s) performing the inventory, the manufacturer, the model number, and the serial number.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653

(June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000).

**§546. Utilization Logs**

A. Each licensee or registrant shall maintain current logs, which shall be kept available for inspection by the department for two consecutive years from the date of the recorded event, showing for each source of radiation the following information:

\* \* \*

[See Prior Text in A.1-4]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000).

**§547. Inspection and Maintenance of Radiographic Exposure Devices and Storage Containers**

\* \* \*

[See Prior Text in A]

B. Each licensee or registrant shall conduct a program of at least quarterly inspection and maintenance of radiation machines, radiographic exposure devices, source changers, storage containers, and associated equipment to assure proper functioning of components important to safety. All appropriate parts shall be maintained in accordance with manufacturer's specifications. Records of inspection and maintenance shall be maintained for inspection by the department for two consecutive years from the date of the recorded event.

\* \* \*

[See Prior Text in C]

D. Each licensee or registrant shall provide a written report to the Office of Environmental Compliance within 30 days of the occurrence of any of the following incidents involving radiographic equipment.

\* \* \*

[See Prior Text in D.1-E.7]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000).

**§548. Permanent Radiographic Installations**

A. Permanent radiographic installations having high-radiation area entrance controls of the type described in LAC 33:XV.436.A and B shall also meet the following requirements:

\* \* \*

[See Prior Text in A.1]

2. the control device or alarm system as described in LAC 33:XV.436.A and B shall be tested for proper operation at the beginning of each day of equipment use. If a control device or alarm system is operating improperly, it shall be immediately labeled as defective and repaired before industrial radiographic operations are resumed. Records of these tests shall be maintained for inspection by the



department for two consecutive years from the date of the event or until disposition is authorized.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000).

### **§550. Performance Requirements for Radiography Equipment**

A. Equipment serviced, maintained, or repaired by a licensee or registrant or used in industrial operations must meet the following minimum criteria:

1. each radiographic exposure device and all associated equipment shall meet the requirements specified in American National Standard (ANSI) N432-1980 *Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography*, (published as NBS Handbook 136, issued January 1981). Engineering analyses may be submitted by an applicant or licensee to demonstrate the applicability of previously performed testing on similar individual radiography equipment components. Upon review, the department may find this an acceptable alternative to actual testing of the component in accordance with the referenced standard;

\* \* \*

[See Prior Text in A.2-3.i]

j. malfunction of any exposure device or associated equipment shall be reported to the Office of Environmental Compliance by telephone at (225) 765-0160 in accordance with the requirements of LAC 33:XV.341; and

\* \* \*

[See Prior Text in A.3.k-5]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 21:554 (June 1995), LR 23:1138 (September 1997), LR 24:2100 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000).

### **Subchapter B. Personal Radiation Safety Requirements for Radiographers**

#### **§575. Training and Testing**

\* \* \*

[See Prior Text in A]

1. has been instructed for at least 40 hours in the subjects outlined in I, II, and III, Appendix A of this Chapter, and has demonstrated understanding thereof pursuant to LAC 33:XV.575.A.6. Both the instructor and the course of instruction must be approved by the department prior to the time of instruction;

\* \* \*

[See Prior Text in A.2-2.c]

d. the form DRC-20, available from the department, or the equivalent, must be submitted to the Office of Environmental Services, Permits Division documenting the on-the-job training;

\* \* \*

[See Prior Text in A.3-5]

6. has successfully completed within the last five years a radiation safety examination administered by the department or its agent. The examination must be successfully completed at least once every five years.

B. Each licensee or registrant shall maintain, for inspection by the department, until disposition is authorized by the department, records of the above training and certification, including copies of written tests and dates and results of oral tests and field examinations.

C. Each licensee or registrant shall conduct a program of internal audits to ensure that the Radiation Protection Regulations (LAC 33:XV), Louisiana radioactive material license conditions, and the licensee's or registrant's operating and emergency procedures are followed by each radiographer. These internal audits shall be performed at least quarterly, and each radiographer shall be audited at least quarterly. Records of internal audits shall be maintained for review by the department for two consecutive years from the date of the audit.

\* \* \*

[See Prior Text in D-E.3]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000).

#### **§577. Personnel Monitoring Control**

\* \* \*

[See Prior Text in A]

B. Pocket dosimeters shall have a range of zero to at least 200 milliroentgens ( $5.16 \times 10^{-5}$  C/kg) and shall be recharged at least daily or at the start of each shift. Pocket dosimeters shall be checked for correct response to radiation at periods not to exceed one year. Acceptable dosimeters shall read within  $\pm 30$  percent of the true radiation exposure. Records of positive dosimeter response shall be maintained for two years by the licensee or registrant for department inspection.

\* \* \*

[See Prior Text in C-E]

F. Records of the pocket dosimeter readings shall be maintained for inspection by the department for two consecutive years. If the dosimeter readings were used to determine external radiation dose, the records shall be maintained indefinitely or until the department authorizes their disposition.

\* \* \*

[See Prior Text in G-H.4]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000).

#### **§578. Reciprocity**

A. Reciprocal recognition by the department of an individual radiographer certification will be granted provided that:

\* \* \*

[See Prior Text in A.1-2]

3. the applicant presents the certification to the Office of Environmental Services, Permits Division prior to entry into Louisiana.

B. Certified individuals who are granted reciprocity by the department shall maintain the certification upon which the reciprocal recognition was granted or prior to the expiration of such certification, shall meet the requirements of LAC 33:XV.575.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000).

**§579. Identification Cards**

\* \* \*

[See Prior Text in A-A.1]

2. Each person's I.D. card shall contain his/her photograph. The department will take the photograph at the time the examination is administered.

\* \* \*

[See Prior Text in A.3]

4. Any individual who wishes to replace his/her I.D. card shall submit to the Office of Environmental Services, Permits Division a written request for a replacement I.D. card, stating the reason a replacement I.D. Card is needed. A non-refundable fee of \$20 shall be paid to the department for each replacement of an I.D. card. The prescribed fee shall be submitted with the written request for a replacement I.D. card. The individual shall maintain a copy of the request in his/her possession while performing industrial radiographic operations until a replacement I.D. card is received from the department.

\* \* \*

[See Prior Text in B-D.1]

2. When a department order has been issued for an industrial radiographer to cease and desist from the use of sources of radiation or the department revokes or suspends his/her I.D. card, the industrial radiographer shall surrender the I.D. card to the department until the order is changed or the suspension expires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000).

**Subchapter C. Precautionary Procedures in Radiographic Operations**

**§587. Radiation Surveys and Survey Records**

\* \* \*

[See Prior Text in A-D]

E. Records shall be kept of the surveys required by LAC 33:XV.587.C and D. Such records shall be maintained for inspection by the department for two consecutive years after completion of the survey. If the survey has been used to determine an individual's exposure, the records of the survey shall be maintained until the department authorizes their disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000).

**§589. Special Requirements and Exemptions for Enclosed Radiography**

\* \* \*

[See Prior Text in A-A.1]

2. be evaluated at intervals not to exceed one year to assure compliance with the applicable requirements as specified in LAC 33:XV.589.A.1. Records of these evaluations shall be maintained for inspection by the department for a period of two consecutive years after the evaluation.

\* \* \*

[See Prior Text in B]

1. operating personnel must be provided with either a film badge or a thermoluminescent dosimeter, and reports of the results must be maintained for inspection by the department;

2. no registrant shall permit any individual to operate an enclosed X-ray system until such individual has received a copy of and instructions in the operating procedures for the unit and has demonstrated competence in its use. Records that demonstrate compliance with this Section shall be maintained for inspection by the department until disposition is authorized by the department;

\* \* \*

[See Prior Text in B.3]

4. the registrant shall perform an evaluation, at intervals not to exceed one year, to determine conformance with LAC 33:XV.421. If such system is a certified X-ray system, it shall be evaluated at intervals not to exceed one year to determine conformance with 21 CFR 1020.40. Records of these evaluations shall be maintained for inspection by the department for a period of two consecutive years after the evaluation.

\* \* \*

[See Prior Text in C-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000).

**§590. Specific Requirements for Radiographic Personnel Performing Industrial Radiography**

\* \* \*

[See Prior Text in A-E.2]

3. has been named as a radiographer instructor on the license or registration certificate issued by the department.

F. During an inspection by the department, the department inspector may terminate an operation if any of the items of LAC 33:XV.590.A are not available and operable or if at least two radiographers are not present. Operations shall not be resumed until such conditions are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000).

### §591. Prohibitions

A. Industrial radiography performed with a sealed source which is not fastened to or contained in a radiographic exposure device, known as fishpole radiography, is prohibited unless specifically authorized in a license issued by the department.

\*\*\*

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2585 (November 2000).

## Chapter 6. X-rays in the Healing Arts

### §602. Definitions

As used in this Chapter, the following definitions apply. Other definitions applicable to this Chapter may be found in LAC 33:XV.Chapters 1 and 2.

\*\*\*

[See Prior Text]

*Mammography Physicist*—an individual who has submitted credentials to the department and who satisfies one or more of the following criteria:

\*\*\*

[See Prior Text in 1-3]

4. has been approved by the department.

\*\*\*

[See Prior Text]

*Qualified Expert*—an individual who has demonstrated to the satisfaction of the department that such individual possesses the knowledge, training, and experience to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs.

\*\*\*

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

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### §603. General and Administrative Requirements

\*\*\*

[See Prior Text in A]

1. An x-ray system that does not meet the provisions of LAC 33:XV shall not be operated for diagnostic or therapeutic purposes if so directed by the department.

\*\*\*

[See Prior Text in A.2-3.e]

4. At the request of the department, the registrant or licensee of a facility shall create and make available written

safety procedures to each individual operating x-ray equipment, including any restrictions of the operating technique required for the safe operation of the particular x-ray system. The operator shall be able to demonstrate familiarity with these procedures.

\*\*\*

[See Prior Text in A.5-7.a]

b. exposure of an individual for the purpose of healing arts screening without prior written approval of the department.

\*\*\*

[See Prior Text in A.8-9.d]

e. each registrant or licensee, except for veterinarians, covered under this Chapter shall establish written standards for the proper performance of each diagnostic X-ray imaging system under the control of the registrant or licensee, and shall document by routine test record that the system is performing in accordance with these standards (quality control). Copies of this documentation shall be retained for at least six months and be available for inspection by the department. If a test interval is greater than six months, then a copy of the most recent test record shall be retained;

\*\*\*

[See Prior Text in A.9.f-10.c]

11. Any person proposing to conduct a healing arts screening program shall not initiate such a program without prior approval of the department. When requesting such approval, that person shall submit the information outlined in Appendix C of this Chapter to the Office of Environmental Services, Permits Division. If any information submitted to the department becomes invalid or outdated, the Office of Environmental Services, Permits Division shall be immediately notified. See the definition of *Healing Arts Screening* as defined in LAC 33:XV.602.

\*\*\*

[See Prior Text in A.12-C]

1. Except for dedicated mammography radiographic systems, podiatric radiographic systems, panoramic dental radiographic systems, and intraoral dental radiographic systems, prior to construction, the floor plans and equipment arrangement of all new installations, or modifications of existing installations, utilizing X-rays for diagnostic or therapeutic purposes shall be submitted to the Office of Environmental Services, Permits Division for review and approval. The required information is specified in Appendices A and B of this Chapter.

2. The floor plans and equipment arrangement for all new, or modifications of existing, installations for veterinary X-ray systems shall be reviewed for adequacy by the department on a case-by-case basis.

3. The department may require the applicant to utilize the services of a qualified expert to determine the shielding requirements prior to the plans review and approval.

\*\*\*

[See Prior Text in C.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996), LR 23:1139 (September 1997),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2585 (November 2000).

**§605. Fluoroscopic X-ray Systems**

A. All fluoroscopic x-ray systems shall be image intensified and meet the following requirements:

\* \* \*

[See Prior Text in A.1-8.b.ii]

c. upon application to the administrative authority with adequate justification, exemptions to LAC 33:XV.605.A.8.b may be made in some special procedures where a sterile field will not permit the use of the normal protective barriers. Where the use of prefitted sterilized covers for the barriers is practical, the department shall not permit such exemption.

\* \* \*

[See Prior Text in A.9-10.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000).

**§606. Radiographic Systems Other Than Fluoroscopic, Dental Intraoral, or Computed Tomography X-ray Systems**

\* \* \*

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

c. the department may grant an exemption on noncertified xray systems to LAC 33:XV.606.A.1.a and b provided the registrant or licensee makes a written application for such exemption and in that application:

\* \* \*

[See Prior Text in A.1.c.i-I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000).

**§608. Therapeutic X-ray Systems of Less Than 1 MeV**

\* \* \*

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

b. the registrant or licensee shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be transmitted by the registrant or licensee to the Office of Environmental Services, Permits Division within 30 calendar days of receipt of the report; and

\* \* \*

[See Prior Text in C.1.c-3]

a. the spot-check procedures shall be in writing and shall have been developed by a qualified expert. A copy of the procedures shall be submitted to the Office of Environmental Services, Permits Division prior to their implementation;

\* \* \*

[See Prior Text in C.3.b-4.e]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569

(October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000).

**§609. X-ray and Electron Therapy Systems with Energies of 1 MeV and Above**

\* \* \*

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

ii. for each system, the registrant or licensee shall determine or obtain from the manufacturer the leakage radiation existing at the positions specified in LAC 33:XV.609.C.1.a.i for the specified operating conditions. Records on leakage radiation measurements shall be maintained for inspection by the department; and

\* \* \*

[See Prior Text in C.1.b-b.i]

ii. for each system, the registrant or licensee shall determine or obtain from the manufacturer the leakage radiation existing at the positions specified in LAC 33:XV.609.C.1.b.i for the specified operating conditions. Records on radiation leakage shall be maintained for inspection by the department.

\* \* \*

[See Prior Text in C.2-E.1.a]

b. the registrant or licensee shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be transmitted by the registrant or licensee to the Office of Environmental Services, Permits Division within 30 days of receipt of the report; and

\* \* \*

[See Prior Text in E.1.c-2]

a. the calibration of systems subject to LAC 33:XV.609 shall be performed in accordance with an established calibration protocol acceptable to the department before the system is first used for irradiation of a patient and thereafter at intervals that do not exceed 12 months, and after any change that might significantly alter the calibration, spatial distribution, or other characteristics of the therapy beam. The calibration protocol published by the American Association of Physicists in Medicine is accepted as an established protocol. For other protocols, the user shall submit that protocol to the Office of Environmental Services, Permits Division for written concurrence that the protocol is acceptable;

\* \* \*

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

a. the spot-check procedures shall be in writing and shall have been developed by a radiological physicist. A copy of the procedure shall be submitted to the Office of Environmental Services, Permits Division prior to its implementation;

\* \* \*

[See Prior Text in E.3.b-4.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000).

**§610. Computed Tomography X-ray Systems**

\* \* \*

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

b. the registrant or licensee shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be made available to the department upon request.

\* \* \*

[See Prior Text in D.2.2.f.ii]

g. calibration procedures shall be in writing. Records of calibrations performed shall be maintained for inspection by the department.

\* \* \*

[See Prior Text in D.3.3.d.ii]

e. written records of the spot checks performed shall be maintained for inspection by the department.

\* \* \*

[See Prior Text in D.4.4.c]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

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**Appendix A  
Information on Radiation Shielding Required  
for Plan Reviews**

In order for the department to provide an evaluation, technical advice, and official approval of shielding requirements for a radiation installation, the following information shall be submitted:

\* \* \*

[See Prior Text in A-C]

**Appendix C  
Information to be Submitted by Persons Proposing to  
Conduct Healing Arts Screening**

Persons requesting that the department approve a healing arts screening program shall submit the following information and evaluation:

\* \* \*

[See Prior Text in A-O]

P. Any other information requested by the department that may be necessary to evaluate the justification or possible effects of an X-ray screening proposal.

**Chapter 7. Use of Radionuclides in the Healing Arts  
§702. License Required and Exemptions**

A. No person shall manufacture, produce, acquire, receive, possess, use, or transfer radioactive material for medical use except in accordance with a specific license issued by the department, the Nuclear Regulatory Commission, or an agreement state or as allowed in Subsection B and C of this Section.

\* \* \*

[See Prior Text in B-D.4]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2587 (November 2000).

**§703. License Amendments and Provisions for  
Research Involving Human Subjects**

\* \* \*

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

c. identified as an authorized user or an authorized nuclear pharmacist on a department, Nuclear Regulatory Commission, licensing state, or agreement state license that authorizes the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively; or

d. identified as an authorized user or an authorized nuclear pharmacist on a permit issued by a department, Nuclear Regulatory Commission, licensing state, or agreement state specific licensee of broad scope that is authorized to permit the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively.

\* \* \*

[See Prior Text in A.3-6]

B. Provisions for Research Involving Human Subjects. A licensee may conduct research involving human subjects using radioactive material, provided that the research is conducted, funded, supported, or regulated by a federal agency that has implemented the Federal Policy for the Protection of Human Subjects. Otherwise, a licensee shall apply for and receive approval of a specific amendment to its department license before conducting such research. Both types of licensees shall, at a minimum, obtain informed consent from the human subjects and obtain prior review and approval of the research activities by an "Institutional Review Board" in accordance with the meaning of these terms as defined and described in the Federal Policy for the Protection of Human Subjects.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2587 (November 2000).

**§704. Notifications**

A. A licensee shall provide to the Office of Environmental Services, Permits Division a copy of the board certification, the Nuclear Regulatory Commission, or agreement state license, or the permit issued by a licensee of broad scope for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user or an authorized nuclear pharmacist in accordance with LAC 33:XV.703.A.2.

B. A licensee shall notify the Office of Environmental Services, Permits Division by letter no later than 30 days after:

\* \* \*

[See Prior Text in B.1-2]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2587 (November 2000).

**§706. Radiation Safety Officer**

\* \* \*

[See Prior Text in A-B.2.j]

k. keeping a copy of all records and reports required by the department regulations (LAC 33:XV), a copy of these regulations, a copy of each licensing request and license and amendments, and the written policy and procedures required by these regulations.

3. For medical use not sited at a medical institution, approve or disapprove radiation safety program changes with the advice and consent of management prior to submittal to the department for licensing action.

\* \* \*

[See Prior Text in B.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2588 (November 2000).

**§707. Radiation Safety Committee**

\* \* \*

[See Prior Text in A-A.1.d.vi]

e. The committee shall provide each member with a copy of the meeting minutes and retain one copy until the department authorizes its disposition.

\* \* \*

[See Prior Text in A.2-2.c]

d. review on the basis of safety, and approve with the advice and consent of the radiation safety officer and the management representative, or disapprove, procedures and radiation safety program changes prior to submittal to the department for licensing action;

\* \* \*

[See Prior Text in A.2.e-h]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

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**§711. Mobile Nuclear Medicine Service Administrative Requirements**

A. The department will only license mobile nuclear medicine services in accordance with this Chapter and other applicable requirements of these regulations to serve clients who do not have a department license.

\* \* \*

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2588 (November 2000).

**§712. Notifications, Reports, and Records of Misadministrations**

A. For a misadministration:

1. the licensee shall notify by telephone the Office of Environmental Compliance at (225) 765-0160 no later than the next calendar day after discovery of the misadministration;

2. the licensee shall submit a written report to the Office of Environmental Compliance within 15 days after discovery of the misadministration. The written report shall include the licensee's name; the prescribing physician's name; a brief description of the event; why the event occurred; the effect on the individual who received the administration; what improvements are needed to prevent recurrence; actions taken to prevent recurrence; whether the licensee notified the individual, or the individual's responsible relative or guardian (this person will be subsequently referred to as "the individual" in this Section), and if not, why not, and if the individual was notified, what information was provided to the individual. The report shall not include the individual's name or other information that could lead to identification of the individual. To meet the requirements of this Section, the notification of the individual receiving the misadministration may be made instead to that individual's responsible relative or guardian, when appropriate;

\* \* \*

[See Prior Text in A.3-4]

a. a copy of the report that was submitted to the department; or

b. a brief description of both the event and the consequences as they may affect the individual, provided a statement is included that the report submitted to the department can be obtained from the licensee.

\* \* \*

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR18:34 (January 1992), amended LR 24:2102 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2588 (November 2000).

**§714. Quality Control of Imaging Equipment**

Each licensee shall establish written quality control procedures for all equipment used to obtain images from radionuclide studies. As a minimum, the procedures shall include quality control procedures recommended by equipment manufacturers or procedures that have been approved by the department. The licensee shall conduct quality control procedures in accordance with written procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2588 (November 2000).

## §716. Calibration and Check of Survey Instruments

\* \* \*

[See Prior Text in A-E.2]

F. To meet the requirements of LAC 33:XV.716.A, B, and C, the licensee may obtain the services of individuals licensed by the department, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state to perform calibrations of survey instruments. Records of calibrations that contain information required by LAC 33:XV.716.E shall be maintained by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000).

## §719. Requirements for Possession of Sealed Sources and Brachytherapy Sources

\* \* \*

[See Prior Text in A]

1. Follow radiation safety and handling instructions approved by the department, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state, and furnished by the manufacturer on the label attached to the source, device, or permanent container thereof, or in the leaflet or brochure that accompanies the source or device, and maintain such instruction in a legible and conveniently available form.

2. Assure that needles or standard medical applicator cells containing cobalt-60 as wire, radium-226, or cesium-137 are not opened while in the licensee's possession unless specifically authorized by the department.

\* \* \*

[See Prior Text in B-B.1]

2. the source is tested for leakage at intervals not to exceed six months or at intervals approved by the department, another agreement state, a licensing state, or the U.S. Nuclear Regulatory Commission.

\* \* \*

[See Prior Text in C-E.1]

2. file a written report with the Office of Environmental Compliance, Surveillance Division within five days of receiving the leak test results describing the equipment involved, the test results, and the action taken.

\* \* \*

[See Prior Text in F-I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000).

## §731. Use of Radiopharmaceuticals, Generators, and Reagent Kits or Imaging and Localization Studies

\* \* \*

[See Prior Text in A-D]

E. Provided the conditions of LAC 33:XV.733 are met, a licensee shall use radioactive aerosols or gases only if specific application is made to and approved by the department.

\* \* \*

[See Prior Text in F-F.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000).

## §732. Permissible Molybdenum-99 Concentration

\* \* \*

[See Prior Text in A-C]

D. A licensee shall report immediately each occurrence of molybdenum-99 concentration exceeding the limits specified in LAC 33:XV.732.A to the Office of Environmental Compliance by telephone at (225) 765-0160.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000).

## §736. Safety Instruction

\* \* \*

[See Prior Text in A-B.6]

C. A licensee shall keep a record of individuals receiving instruction required by LAC 33:XV.736.A, a description of the instruction, the date of instruction, and the name of the individual who gave the instruction. Such record shall be maintained for inspection by the department for two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000).

## §737. Safety Precautions

\* \* \*

[See Prior Text in A-A.6]

7. submit to the Office of Environmental Services, Permits Division an acceptable procedure to measure the thyroid burden of each individual who helps prepare or administer a dosage of iodine-131. Measurements shall be performed within three days after administering the dosage, and records shall include each thyroid burden measurement, date of measurement, the name of the individual whose thyroid burden was measured, and the initials of the individual who made the measurements. The records shall be retained for the period required by LAC 33:XV.472.B.

\* \* \*

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000).

**§748. Maintenance and Repair Restrictions**

Only a person specifically licensed by the department, the U.S. Nuclear Regulatory Commission, or an agreement state to perform teletherapy unit maintenance and repair shall install, relocate, or remove a teletherapy sealed source, or a teletherapy unit that contains a sealed source, or maintain, adjust, or repair the source drawer, the shutter, or other mechanism of a teletherapy unit that could expose the source, reduce the shielding around the source, or result in increased radiation levels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000).

**§757. Periodic Spot-checks**

\*\*\*

[See Prior Text in A-G.6]

H. A licensee shall lock the control console in the "off" position if any door interlock malfunctions. No licensee shall use the unit until the interlock system is repaired unless specifically authorized to do so in writing by the department.

\*\*\*

[See Prior Text in I-J]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000).

**§758. Radiation Surveys for Teletherapy Facilities**

\*\*\*

[See Prior Text in A-B.1]

2. until the licensee has received a specific exemption from the department.

\*\*\*

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000).

**§761. Reports of Teletherapy Surveys, Checks, Tests, and Measurements**

A licensee shall furnish a copy of the records required in LAC 33:XV.758, 759, and 760, and the output from the teletherapy source expressed as rems (sieverts) per hour at 1

meter from the source as determined during the full calibration required in LAC 33:XV.756 to the Office of Environmental Services, Permits Division within 30 days following completion of the action that initiated the record requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000).

**§762. Five-Year Inspection**

\*\*\*

[See Prior Text in A]

B. This inspection and servicing shall be performed only by persons specifically licensed to do so by the department, an agreement state, or the U.S. Nuclear Regulatory Commission.

\*\*\*

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000).

**§763. Training**

\*\*\*

[See Prior Text in A-A.2.e]

f. one year of full-time experience in radiation safety at a medical institution under the supervision of the individual identified as the radiation safety officer on a department, agreement state, licensing state, or Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

\*\*\*

[See Prior Text in A.3]

B. Experienced Radiation Safety Officer. An individual identified as a radiation safety officer on a department, agreement state, licensing state, or Nuclear Regulatory Commission license on February 20, 1991, who oversees only the use of radioactive material for which the licensee was authorized on that date need not comply with the training requirements of Subsection A of this Section.

\*\*\*

[See Prior Text in C-L]

M. Experienced Authorized Users. Practitioners of the healing arts identified as authorized users for the human use of radioactive material on a department license on February 20, 1991, who perform only those methods of use for which they were authorized on that date need not comply with the training requirements of this Section.

\*\*\*

[See Prior Text in N-O]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569



(October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000).

#### **§776. Medical Advisory Committee**

A medical advisory committee will evaluate applications for all nonroutine uses of radioactive materials in humans and may evaluate the clinical training and experience of physicians seeking licensure by the department. In the event of disapproval by the department, the preceptor and physician seeking licensure shall be given the opportunity to address the department's concerns prior to any proposed disapproval becoming final. This committee contains licensed physicians with medical experience in the use of radioisotopes and radiation. The medical advisory committee will have representatives of diagnostic radiology, therapeutic radiology, internal medicine, pathology, pharmacology, cardiology, nuclear medicine, and medical physics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2591 (November 2000).

#### **§777. Quality Management Program**

\* \* \*

[See Prior Text in A-D.2]

E. The licensee may make modifications to the quality management program to increase the program's efficiency provided the program's effectiveness is not decreased. The licensee shall furnish the modification to the Office of Environmental Services, Permits Division within 30 days after the modification has been made.

F. Each applicant for a new license, as applicable, shall submit to the Office of Environmental Services, Permits Division a quality management program as part of the application for a license and implement the program upon issuance of the license by the department.

G. Each existing licensee, as applicable, shall submit to the Office of Environmental Services, Permits Division by July 1, 1992 a written certification that the quality management program has been implemented along with a copy of the program.

\* \* \*

[See Prior Text in H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 21:554 (June 1995), amended LR 24:2110 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2591 (November 2000).

#### **Chapter 8. Radiation Safety Requirements for Analytical X-Ray Equipment**

##### **§803. Equipment Requirements**

A. Safety Device. A device which prevents the entry of any portion of an individual's body into the primary X-ray

beam path or which causes the beam to be shut off upon entry into its path shall be provided on all open-beam configurations. A registrant or licensee may apply to the Office of Environmental Services, Permits Division for an exemption from the requirement of a safety device. Such application shall include:

\* \* \*

[See Prior Text in A.1-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2591 (November 2000).

##### **§804. Area Requirements**

\* \* \*

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

2. Radiation survey measurements shall not be required if a registrant or licensee can demonstrate compliance with LAC 33:XV.804.A to the satisfaction of the department in some other manner.

\* \* \*

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2591 (November 2000).

##### **§806. Personnel Requirements**

\* \* \*

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

2. Each licensee or registrant shall maintain, for inspection by the department, records of training which demonstrate that the requirements of this Section have been met.

\* \* \*

[See Prior Text in B-B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2591 (November 2000).

#### **Chapter 9. Radiation Safety Requirements for Particle Accelerators**

##### **Subchapter A. Registration and Licensing Procedures**

##### **§903. General Requirements for the Issuance of a Registration or License for Particle Accelerators**

A. In addition to the requirements of LAC 33:XV.Chapters 2 and 3, a registration and/or license application for use of a particle accelerator will be approved only if the department determines that:

\* \* \*

[See Prior Text in A.1-7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421

(November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2591 (November 2000).

## **Subchapter B. Radiation Safety Requirements for the Use of Particle Accelerators**

### **§906. Limitations**

\* \* \*

[See Prior Text in A-A.3]

B. Either the radiation safety committee or the radiation safety officer, in addition to duly authorized representatives of the department, shall have the authority to terminate the operations at a particle accelerator facility if such action is deemed necessary to minimize danger to public welfare and safety or property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2592 (November 2000).

### **§907. Shielding and Safety Design Requirements**

A. A qualified expert, specifically accepted in writing by the department, shall be consulted in the design of a particle accelerator installation and shall be called upon to perform a radiation survey when the accelerator is first capable of producing radiation. A copy of the survey shall be submitted to the Office of Environmental Services, Permits Division.

B. Plans for construction of new accelerator installations shall be submitted to the Office of Environmental Services, Permits Division for approval prior to commencement of construction.

\* \* \*

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2592 (November 2000).

### **§910. Operating Procedures**

\* \* \*

[See Prior Text in A-B]

C. All safety and warning devices, including interlocks, shall be checked for proper operability at intervals not to exceed three months. Results of such tests shall be maintained for two years for inspection by the department at the accelerator facility.

D. Electrical circuit diagrams of the accelerator and the associated interlock systems shall be kept current and maintained for inspection by the department and shall be available to the operator at each accelerator facility.

\* \* \*

[See Prior Text in E-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569

(October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2592 (November 2000).

### **§911. Radiation Monitoring Requirements**

\* \* \*

[See Prior Text in A]

B. A radiation protection survey shall be performed, documented, and submitted to the Office of Environmental Services, Permits Division by a qualified expert specifically approved in writing by the department when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas.

\* \* \*

[See Prior Text in C-G]

H. Records of all radiation protection surveys, calibrations, and instrumentation tests shall be maintained at each accelerator facility for inspection by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2592 (November 2000).

### **§912. Ventilation Systems**

\* \* \*

[See Prior Text in A]

B. A registrant and/or licensee, as required by LAC 33:XV.416, shall not vent, release, or otherwise discharge airborne radioactive material to an unrestricted area in concentrations that exceed the limits specified in LAC 33:XV.Chapter 4, Appendix B, Table II, except as authorized pursuant to LAC 33:XV.422.B or 461. For purposes of this Subsection, concentrations may be averaged over a period not greater than one year. Every reasonable effort should be made to maintain releases of radioactive material to unrestricted areas as far below these limits as is reasonably achievable. Records of intentional releases shall be maintained for two years for inspection by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2592 (November 2000).

## **Chapter 10. Notices, Instructions, and Reports to Workers; Inspections**

### **§1001. Purpose and Scope**

This Chapter establishes requirements for notices, instructions, and reports by licensees or registrants to individuals engaged in work under a license or registration and options available to such individuals in connection with department inspections of licensees or registrants to ascertain compliance with the provisions of the act and regulations, orders, and licenses issued thereunder regarding radiological working conditions. The regulations in this Chapter apply to all persons who receive, possess, use, own,

or transfer sources of radiation licensed or registered pursuant to LAC 33:XV.Chapters 2 and 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2592 (November 2000).

#### **§1011. Posting of Notices to Workers**

\* \* \*

[See Prior Text in A-B]

C. Form DRC-3, "Notice to Employees, " shall be posted by each licensee or registrant as required by LAC 33:XV. Form DRC-3 will be furnished by the department on request.

\* \* \*

[See Prior Text in D-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2593 (November 2000).

#### **§1013. Notifications and Reports to Individuals**

\* \* \*

[See Prior Text in A-C]

D. When a licensee or registrant is required, in accordance with LAC 33:XV.486, 487, or 488, to report to the department any exposure of an identified occupationally exposed individual, or an identified member of the public, to radiation or radioactive material, the licensee or the registrant shall also provide the individual a written report on his or her exposure data included therein. Such reports shall be transmitted at a time not later than the transmittal to the department.

\* \* \*

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996), LR 24:2111 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2593 (November 2000).

#### **§1014. Presence of Representatives of Licensees or Registrants and of Workers During Inspection**

A. Each licensee or registrant shall afford to the department, at all reasonable times, opportunity to inspect materials, machines, activities, facilities, premises, and records pursuant to LAC 33:XV.

B. During an inspection, department inspectors may consult privately with workers as specified in LAC 33:XV.1015. The licensee or registrant, or his or her representative, may accompany department inspectors during other phases of an inspection.

C. If, at the time of inspection, an individual has been authorized by the workers to represent them during department inspections, the licensee or registrant shall notify the inspectors of such authorization and shall give the workers= representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

\* \* \*

[See Prior Text in D-E]

F. With the approval of the licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the workers' representative, shall be afforded the opportunity to accompany department inspectors during the inspection of physical working conditions.

G. Notwithstanding the other provisions of this Section, department inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information, the workers' representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2593 (November 2000).

#### **§1015. Consultation With Workers During Inspections**

A. Department inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of the Louisiana Radiation Protection Regulations (LAC 33:XV) and licenses to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

\* \* \*

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2593 (November 2000).

#### **§1016. Requests by Workers for Inspections**

A. Any worker or representative of workers believing that a violation of the act, LAC 33:XV, or license conditions exists or has occurred in work under a license or registration with regard to radiological working conditions in which the worker is engaged may request an inspection by giving notice of the alleged violation to the Office of Environmental Compliance, Surveillance Division. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of the workers. A copy shall be provided to the licensee or registrant by the department no later than at the time of inspection except that, upon the request of the

worker giving such notice, such worker's name and the names of individuals referred to therein shall not appear in such copy or on any record published, released, or made available by the department, except for good cause shown.

B. If, upon receipt of such notice, the department determines that the complaint meets the requirements set forth in LAC 33:XV.1016.A and that there are reasonable grounds to believe that the alleged violation exists or has occurred, the department shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists or has occurred. Inspections performed pursuant to this Section need not be limited to matters referred to in the complaint.

\* \* \*

[See Prior Text in C]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2593 (November 2000).

#### **§1017. Inspections Not Warranted: Informal Review**

\* \* \*

[See Prior Text in A]

1. If the department determines, with respect to a complaint filed under LAC 33:XV.1016, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists, is occurring, or has occurred, the department shall notify the complainant in writing of such determination. The complainant may obtain review of such determination by submitting a written statement of position with the administrative authority, who will provide the licensee or registrant with a copy of such statement by certified mail, return receipt requested, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position with the Office of Environmental Compliance, Surveillance Division that will provide the complainant with a copy of such statement by certified mail, return receipt requested.

2. Upon the request of the complainant, the administrative authority may hold an informal conference in which the complainant and the licensee or registrant may orally present their views. An informal conference may also be held at the request of the licensee or registrant, but disclosure of the identity of the complainant will be made only following receipt of written authorization from the complainant. After considering all written or oral views presented, the administrative authority shall affirm, modify, or reverse the determination of the department and furnish the complainant and the licensee or registrant a written notification of his or her decision and the reason therefore.

B. Requirements of LAC 33:XV.1016.A Not Met. If the department determines that an inspection is not warranted because the requirements of LAC 33:XV.1016.A have not been met, it shall notify the complainant in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of LAC 33:XV.1016.A.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2594 (November 2000).

### **Chapter 11. Radiation Safety Requirements for Radioactive Mineral Tailings and Industrial By-Product Piles**

#### **§1102. Specific Requirements for Tailings, Piles and Ponds**

Unless specifically provided otherwise by the secretary, the following requirements for tailing, pile and pond areas shall be fulfilled:

A. Access to such areas shall be controlled and posted as specified by the department.

\* \* \*

[See Prior Text in B-C]

D. With the exception of reprocessing at the site, approval by the department must be obtained prior to removal of any material from these areas.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2594 (November 2000).

#### **§1103. Sale or Transfer of the Site**

The Office of Environmental Services, Permits Division shall be given written notice 30 days in advance of any contemplated transfer of right, title or interest in the site by deed, lease or other conveyance. The written notice shall contain the name and address of the proposed purchaser or transferee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2594 (November 2000).

#### **§1104. Abandonment of the Site**

Prior to abandonment of the site, the requirements of this Section shall be fulfilled.

\* \* \*

[See Prior Text in A-C]

D. Detailed plans for compliance with LAC 33:XV.1104.A, B and C shall be submitted to the Office of Environmental Services, Permits Division for review and approval.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2594 (November 2000).

#### **§1105. Waiver**

Upon application to the administrative authority, certain requirements of this Chapter may be waived or modified if it

can be shown that the requirements are unnecessary or impractical in specific cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2594 (November 2000).

### **Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste**

#### **Subchapter A. General Provisions**

##### **§1301. Purpose and Scope**

A. The regulations in this Chapter establish procedures, criteria, and terms and conditions upon which the department issues licenses for the land disposal of wastes received from other persons. [Applicability of the requirements in this Chapter to department licenses for waste disposal facilities in effect on the effective date of this regulation will be determined on a case-by-case basis and implemented through terms and conditions of this Chapter are in addition to, and not in substitution for, other applicable requirements of these regulations].

\* \* \*

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2595 (November 2000).

##### **§1303. License Required**

A. No person may receive, possess, and dispose of radioactive waste containing source, special nuclear or byproduct material at a land disposal facility unless authorized by a license issued by the department pursuant to this Chapter, and Chapter 3 of these regulations.

B. Each person shall file an application with the Office of Environmental Services, Permits Division pursuant to LAC 33:XV.324 of these regulations and obtain a license as provided in this Chapter before commencement of construction of a land disposal facility. Failure to comply with this requirement may be grounds for denial of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2595 (November 2000).

##### **§1309. Institutional Information**

The institutional information submitted to the Office of Environmental Services, Permits Division by the applicant shall include:

\* \* \*

[See Prior Text in A-B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2595 (November 2000).

##### **§1311. Requirements for Issuance of a License**

A license for the receipt, possession, and disposal of waste containing or contaminated with radioactive material will be issued by the department upon finding that:

\* \* \*

[See Prior Text in A-I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2595 (November 2000).

##### **§1312. Conditions of Licenses**

A. A license issued under this Chapter, or any right thereunder, may be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, only if the department finds, after securing full information, that the transfer is in accordance with the provisions of the Act and gives its consent in writing in the form of a license amendment.

B. The licensee shall submit written statements under oath upon request of the department, at any time before termination of the license, to enable the department to determine whether the license should be modified, suspended, or revoked.

C. The license will be transferred to the site owner only on the full implementation of the final closure plan as approved by the department, including post-closure observation and maintenance.

D. The licensee shall be subject to the provisions of the Act now or hereafter in effect, and to all rules, regulations, and orders of the department. The terms and conditions of the license are subject to amendment, revision, or modification, by reason of amendments to, or by reason of rules, regulations, and orders issued in accordance with the terms of the Act.

E. Each person licensed by the department pursuant to the regulations in this Chapter shall confine possession and use of materials to the locations and purposes authorized in the license.

F. The licensee shall not dispose of waste until the department has inspected the land disposal facility and has found it to be in conformance with the description, design, and construction described in the application for a license.

G. The department may incorporate in any license at the time of issuance, or thereafter, by appropriate rule, regulation or order, additional requirements and conditions with respect to the licensee's receipt, possession, and disposal of waste as it deems appropriate or necessary in order to:

\* \* \*

[See Prior Text in G.1-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2595 (November 2000).

### §1313. Application for Renewal or Closure

\* \* \*

[See Prior Text in A]

B. Applications for renewal of a license must be filed in accordance with LAC 33:XV.1305-1310. Applications for closure must be filed in accordance with LAC 33:XV.1314. Information contained in previous applications, statements, or reports filed with the department under the license may be incorporated by reference if the references are clear and specific.

C. In any case in which a licensee has filed an application in proper form for renewal of a license, the license does not expire until the department has taken final action on the application for renewal.

D. In determining whether a license will be renewed, the department will apply the criteria set forth in LAC 33:XV.1311.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2596 (November 2000).

### §1314. Contents of Application for Site Closure and Stabilization

A. Prior to final closure of the disposal site, or as otherwise directed by the department, the applicant shall submit an application to the Office of Environmental Services, Permits Division to amend the license for closure. This closure application shall include a final revision and specific details of the disposal site closure plan included as part of the license application submitted under LAC 33:XV.1307.G that includes each of the following:

\* \* \*

[See Prior Text in A.1-4]

B. Upon review and consideration of an application to amend the license for closure submitted in accordance with LAC 33:XV.1314.A., the department shall issue an amendment authorizing closure if there is reasonable assurance that the long-term performance objectives of this Chapter will be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2596 (November 2000).

### §1315. Postclosure Observation and Maintenance

The licensee shall observe, monitor, and carry out necessary maintenance and repairs at the disposal site until the site closure is complete and the license is transferred by the department in accordance with LAC 33:XV.1316. Responsibility for the disposal site must be maintained by the licensee for five years. A shorter or longer time period for postclosure observation and maintenance may be established and approved as part of the site closure plan, based on site-specific conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:2596 (November 2000).

### §1316. Transfer of License

Following closure and the period of postclosure observation and maintenance, the licensee may apply for an amendment to transfer the license to the disposal site owner. The license shall be transferred when the department finds:

\* \* \*

[See Prior Text in A-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2596 (November 2000).

### §1317. Termination of License

\* \* \*

[See Prior Text in A-B]

C. A license shall be terminated only when the department finds:

\* \* \*

[See Prior Text in C.1-3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2596 (November 2000).

### Subchapter C. Technical Requirements for Land Disposal Facilities

#### §1323. Disposal Site Suitability Requirements for Land Disposal

A. Disposal Site Suitability for Near-Surface Disposal. The primary emphasis in disposal site suitability is given to isolation of wastes and to disposal site features that ensure that the long-term performance objectives are met.

\* \* \*

[See Prior Text in A.1-5]

6. This disposal site shall provide sufficient depth to the water table that ground water intrusion, perennial or otherwise, into the waste will not occur. The department will consider an exception to this requirement to allow disposal below the water table if it can be conclusively shown that disposal site characteristics will result in molecular diffusion being the predominant means of radionuclide movement and the rate of movement will result in the performance objectives being met. In no case will waste disposal be permitted in the zone of fluctuation of the water table.

\* \* \*

[See Prior Text in A.7-10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2596 (November 2000).

#### §1325. Land Disposal Facility Operation and Disposal Site Closure

A. Near-Surface Disposal Facility Operation and Disposal Site Closure

\* \* \*

[See Prior Text in A.1-11]

12. Proposals for disposal of waste that is not generally acceptable for near-surface disposal because the waste form and disposal methods must be different and, in general, more stringent than those specified for Class C waste, may be submitted to the Office of Environmental Services, Permits Division for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2596 (November 2000).

**§1327. Alternative Requirements for Design and Operations**

The department may, upon request or on its own initiative, authorize provisions other than those set forth in LAC 33:XV.1324 - 1326 for the segregation and disposal of waste and for the design and operation of a land disposal facility on a specific basis, if it finds reasonable assurance of compliance with the performance objectives of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2597 (November 2000).

**§1328. Institutional Requirements**

\* \* \*

[See Prior Text in A]

B. Institutional Control. The land owner or custodial agency shall conduct an institutional control program to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator. The institutional control program shall also include, but not be limited to, conducting an environmental monitoring program at the disposal site, periodic surveillance, minor custodial care, and other requirements as determined by the department, and administration of funds to cover the costs for these activities. The period of institutional controls will be determined by the department, but institutional controls may not be relied upon for more than 100 years following transfer of control of the disposal site to the owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2597 (November 2000).

**Subchapter D. Financial Assurances**

**§1331. Funding for Disposal Site Closure and Stabilization**

\* \* \*

[See Prior Text in A-A.1]

2. closure and stabilization of the disposal site so that following transfer of the disposal site to the site owner, the need for ongoing active maintenance is eliminated to the extent practicable and only minor custodial care, surveillance, and monitoring are required.

These assurances shall be based on department approved cost estimates reflecting the department approved plan for disposal site closure and stabilization. The applicant's cost estimates must take into account total costs that would be incurred if an independent contractor were hired to perform the closure and stabilization work.

B. In order to avoid unnecessary duplication and expense, the department will accept financial sureties that have been consolidated with earmarked financial or surety arrangements established to meet requirements of federal or other state agencies [and/or local governmental bodies] for such decontamination, closure, and stabilization. The department will accept these arrangements only if they are considered adequate to satisfy the requirements of LAC 33:XV.1331 and that the portion of the surety which covers the closure of the disposal site is clearly identified and committed for use in accomplishing these activities.

C. The licensee's financial or surety arrangement shall be submitted annually for review by the Office of Management and Finance, Financial Services Division to assure that sufficient funds will be available for completion of the closure plan.

\* \* \*

[See Prior Text in D]

E. The financial or surety arrangement shall be written for a specified period of time and shall be automatically renewed unless the person who issues the surety notified the Office of Management and Finance, Financial Services Division, the beneficiary [the site owner], and the principal [the licensee] not less than 90 days prior to the renewal date of its intention not to renew. In such a situation, the licensee must submit a replacement surety within 30 days after notification of cancellation. If the licensee fails to provide a replacement surety acceptable to the department, the beneficiary may collect on the original surety.

\* \* \*

[See Prior Text in F]

G Financial or surety arrangements generally acceptable to the department include surety bonds, cash deposits, certificates of deposit, deposits of government securities, escrow accounts, irrevocable letters or lines of credit, trust funds, and combinations of the above or such other types of arrangements as may be approved by the department. Self-insurance, or any arrangement which essentially constitutes self-insurance, will not satisfy the surety requirement for private sector applicants.

H. The licensee's financial or surety arrangement shall remain in effect until the closure and stabilization program has been completed and approved by the department, and the license has been transferred to the site owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2597 (November 2000).

**§1332. Financial Assurances for Institutional Controls**

A. Prior to the issuance of the license, the applicant shall provide for Office of Management and Finance, Financial Services Division approval, a binding arrangement, between the applicant and the disposal site owner that ensures that sufficient funds will be available to cover the costs of

monitoring and any required maintenance during the institutional control period. The binding arrangement shall be reviewed annually by the department to ensure that changes in inflation, technology, and disposal facility operations are reflected in the arrangements.

B. Subsequent changes to the binding arrangement specified in Subsection A of this Section relevant to institutional control shall be submitted to the Office of Management and Finance, Financial Services Division for prior approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2597 (November 2000).

### **Subchapter E. Records, Reports, Tests and Inspections** **§1333. Maintenance of Records, Reports and Transfers**

A. Each licensee shall maintain any records and make any reports in connection with the licensed activities as may be required by the conditions of the license or by the rules, regulations, and orders of the department.

B. Records which are required by these regulations or by license conditions shall be maintained for a period specified by the appropriate regulations or by license condition. If a retention period is not otherwise specified, these records must be maintained and transferred to the officials specified in LAC 33:XV.1333.D as a condition of license termination unless the department otherwise authorizes their disposition.

\* \* \*

[See Prior Text in C]

D. Notwithstanding Subsections A-C of this Section, copies of records of the location and the quantity of radioactive wastes contained in the disposal site shall be transferred upon license termination to the chief executive of the nearest municipality, the chief executive of the county in which the facility is located, the county zoning board or land development and planning agency, the state governor, and other state, local, and federal governmental agencies as designated by the department at the time of license termination.

E. Following receipt and acceptance of a shipment of radioactive waste, the licensee shall record the date of disposal of the waste, the date that the shipment is received at the disposal facility, a traceable shipment manifest number, a description of any engineered barrier or structural overpack provided for disposal of the waste, the location of disposal at the disposal site, the containment integrity of the waste packages as received, any discrepancies between materials listed on the manifest and those received, the volume of any pallets, bracing, or other shipping or on-site generated materials that are contaminated and are disposed of as contaminated or suspect materials, and any evidence of leaking or damaged packages or radiation or contamination levels in excess of limits specified in U.S. Department of Transportation and department regulations. The licensee shall briefly describe any repackaging operations of any of the waste packages included in the shipment, plus any other information required by the department as a license condition. The licensee shall retain these records until the department transfers or terminates the license that authorizes the activities described in this Section.

F. Each licensee authorized to dispose of waste received from other persons shall file a copy of its financial report or a certified financial statement annually with the Office of Management and Finance, Financial Services Division in order to update the information base for determining financial qualifications.

G. Each licensee authorized to dispose of waste received from other persons, in accordance with this Chapter, shall submit annual reports to the Office of Environmental Compliance, Surveillance Division. Reports shall be submitted by the end of the first calendar quarter of each year for the preceding year.

\* \* \*

[See Prior Text in G.1-1.e]

f. any other information the department may require.

\* \* \*

[See Prior Text in G.2]

H. If there is a conflict between the department's regulations in this Chapter, license condition, or other written department approval or authorization pertaining to the retention period for the same type of record, the longest retention period specified takes precedence.

\* \* \*

[See Prior Text in I-J.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2111 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2598 (November 2000).

### **§1334. Tests on Land Disposal Facilities**

Each licensee shall perform, or permit the department to perform, any tests the department deems appropriate or necessary for the administration of the regulations in this Chapter, including, but not limited to, tests of:

\* \* \*

[See Prior Text in A-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2598 (November 2000).

### **§1335. Department Inspections of Land Disposal Facilities**

A. Each licensee shall afford to the department at all reasonable times opportunity to inspect waste not yet disposed of, and the premises, equipment, operations, and facilities in which wastes are received, possessed, handled, treated, stored, or disposed of.

B. Each licensee shall make available to the department for inspection, upon reasonable notice, records kept by it pursuant to these regulations. Authorized representatives of the department may copy and take away copies of, for the division's use, any record required to be kept pursuant to these regulations.



AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2598 (November 2000).

#### **Chapter 14. Regulation and Licensing of Naturally Occurring Radioactive Material (NORM)**

##### **§1404. Exemptions**

\* \* \*

[See Prior Text in A-C.2]

D. The department may on a case by case basis approve alternate limits or measurement procedures for an exemption under LAC 33:XV:1404.A, B, or C.

E. Persons who receive source material, as authorized under the general license in LAC 33:XV.321.A, and products or materials containing NORM, distributed in accordance with a specific license issued by the department or an equivalent license issued by another licensing state, are exempt from these regulations.

\* \* \*

[See Prior Text in F-J]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15:736 (September 1989), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), amended LR 21:25 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000).

##### **§1407. Surveys**

\* \* \*

[See Prior Text in A-B]

C. Upon completion of survey(s) of equipment and facilities that verify that NORM regulated by this Chapter is not present, an individual may submit documentation to the Office of Environmental Services, Permits Division indicating that the equipment and facilities are exempt from the requirements of this Chapter pursuant to LAC 33:XV.1404.

D. Any survey submitted to the department must include the qualifications of the individual performing the survey. Individuals performing and documenting the surveys shall demonstrate understanding of the subjects outlined in Appendix A of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000).

##### **§1408. General License**

\* \* \*

[See Prior Text in A]

1. Persons subject to the general license shall notify the Office of Environmental Services, Permits Division by filing the Notification of NORM Form (Form RPD-36) with the department.

2. A confirmatory survey showing the presence of NORM in excess of exempt levels provided in LAC

33:XV.1404 shall be submitted to the Office of Environmental Services, Permits Division.

3. Each general licensee performing on-site maintenance on contaminated facilities, sites, or equipment or the excavation of land shall establish and submit to the Office of Environmental Services, Permits Division for approval written procedures as outlined in Appendix B of this Chapter to ensure worker protection and for the survey (or screening) of sites and equipment.

\* \* \*

[See Prior Text in A.4]

5. Each general licensee shall establish and submit to the Office of Environmental Services, Permits Division for approval written procedures for the survey (or screening) of sites and equipment to ensure that NORM is not released for unrestricted use except under the provisions of LAC 33:XV.1417.

\* \* \*

[See Prior Text in A.6-6.a]

b. To store NORM waste in a container for up to 365 days from generation, a general licensee must first submit a written NORM waste management plan to the Office of Environmental Services, Permits Division and receive authorization from the department. The general licensee may store NORM waste in containers up to 365 days from generation under the written NORM waste management plan while waiting for department determination.

\* \* \*

[See Prior Text in A.7-B]

C. The decontamination for release for unrestricted use of contaminated facilities, sites, or equipment shall only be performed by persons specifically licensed by the department, the U.S. Nuclear Regulatory Commission, another agreement state, or another licensing state to conduct such work or as otherwise authorized by the department.

\* \* \*

[See Prior Text in D-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000).

##### **§1410. General Licenses: Pipe Yards, Storage Yards, or Production Equipment Yards**

\* \* \*

[See Prior Text in A-A.1]

2. a program is developed and submitted to the Office of Environmental Services, Permits Division for approval to screen incoming shipments to ensure that the 50-microontgens-per-hour limit is not exceeded for individual pieces of tubular goods or equipment;

3. a program is developed and submitted to the Office of Environmental Services, Permits Division for approval to ensure worker protection, as outlined in Appendix B of this Chapter;

4. a program is developed and submitted to the Office of Environmental Services, Permits Division for approval to control soil contamination;

5. a program is developed and submitted to the Office of Environmental Services, Permits Division for approval to prevent release of NORM contamination beyond the site boundary;

6. a program is developed and submitted to the Office of Environmental Services, Permits Division for approval for surveying and decontamination to ensure that soil contamination is not allowed to exceed 200 picocuries per gram of radium-226 or radium-228 or an exposure rate of 50 microroentgens per hour at one meter from the soil at any time;

7. a plan for cleanup is submitted to the Office of Environmental Services, Permits Division within 180 days of the effective date of these regulations for existing facilities that have NORM contaminated soil in excess of the limit in LAC 33:XV.1410.A.6. The plan shall include a schedule for cleanup that is to be approved by the department. The general licensee may include in this plan an application to the department for a one time authorization to perform this cleanup or use a specific licensee; and

\*\*\*

[See Prior Text in A.8-B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15:736 (September 1989), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), amended LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000).

#### §1412. Treatment, Transfer, and Disposal

\*\*\*

[See Prior Text in A-B]

1. by transfer of the wastes to a land disposal facility licensed by the department, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state;

2. by alternate methods authorized by the department in writing upon application or upon the department's initiative. The application for alternative methods of disposal shall be submitted to the department for approval;

\*\*\*

[See Prior Text in B.3-3.c]

4. for nonhazardous oilfield waste containing concentrations of NORM in excess of the limits in LAC 33:XV.1404.A.1, but not exceeding 200 picocuries per gram of radium-226 or radium-228 and daughter products, by treatment at nonhazardous oilfield waste commercial facilities specifically licensed by the department for such purposes. Regulation of such sites is set forth in a memorandum of understanding between the department and DNR and contained in Appendix C of this Chapter.

C. Intrastate transfers of waste containing NORM for disposal shall be made only to persons authorized by the department in writing to receive such waste. It is the responsibility of the transferor to ascertain that the recipient possesses specific authorization prior to transfer.

\*\*\*

[See Prior Text in D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:606 (June 1992), amended LR 21:27 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2600 (November 2000).

#### §1414. Containers

\*\*\*

[See Prior Text in A-F]

G Records of inspections pursuant to LAC 33:XV.1414.E shall be maintained by the licensee for inspection by the department for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:607 (June 1992), amended LR 21:27 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2600 (November 2000).

#### §1417. Release for Unrestricted Use

\*\*\*

[See Prior Text in A-A.3]

B. If closure activities involve construction with a subsurface impact to a depth greater than three feet, prior approval by the Office of Environmental Assessment, Environmental Technology Division must be attached as part of the application addressing the certification of the groundwater quality. All pits, ponds, and lagoons must comply with departmental regulations and/or policies dealing with groundwater quality.

C. Unless otherwise directed in writing by the department, in order to release property for unrestricted use, a licensee shall submit a plan for the decontamination to the Office of Environmental Services, Permits Division for approval. Upon approval, the licensee shall implement the plan in accordance with such approval.

1. Information contained in previous applications, statements, or reports filed with the department under the license may be incorporated by reference if the references are clear and specific.

2. The plan shall provide for a confirmatory survey submitted to the department for review.

3. The licensee shall provide notice to the department of completion of decontamination. Upon proper completion of the plan and notice to the department, the department shall acknowledge such completion.

\*\*\*

[See Prior Text in C.4-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:607 (June 1992), amended LR 21:28 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2600 (November 2000).

#### §1418. NORM Manifests

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[See Prior Text in A]

B. The manifest form must be obtained from the department and must consist of, at a minimum, the number of copies that will provide the licensee, each transporter, and the operator of the designated facility with one copy each for

their records with the remaining copies to be returned to the licensee and the other appropriate parties.

\* \* \*

[See Prior Text in C-C.6]

7. The licensee receiving a shipment is required to report to the Office of Environmental Services, Permits Division and to the licensee initiating the shipment any irregularities between the NORM actually received by the designated facility and the NORM described on the manifest, or any other irregularities, within 15 days. If the designated facility or receiving licensee is outside the state of Louisiana, the generating or originating licensee must report the irregularities to the department.

\* \* \*

[See Prior Text in D-D.1]

a. a state manifest document which shall be obtained from the department;

\* \* \*

[See Prior Text in D.1.b-E.3]

a. notify the Office of Environmental Compliance, Surveillance Division in writing within seven days;

\* \* \*

[See Prior Text in E.3.b]

c. report the results of the investigation to the Office of Environmental Compliance, Surveillance Division.

\* \* \*

[See Prior Text in F-F.3.c]

G Designated Facility. The designated facility should fill out his portion, retain a copy for his files, submit the original to the department, and send all remaining copies to the licensee no later than 15 days after delivery of the NORM waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:608 (June 1992), amended LR 21:28 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2600 (November 2000).

#### **§1420. Financial Security Requirements for NORM Treaters or Storers**

A. Each general licensee that stores NORM or NORM waste for greater than 90 days, and each specific licensee that leases or owns a physical location and that physically or chemically treats or stores NORM or NORM waste shall post with the department financial security to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness of the licensee to meet the requirements of the Act and these rules. Financial security shall:

1. name the department as beneficiary with a bond issued by a fidelity or surety company authorized to do business in Louisiana, a personal bond secured by such collateral as the department deems satisfactory, a cash bond, a liability endorsement, or a letter of credit. The amount of the bond, liability endorsement, or letter of credit shall be equal to or greater than the amount of the security required. Any security must be available in Louisiana and subject to judicial process and execution in the event required for the purposes set forth in this Section, and be continuous for the term of the license;

2. be in an amount based upon a department-approved cost estimates plan for decontamination, decommissioning, restoration, and reclamation of buildings, equipment, and the site to levels that would allow unrestricted use;

\* \* \*

[See Prior Text in A.3-B]

C. On the effective date of these rules, current licenses in effect may continue, provided that the required security arrangements are submitted to the Office of Management and Finance, Financial Services Division within 120 days.

D. No later than 90 days after the licensee notifies the department that decontamination and decommissioning have been completed, the department shall determine if these have been conducted in accordance with these rules. If the department finds that the requirements have been met, the secretary or his designee shall direct the return or release of the licensee's security in full plus any accumulated interest within 14 days. If the department finds that the requirements have not been met, the department will notify the licensee of the steps necessary for compliance.

\* \* \*

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:609 (June 1992), amended LR 21:30 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2601 (November 2000).

#### **Appendix B**

Detailed development of the following must be included in the required worker protection plan:

\* \* \*

[See Prior Text in I-VII]

For operations that have the potential to produce NORM contaminated dusts (i.e., cutting, grinding, sand-blasting, welding, drilling, polishing, or handling soil) or when loose contamination is suspected, the following additional precautions shall be taken:

\* \* \*

[See Prior Text in I-V]

In addition to the general guidance given above, there may be industrial operations such as vessel entry, dismantling of equipment, refurbishing of equipment, or transportation, which may require additional precautionary procedures which should be included in the worker protection procedures submitted to the department.

#### **Appendix C**

MEMORANDUM OF UNDERSTANDING  
BETWEEN LOUISIANA DEPARTMENT OF NATURAL  
RESOURCES  
OFFICE OF CONSERVATION  
AND  
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
REGARDING  
THE REGULATION OF NATURALLY OCCURRING  
RADIOACTIVE MATERIAL

AT COMMERCIAL OILFIELD WASTE TREATMENT FACILITIES  
WHEREAS, the Louisiana Department of Natural Resources, Office of Conservation (DNR/OC), is authorized by State law and regulations to control the permitting,

operation, and closure of commercial nonhazardous oilfield waste (NOW) disposal facilities in Louisiana, and,

WHEREAS, the Louisiana Department of Environmental Quality (DEQ) is authorized by state law and regulations to control the management and disposal of naturally occurring radioactive material (NORM), and,

WHEREAS, certain types of NOW have been recognized as occasionally containing levels of NORM that may warrant protection of public health and the environment, and,

WHEREAS, it is in the public interest for both agencies to coordinate their resources in order to provide adequate protection of public health and the environment and to avoid duplicative regulatory efforts and unnecessary expenses to DNR/OC and DEQ, the regulated community and the citizens of this state.

\* \* \* \* \*

THEREFORE, the following MEMORANDUM OF UNDERSTANDING is hereby adopted to outline the specific responsibilities of each agency regarding the regulation of NORM treatment at commercial NOW facilities which are permitted and regulated under the jurisdiction of the Office of Conservation:

\* \* \*

[See Prior Text in 1-8]

This MEMORANDUM OF UNDERSTANDING is subject to revision or cancellation upon agreement of both parties.

#### **Chapter 15. Transportation of Radioactive Material**

##### **§1504. Requirement for License**

No person shall transport radioactive material or deliver radioactive material to a carrier for transport except as authorized in a general or specific license issued by the department or as exempted in LAC 33:XV.1505.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2602 (November 2000).

##### **§1507. General Licenses for Carriers**

A. A general license is hereby issued to any common or contract carrier not exempt under LAC 33:XV.1505 to receive, possess, transport, and store radioactive material in the regular course of their carriage for another or storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting. Any notification of incidents referred to in those U.S. Department of Transportation requirements shall be filed with, or made to, the:

Office of Environmental Compliance  
by telephone at (225) 765-0160.

B. A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident

reporting. Any notification of incidents referred to in those U.S. Department of Transportation requirements shall be filed with, or made to, the:

Office of Environmental Compliance,  
by telephone at (225) 765-0160.

\* \* \*

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2602 (November 2000).

##### **§1515. Reports**

A. The licensee shall report to the Office of Environmental Compliance, Surveillance Division within 30 days:

\* \* \*

[See Prior Text in A.1-3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2602 (November 2000).1269 (June 2000), LR 26:2602 (November 2000).

##### **§1516. Advance Notification of Transport of Nuclear Waste**

\* \* \*

[See Prior Text in A-C.6]

D. The notification required by LAC 33:XV.1516.A shall be made in writing to the office of each appropriate governor or governor's designee and to the Office of Environmental Compliance, Surveillance Division. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A notification delivered by messenger must reach the office of the governor, or governor's designee, at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for three years.

E. The licensee shall notify each appropriate governor, or governor's designee, and the Office of Environmental Compliance, Surveillance Division of any changes to schedule information provided in accordance with Subsection A of this Section. Such notification shall be by telephone to a responsible individual in the office of the governor, or governor's designee, of the appropriate state or states. The licensee shall maintain for three years a record of the name of the individual contacted.

F. Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a cancellation notice to the governor, or governor's designee, of each appropriate state and to the Office of Environmental Compliance, Surveillance Division. A copy of the notice shall be retained by the licensee for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569

(October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), LR 26:2602 (November 2000).

## **Chapter 17. Licensing and Radiation Safety Requirements for Irradiators**

### **§1705. License Required**

No person shall manufacture, produce, acquire, receive, possess, use, or transfer radioactive material for use in an irradiator, except in accordance with a specific license issued by the department, the Nuclear Regulatory Commission, or an agreement state. Specific license application procedures and requirements may be found in LAC 33:XV.Chapter 3.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2603 (November 2000).

### **§1707. Start of Construction**

An applicant for a license shall not begin construction of a new irradiator prior to the submission to the Office of Environmental Services, Permits Division of both an application for a license for the irradiator and any fee required by the applicable state requirement or statute. As used in this Chapter, the term *construction* includes the construction of any portion of the permanent irradiator structure on the site but does not include engineering and design work, purchase of a site, site surveys or soil testing, site preparation, site excavation, construction of warehouse or auxiliary structures, and other similar tasks. Any activities undertaken prior to the issuance of a license are entirely at the risk of the applicant and have no bearing on the issuance of a license with respect to the requirements of the appropriate state statute, rules, regulations, and orders issued under the appropriate state statute.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2603 (November 2000).

### **§1709. Applications for Exemptions**

Any application for a license or for amendment of a license authorizing use of a teletherapy-type unit for irradiation of materials or objects may include proposed alternatives for the requirements of this Chapter. The department shall approve the proposed alternatives if the applicant provides adequate rationale for the proposed alternatives and demonstrates that they are likely to provide an adequate level of safety for workers and the public.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2603 (November 2000).

### **§1711. Request for Written Statements**

Each license is issued with the condition that the licensee shall, at any time before expiration of the license and upon the department's request, submit a written statement to the Office of Environmental Services, Permits Division to

enable the department to determine whether the license should be modified, suspended, or revoked.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2603 (November 2000).

### **§1713. Performance Criteria for Sealed Sources**

\* \* \*

[See Prior Text in A]

1. shall have been evaluated by the department, the Nuclear Regulatory Commission, or an agreement state in accordance with 10 CFR 32.210;

\* \* \*

[See Prior Text in A.2-G]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2603 (November 2000).

### **§1737. Operating and Emergency Procedures**

\* \* \*

[See Prior Text in A-B.10]

C. The licensee may revise operating and emergency procedures without department approval only if all of the following conditions are met:

\* \* \*

[See Prior Text in C.1-4]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2118 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2603 (November 2000).

### **§1743. Detection of Leaking Sources**

A. Each dry-source-storage sealed source shall be tested for leakage at intervals not to exceed six months using a leak test kit or method approved by the department, the Nuclear Regulatory Commission, an agreement state, or a licensing state. In the absence of a certificate from a transferor that a test has been made within the six months before the transfer, the sealed source shall not be used until tested. The test shall be capable of detecting the presence of 200 becquerels (0.005  $\mu$ Ci) of radioactive material and shall be performed by a person approved by the department, the Nuclear Regulatory Commission, an agreement state, or a licensing state to perform the test.

\* \* \*

[See Prior Text in B]

C. If a leaking source is detected, the licensee shall arrange to remove the leaking source from service and have it decontaminated, repaired, or disposed of by a licensee that is authorized to perform these functions by the department, the Nuclear Regulatory Commission, an agreement state, or a licensing state. The licensee shall promptly check its personnel, equipment, facilities, and irradiated product for radioactive contamination. No product shall be shipped until the product has been checked and found free of contamination. If a product has been shipped that may have

been inadvertently contaminated, the licensee shall arrange to locate and survey that product for contamination. If any personnel are found to be contaminated, decontamination shall be performed promptly. If contaminated equipment, facilities, or products are found, the licensee shall arrange to have them decontaminated or disposed of by a licensee that is authorized to perform these functions by the department, the Nuclear Regulatory Commission, an agreement state, or a licensing state. If a pool is contaminated, the licensee shall arrange to clean the pool until the contamination levels do not exceed the appropriate concentration in LAC 33:XV.Chapter 4.Appendix B.Table II, Column 2. The licensee shall report all incidents in accordance with LAC 33:XV.486.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2119 (November 1998), repromulgated LR 24:2243 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2603 (November 2000).

#### **§1753. Irradiation of Explosive or Flammable Materials**

A. Irradiation of explosive material is prohibited unless the licensee has received prior written authorization from the department. Authorization shall not be granted unless the licensee can demonstrate that detonation of the explosive would not rupture the sealed sources, injure personnel, damage safety systems, or cause radiation overexposures of personnel.

B. Irradiation of more than small quantities of flammable material with a flash point below 140°F is prohibited in panoramic irradiators, unless the licensee has received prior written authorization from the department. Authorization shall not be granted unless the licensee can demonstrate that a fire in the radiation room could be controlled without damage to sealed sources or safety systems and without radiation overexposures of personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2120 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000).

#### **§1755. Records and Retention Periods**

\*\*\*

[See Prior Text in A-A.2]

3. a copy of the current operating and emergency procedures required by LAC 33:XV.1737 until superseded or the department terminates the license. Records of the radiation safety officer's review and approval of changes in procedures, as required by LAC 33:XV.1737.C.3, shall be retained for three years from the date of the change;

\*\*\*

[See Prior Text in A.4-B]

1. a copy of the license, the license conditions, documents incorporated into the license by reference, and amendments thereto until superseded by new documents or until the department terminates the license for documents not superseded;

2. film badge and TLD results required by LAC 33:XV.1739 until the department terminates the license;

\*\*\*

[See Prior Text in B.3-5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2120 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000).

### **Chapter 20. Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies**

#### **§2013. Radiation Survey Instruments**

\*\*\*

[See Prior Text in A-B.3]

C. Calibration records shall be kept and maintained for a period of two years for inspection by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000).

#### **§2014. Leak Testing of Sealed Sources**

A. Requirements. Each licensee using sealed sources of radioactive material shall have the sources tested for leakage. Records of leak test results shall be kept in units of microcuries and maintained for inspection by the department two years after the next required leak test is performed or until transfer or disposal of the sealed source.

B. Method of Testing. Tests for leakage shall be performed only by persons specifically authorized to perform such tests by the department, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state. The test sample shall be taken from the surface of the source, source holder, or from the surface of the device in which the source is stored or mounted and on which one might expect contamination to accumulate. The test sample shall be analyzed for radioactive contamination, and the analysis shall be capable of detecting the presence of 0.005 microcurie (185 Bq) of radioactive material on the test sample.

\*\*\*

[See Prior Text in C]

D. Leaking or Contaminated Source. If the test reveals the presence of 0.005 microcurie (185 Bq) or more of leakage or contamination, the licensee shall immediately withdraw the source from use and shall cause it to be decontaminated, repaired, or disposed of in accordance with these regulations. A report describing the equipment involved, the test results, and the corrective action taken shall be filed in writing with the Office of Environmental Compliance within 30 days of discovery of a leaking or contaminated source.

\*\*\*

[See Prior Text in E-E.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air

Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000).

#### **§2015. Quarterly Inventory**

Each licensee or registrant shall conduct a quarterly physical inventory to account for all sources of radiation. Records of inventories shall be kept and maintained for two years from the date of the inventory for inspection by the department and shall include the quantities and kinds of sources of radiation, the location where sources of radiation are assigned, the date of inventory, and the name of the individual conducting the inventory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000).

#### **§2016. Utilization Records**

A. Each licensee or registrant shall maintain current records, which shall be kept available for inspection by the department for two years from the date of the recorded event, showing the following information for each source of radiation:

\* \* \*

[See Prior Text in A.1-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000).

#### **§2017. Design, Performance, and Certification Criteria for Sealed Sources Used in Downhole Operations**

A. Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations and manufactured after October 20, 1988, shall be certified by the manufacturer, or other testing organization acceptable to the department, to meet the following minimum criteria:

\* \* \*

[See Prior Text in A.1-B]

C. Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations after October 20, 1988, shall be certified by the manufacturer, or other testing organization acceptable to the department, as meeting the sealed source performance requirements for oil well-logging as contained in the American National Standard N542, "Sealed Radioactive Sources, Classification," in effect on October 20, 1987.

D. Certification documents shall be kept and maintained for inspection by the department for a period of two years after source disposal. If the source is abandoned downhole, the certification documents shall be maintained until the department authorizes disposition in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000).

#### **§2019. Inspection and Maintenance**

A. Each licensee or registrant shall conduct, at intervals not to exceed six months, a program of inspection and maintenance of source-holders, logging tools, source-handling tools, storage containers, transport containers, and injection tools to assure proper labeling and physical condition. Records of inspection and maintenance shall be kept and maintained for a period of two years for inspection by the department.

\* \* \*

[See Prior Text in B]

C. The repair, opening, or modification of any sealed source shall be performed only by persons specifically authorized to do so by the department, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000).

#### **Subchapter A. Requirements for Personnel Safety**

##### **§2020. Training Requirements**

\* \* \*

[See Prior Text in A]

1. received, in a course recognized by the department, the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State, instruction in the subjects outlined in Appendix A of this Chapter and demonstrated an understanding thereof;

\* \* \*

[See Prior Text in A.2-B.2]

C. The licensee or registrant shall keep and maintain employee training records for inspection by the department for two years following termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000).

##### **§2022. Personnel Monitoring**

\* \* \*

[See Prior Text in A]

B. Personnel monitoring records shall be maintained for inspection until the department authorizes disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air

Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000).

## **Subchapter B. Precautionary Procedures in Logging and Subsurface Tracer Operations**

### **§2033. Subsurface Tracer Studies**

\* \* \*

[See Prior Text in A]

B. No licensee shall cause the injection of radioactive material into potable aquifers without prior written authorization from the department and any other appropriate state agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2606 (November 2000).

## **Subchapter C. Radiation Surveys and Records**

### **§2041. Radiation Surveys**

\* \* \*

[See Prior Text in A-D]

E. Records required pursuant to LAC 33:XV.2041.A-D shall include the dates, the identification of individual(s) making the survey, the identification of survey instrument(s) used, and an exact description of the location of the survey. Records of these surveys shall be kept and maintained for inspection by the department for two years after completion of the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2606 (November 2000).

### **§2042. Documents and Records Required at Field Stations**

A. Each licensee or registrant shall keep and maintain, for inspection by the department, the following documents and records for the specific devices and sources used at the field station:

\* \* \*

[See Prior Text in A.1-10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2606 (November 2000).

### **§2043. Documents and Records Required at Temporary Jobsites**

A. Each licensee or registrant conducting operations at a temporary jobsite shall have the following documents and records available at that site for inspection by the department:

\* \* \*

[See Prior Text in A.1-5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2606 (November 2000).

## **Subchapter D. Notification**

### **§2051. Notification of Incidents, Abandonment, and Lost Sources**

A. The licensee shall immediately notify the Office of Environmental Compliance by telephone at (225) 765-0160 and subsequently within 30 days by confirmatory letter if the licensee knows or has reason to believe that a sealed source has been ruptured. The letter must designate the well or other location, describe the magnitude and extent of the release of licensed materials, assess the consequences of the rupture, and explain efforts planned or being taken to mitigate these consequences.

\* \* \*

[See Prior Text in B-B.1]

2. notify the Office of Environmental Compliance immediately by telephone at (225) 765-0160 if radioactive contamination is detected at the surface or if the source appears to be damaged and provide a follow-up written report to the department within 30 days of detection.

\* \* \*

[See Prior Text in C-C.1.c]

2. notify the Office of Environmental Compliance by telephone at (225) 765-0160 giving the circumstances of the loss, and request approval of the proposed abandonment procedures; and

3. file a written report with the Office of Environmental Compliance, or e-mail at [surveillance@deq.state.la.us](mailto:surveillance@deq.state.la.us) within 30 days of the abandonment, setting forth the following information:

\* \* \*

[See Prior Text in C.3.a-D.2.g]

h. an appropriate warning, depending on the specific circumstances of each abandonment. Appropriate warnings may include "Do not drill below plug back depth"; "Do not enlarge casing"; or "Do not re-enter the hole," followed by the words, "before contacting the Department of Environmental Quality."

E. The licensee shall notify the department of the theft or loss of radioactive materials, radiation overexposure, excessive levels and concentrations of radiation or radioactive materials, and certain other accidents as required by LAC 33:XV.341, 485, 486, and 487.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 21:555 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2606 (November 2000).



**Appendix B**

Example of Plaque for Identifying Wells Containing Sealed Sources of Radioactive Material Abandoned Downhole



The size of the plaque should be convenient for use on active or inactive wells, e.g., a 7-inch square. Letter size of the word "CAUTION" should be approximately twice the letter size of the rest of the information, e.g., 1/2-inch and 1/4-inch letter size, respectively.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2606 (November 2000).

**Chapter 25. Fee Schedule**

**§2505. Annual Fees**

All activities for which an annual fee is provided shall be subject to the payment of such fee by the due date indicated on the invoice, except that any fee in excess of \$50,000, upon written application to, and approval of, the administrative authority, may be paid in installments over a period not to exceed six months, according to a payment schedule established by the administrative authority.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000).

**§2506. Reciprocal Agreements—Licenses and Registrants**

Persons operating within Louisiana under the provisions of LAC 33:XV.212 or LAC 33:XV.390 shall submit to the Office of Environmental Services, Permits Division the annual fee of the applicable category before the first entry into the state. The fee will allow reciprocal recognition of the license for one year from the date of receipt.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000).

**§2507. Reimbursements**

A. One-half of the annual fee will be reimbursed to the licensee or registrant upon receipt of a written request to terminate the license or registration, provided that the request has been received by the Office of Environmental Services, Permits Division within 180 days after the annual fee due date, and the fee has not been delinquent. Requests for termination of the license or registration received after 180 days of the annual fee due date will not entitle the licensee or registrant to reimbursement of any portion of the annual fee. No interest, legal or otherwise, will be paid on the funds withheld prior to reimbursement.

\*\*\*

[See Prior Text in B]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000).

**§2508. Determination of Fee**

\*\*\*

[See Prior Text in A-C]

D. Electronic products that are in storage are subject to the same initial application fee and annual maintenance fee unless the X-ray unit is rendered permanently incapable of producing radiation and this fact is documented in writing to the Office of Environmental Services, Permits Division.

\*\*\*

[See Prior Text in E]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000), LR 26:2607 (November 2000).

**Appendix A**

| Radiation Protection Program Fee Schedule                     |                 |                        |
|---|-----------------|------------------------|
|   | Application Fee | Annual Maintenance Fee |
| ***   |                 |                        |
| [See Prior Text in I-VIII]                                    |                 |                        |
| IX. La. Radiation Protection Program Laboratory Analysis Fees |                 |                        |
| Sample Type   | Analysis        | Unit Price             |
| ***   |                 |                        |
| [See Prior Text in A-H.*]                                     |                 |                        |

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992),

repromulgated LR 18:956 (September 1992), amended LR 19:624 (May 1993), LR 21:792 (August 1995), repromulgated LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000).

James H. Brent, Ph.D.  
Assistant Secretary

0011#036

**RULE**

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

**Incorporation by Reference of 40 CFR Part 60  
(LAC 33:III.3003)(AQ210\*)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.3003 (Log #AQ210\*).

This Rule is identical to federal regulations found in 64 FR 37196, July 9, 1999; 64 FR 38240, July 15, 1999; 64 FR 53027, September 30, 1999; 65 FR 13243, March 13, 2000; and 65 FR 18908, April 10, 2000, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the Rule is promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference into LAC 33:III.Chapter 30, Federal Register citations 64 FR 37196, July 9, 1999; 64 FR 38240, July 15, 1999, 64 FR 53027, September 30, 1999; 65 FR 13243, March 13, 2000; and 65 FR 18908, April 10, 2000. In order that Louisiana can maintain delegation authority from the U.S. Environmental Protection Agency (EPA) for 40 CFR Part 60 Standards of Performance for New Stationary Sources (NSPS), new federal regulations must be adopted into the LAC. In addition, EPA's 105 Grant Objective requires the department to incorporate by reference new and revised NSPS regulations. This rulemaking satisfies that requirement. The basis and rationale for the Rule are to mirror the federal regulations in order to maintain authorization for the NSPS program in Louisiana.

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

**Title 33  
ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

**Subchapter A. Incorporation by Reference (IBR)**

**§3003. IBR 40 Code of Federal Regulations (CFR) Part 60**

\* \* \*

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

B. Final regulations published in the Federal Register on the following dates: July 9, 1999, July 15, 1999, September 30, 1999, March 13, 2000, and April 10, 2000, and specified below in Table 2 are hereby incorporated by reference as they apply to the state of Louisiana.

| <b>Table 2. 40 CFR Part 60</b>          |   |                                  |                         |
|---|---|----------------------------------|-------------------------|
| <b>40 CFR Part 60 Subpart/ Appendix</b> | <b>Subpart Heading Appendix</b>   | <b>Federal Register Citation</b> | <b>Date Promulgated</b> |
| Appendix A                              | Test Methods: Three New Methods for Velocity and Volumetric Flow Rate Determination in Stacks or Ducts                              | 64 FR 37196                      | July 9, 1999            |
| Appendix A                              | Test Methods: Three New Methods for Velocity and Volumetric Flow Rate Determination in Stacks or Ducts                              | 64 FR 38240                      | July 15, 1999           |
| Appendix A                              | Test Methods: Method 5I-- Determination of Low Level Particulate Matter Emissions From Stationary Sources                           | 64 FR 53027                      | September 30, 1999      |
| Subpart Db                              | Standards of Performance for Industrial- Commercial- Institutional Steam Generating Units   | 65 FR 13243                      | March 13, 2000          |
| Subpart WWW                             | Standards of Performance for New Stationary Sources and Guidelines for Control of Existing Sources: Municipal Solid Waste Landfills | 65 FR 18908                      | April 10, 2000          |

\* \* \*

[See Prior Text in C - D]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR

25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000), LR 26:2608 (November 2000), LR 26:2460 (November 2000).

James H. Brent, Ph.D.  
Assistant Secretary

0011#019

**RULE**

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

Solid Waste and Statewide Beautification  
(LAC 33:VII.115, 305, 707, 717,  
Chapter 13 and Chapter 101)(SW028)

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.115, 305, 707, 717, Chapter 13, and Chapter 101 (Log #SW028).

This Rule contains changes to include infectious wastes and actions required for offloading and transloading of solid wastes. Chapter 13 is being added to address litter abatement in the state in accordance with R.S. 30:2521, et seq. The regulations in Chapter 101. Recycling Awareness, are no longer applicable to the department's solid waste program, and this Chapter is being repealed. The basis and rationale for this Rule are to comply with R.S. 30:2521, et seq. and make minor changes to the Solid Waste regulations.

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

**Title 33  
ENVIRONMENTAL QUALITY  
Part VII. Solid Waste**

**Subpart 1. Solid Waste Regulations**

**Chapter 1. General Provisions and Definitions**

**§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.

\* \* \*

[See Prior Text]

*Autoclave* Csteam sterilization at a temperature of at least 250° F and a pressure of at least 15 pounds per square inch for at least 30 minutes. Longer times are required depending on the amount of waste, the presence of water, and the type of container used. Alternate patterns of temperature, pressure, and time may be used if compatible with the sterilization equipment being used and demonstrably sufficient to kill disease-causing microorganisms.

\* \* \*

[See Prior Text]

*Type II-A Facility* Ca facility used for processing residential, infectious, or commercial solid waste (e.g., transfer station, incinerator waste-handling facility, refuse-derived fuel facility, shredder, baler, autoclave, or compactor). (If the facility is also used for processing industrial solid waste, it is also a Type I-A facility.)

\* \* \*

[See Prior Text]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001, et seq. and 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 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 26:2609 (November 2000), LR 26:2515 (November 2000).

**Chapter 3. Scope and Mandatory Provisions of the Program**

**§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:

\* \* \*

[See Prior Text in A]

B. shredders, autoclaves, balers, and compactors that receive no waste volume from off-site sources;

\* \* \*

[See Prior Text in C - J]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assistance, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2609 (November 2000), LR 26:2515 (November 2000).

**Chapter 7. Solid Waste Standards  
Subchapter A. General Standards**

**§707. Standards Governing Pickup Stations for Solid Waste**

\* \* \*

[See Prior Text in A - D]

E. Each person must provide written notice to the parish governing authority, at least 30 days prior to construction, of his intent to operate a pick-up station for the offloading and/or transloading of processed solid waste and sewage sludge destined for disposal.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001, et seq., and 2154.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, IR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2609 (November 2000).

## Subchapter C. Solid Waste Processors

### §717. Standards Governing All Solid Waste Processors (Type I-A and II-A)

\* \* \*

[See Prior Text in A - B.4]

#### 5. Receiving and Monitoring Incoming Wastes

a. Each processing facility shall be equipped with a device or method to determine quantity (by wet-weight tonnage); sources (whether the waste was generated in-state or out-of-state and, if it is industrial solid waste, where it was generated); and types of incoming waste (i.e., commercial, residential, infectious). The facility shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, unauthorized, or unpermitted solid waste).

\* \* \*

[See Prior Text in B.5.b - I.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq. and 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 the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2609 (November 2000), LR 26:2527 (November 2000).

## Chapter 13. Statewide Beautification

### §1301. Purpose

A. It is declared to be the purpose of these rules and regulations to:

1. control and reduce litter; and
2. create a statewide beautification program to enhance the tourist, recreational, and economic development of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2521, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000).

### §1303. Definitions

A. The following words, terms, and phrases, when used in conjunction with LAC 33:VII.Subpart 1, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning.

**Commission** Cthe Louisiana Litter Reduction and Public Action Commission.

**Dump** Cto throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

**Litter** Call waste material, except as provided and defined in R.S. 30:2173(2), including but not limited to, disposable packages, containers, sand, gravel, rubbish, cans, bottles, refuse, garbage, trash, debris, dead animals, furniture or appliances, automotive parts including, but not limited to, tires and engines, trailers, boats and boating accessories, tools and equipment, and building materials, or other discarded materials of any kind and description. Litter shall not include agricultural products that are being transported from the harvest or collection site to a processing or market site if reasonable measures are taken to prevent the agricultural product from leaving the transporting vehicle. Litter shall also not include recyclable cardboard being transported in compressed bundles to processing facilities.

**Agricultural product**, as used in this definition, means all crops, livestock, poultry, and forestry; and all aquacultural, floracultural, horticultural, silvicultural, and viticultural products.

**Local Governing Authority** Cthe governing authority of the parish or the governing authority of the municipality in which the littering offense was committed.

**Public or Private Property** Cthe 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** Cthe Litter Reduction and Public Action Section located within and acting through the Office of Environmental Services of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2522, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000).

### §1305. Louisiana Litter Abatement Program

A. The purpose of the Louisiana Litter Abatement Program shall be to support the community-based litter abatement programs.

#### B. Program Award

1. Program awards shall be made available to local governments and nonprofit organizations.

2. Funding through the program shall be subject to the availability of funds.

3. All requests for awards shall be made in writing on a form provided by the department to the Litter Reduction and Public Action Section of the Office of Environmental Services.

4. The monies awarded through the award shall be used to further the administration and execution of the Keep Louisiana Beautiful Program. Allowable uses of award funding shall include, but not be limited to:

- a. Keep America Beautiful fees;
- b. Keep America Beautiful precertification training, education curriculums, and workshops;
- c. law enforcement seminars;
- d. litter surveys;
- e. projects, services, activities, and operational costs of litter abatement programs;
- f. materials and services for program development and training;
- g. direct expenditures for materials that can facilitate litter reduction, recycling, waste reduction, reuse, and general solid waste management programs;
- h. minimal advertising, public relations, and promotional materials necessary for publicity and promotion of program activities; and
- i. salary of the program coordinator.

5. Each successful applicant shall supplement award funds with a 25 percent match from other sources. All matching funds must be available to the program after the date of the program award, and funds spent prior to the program award shall not be considered eligible in fulfilling the match requirement.

6. Awards shall be awarded based on a comparative basis as determined by the Litter Reduction and Public Action Section of the Office of Environmental Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2524, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000).

## **Subpart 2. Recycling**

### **Chapter 101. Repealed**

#### **§10101. Repealed**

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1070 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2611 (November 2000).

#### **§10103. Repealed**

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1070 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2611 (November 2000).

#### **§10105. Repealed**

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1070 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2611 (November 2000).

#### **§10107. Repealed**

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1070 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2611 (November 2000).

#### **§10109. Repealed**

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1070 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2611 (November 2000).

#### **§10111. Repealed**

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1071 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2611 (November 2000).

#### **§10113. Repealed**

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1071 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2611 (November 2000).

James H. Brent, Ph.D.  
Assistant Secretary

0011#035

## **RULE**

### **Office of the Governor Division of Administration Office of Data Base Commission**

Louisiana Data Base (LAC 4:XI.Chapter 1)

Under the authority of R.S. 39:292, et seq., the Louisiana Data Base Commission promulgates a rule concerning the Louisiana Data Base. This Rule defines the Louisiana Data Base and the associated procedures for identifying and incorporating information in the Louisiana Data Base.

#### **Title 4**

#### **ADMINISTRATION**

#### **Part XI. Office of Data Base Commission**

#### **Chapter 1. Definition of the Louisiana Data Base**

#### **§101. Policy**

A. The Louisiana Data Base consists of the official databases and related information services required to support the policy, planning, and administrative needs of the state. This includes needs of state government personnel, as well as needs for access to official state databases and services by local government, the business community, and private citizens. The Louisiana Data Base may incorporate databases outside state government that are determined to be sources of official information for state policy, planning, or administration.

B. The Louisiana Data Base is defined in a catalog that contains relevant information identifying the existence, location, scope, format, access, and other information as determined by the Commission and electronic information services required to support the policy, planning, and administrative needs of the state. The catalog is hosted on a Commission data server; however, each database and service identified in the catalog is hosted by, and remains the responsibility of, the provider of the database or service. The catalog will be available electronically to all users; however, the entry identifying the database will not include any information declared confidential or otherwise exempt from disclosure as a public record by law or that is protected by a valid license agreement or contract and no access shall be provided to such information through the Louisiana Data Base. The catalog entry will contain a notation as prescribed by the Commission that the data is confidential or otherwise protected from further disclosure.

C. The Louisiana Data Base is driven by the policy, planning, and administrative needs of the state. It incorporates both current and historical information. Its structure supports the inclusion in its catalog of, and access to, databases for recurring, ongoing information needs as well as predictable and random ad hoc information requests. Its design is flexible to support dynamic, changing information needs. To ensure that the Louisiana Data Base remains a viable resource for policy, planning and administration, the Commission will continuously evaluate the state's needs through personal contact and surveys. The Louisiana Data Base will also permit its users to electronically record their problems, comments, suggestions and satisfaction.

D. Information services that increase usability are valuable components of the Louisiana Data Base. Value-added services such as geographic reference, format translation, and electronic commerce are evaluated, based on user need, to determine if they are appropriate for inclusion in the Louisiana Data Base.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:292, 294, and 296.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2611 (November 2000).

### **§103. Purpose**

To define the Louisiana Data Base, to specify criteria for its content and associated information services, and to define procedures for its establishment, operation, and maintenance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:292.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000).

### **§105. Applicability**

Applies to all agencies, organizations, entities, and individuals, either within or outside Louisiana state government, who are involved in the establishment, use, operation, or maintenance of the Louisiana Data Base.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:292.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000).

### **§107. Procedure**

A. Establishment. The Louisiana Data Base is initially established by creating the central catalog and implementing the electronic capability to logically access databases and information services that reside at the provider locations. Thereafter, the database is populated incrementally with official databases and information services following a four-step process.

1. The first step is identification of candidate databases and services for incorporation in the Louisiana Data Base. This step is generally user driven and is based on nominations from personal interviews, surveys, electronic feedback, legislation review, and ad-hoc inputs.

2. Next, nominations from the first step are analyzed and evaluated to determine if they address the policy, planning, and administration needs of the state and whether they can be made available to all departments and branches of state government. Where legislation mandates information responsibility for specific areas, such as Consensus Estimating Conferences, the Commission will coordinate the determination of official information and sources with those legislated entities. The final analysis activity is to develop a work plan to integrate catalog information for the nominations that qualify as official databases and services into the Louisiana Data Base.

3. The third step involves obtaining formal approval to proceed and commitment of resources from the provider. This approval and commitment is based on the contents of the work plan developed in the analysis step.

4. The approved work plan is then executed, integrating the catalog information for the approved databases and information services into the Louisiana Data

Base catalog and providing access to the data bases and information services.

B. Operation. The components of the Louisiana Data Base include the central catalog and access to the individual databases and services distributed, maintained, and provided by the providers. The Commission is responsible for operation of the electronic catalog, and each provider is responsible for operation of its respective databases and services. Operations may be performed under the provisions of Service Agreements executed between the Louisiana Data Base Commission and each provider.

C. Maintenance. Each database and service cataloged in the Louisiana Data Base is maintained by the respective provider. The Commission maintains the catalog with a focus on uniformity, accuracy, format, and timeliness; however, each provider is responsible for supplying the Commission catalog updates to reflect changes to its database or service in a timely manner.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:292, 294, and 296 and R.S. 39:21.1, 21.2, 21.3, and 21.4.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000).

### **§109. Definitions**

**Catalog** Can electronic index that contains information that defines the databases and information services contained in the Louisiana Data Base.

**Commission** The Louisiana Data Base Commission.

**Consensus Estimating Conferences** Six forecasting conferences established by the Louisiana Legislature under R.S. 39:2 and R.S. 39:21 to provide for official information to be universally used across state government for budget and planning purposes. The six conferences are Economic Estimating, Demographic Estimating, Education Estimating, Criminal Justice Estimating, Health and Social Services Estimating, and Transportation Estimating.

**Current Data** Data that are updated to reflect the most recent actions or status.

**Geospatial** The geographic location and extent of an individual, agency, organizational, or physical entity or event.

**Official Data** A database that has been identified by the designated entity as the best possible source for information determined to qualify for incorporation in the Louisiana Data Base catalog.

**Official Information** Data, forecasts, estimates, analyses, studies, and other information adopted by the principals of a Consensus Estimating Conference.

**Provider** Can agency, organization or entity that owns a database or service that is incorporated in and made available to users of the Louisiana Data Base.

**User** Any individual who physically accesses the Louisiana Data Base on behalf of himself or another person, agency, organization, or entity.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:294 and R.S. 39:2 (10), (31), (41), and (43).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000).

### **§111. Responsibility**

A. The Commission has overall responsibility for establishing and maintaining the Louisiana Data Base catalog and providing access to the included databases and

information services. The Commission achieves its objectives for the Louisiana Data Base through cooperative efforts with other entities who have a vested interest in the Louisiana Data Base or the benefits it provides. Following is the allocation of responsibilities for establishing and maintaining the Louisiana Data Base.

1. The Commission is responsible for:
  - a. determination of the data needs for state policy, planning and administration;
  - b. selecting the contents to be included in the Louisiana Data Base;
  - c. providing the catalog and the capabilities for users to access the catalog to discover relevant databases and services;
  - d. providing capabilities to link to access specific provider databases and services using the electronic catalog;
  - e. determination of appropriate value-added services that improve use of the database or enhance the analytical tools available to users;
  - f. providing specific direction for establishment, maintenance and use of the Louisiana Data Base;
  - g. reporting database use information;
  - h. collection of and response to user feedback;
  - i. ensuring that official data is accessible to all departments and branches of state government;
  - j. providing for the uniformity, accuracy, format, and timeliness of the catalog.

2. The Office of Data Base Commission is responsible for:
  - a. providing technical and administrative support to the Louisiana Data Base Commission for performance of all Commission responsibilities;
  - b. establishment, operation and maintenance of the catalog on behalf of the Commission;
  - c. providing technical support to providers as required for establishment and maintenance of their components of the Louisiana Data Base;
  - d. providing technical support to users regarding use of the Louisiana Data Base.

3. Providers are responsible for:
  - a. providing access to their databases and information services that are determined to be official data and services for state policy, planning and administration;
  - b. operating and maintaining the currency and accuracy of their components of the Louisiana Data Base;
  - c. ensuring that the information regarding its databases and services contained in the catalog is current and accurate.

4. Consensus Estimating Conferences and other officially designated entities are responsible for:

- a. determination of the information needs and official databases for their respective areas of responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292, 294, and 296 and R.S. 39:21.1, 21.2, 21.3, and 21.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000).

Don Hutchinson  
Chairman

0011#012

## RULE

### Department of Health and Hospitals Board of Examiners in Dietetics and Nutrition

Issuance and Renewal of License  
(LAC 46:LXIX.111 and 119)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Louisiana Board of Examiners in Dietetics and Nutrition pursuant to the authority vested in the board by R.S. 37:3085.(4), adopted rules at their October 27, 2000 meeting, amending the Board's Rules and Regulations pertaining to the supervision requirements for provisionally licensed dietitian/nutritionists and changing the biennial renewal fee for licensed dietitian/nutritionists to an annual renewal fee in accordance with R.S. 37:3088. B. The amendments to the rules are set forth below.

#### §111. Issuance and Renewal of Licensure

A. - C. 1. ...

2. To meet initial licensure and license renewal requirements, a provisionally licensed dietitian/nutritionist shall practice under the direct supervision of a licensed dietitian/nutritionist. Direct supervision is defined as a licensed dietitian/nutritionist providing sufficient guidance and direction to enable a provisional licensed dietitian/nutritionist to perform competently. The supervising licensee needs to be readily available by telecommunications or in person and will review the provisionally licensed dietitian/nutritionist's work quarterly and submit a written report annually to the board that the applicant is in the process of meeting the experience requirements in anticipation of taking the examination.

D. - H. 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3085.(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January, 1984); amended by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:436 (July, 1988), LR 26:2613 (November 2000).

#### §119. General Fees

In accordance with the provisions of the act, the following fees, where applicable, are payable to the board by check or money order. Fees are nonrefundable, except for the Initial License Fee, if application is not approved.

\* \* \*

License Renewal Fee                      60.00

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3085.(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January, 1984); amended by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:438 (July, 1988), LR 26:2613 (November 2000).

Jacinda Bonvillain, Ph.D., LDN  
Chairperson

0011#042

## RULE

### Department of Health and Hospitals Board of Practical Nurse Examiners

Licensure; Education; Practice; and Fees  
(LAC 46:XLVII.101, 301-306, 501, 703,  
901, 939, 953, 1305, 1707 and 1715)

The Board of Practical Nurse Examiners amended LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979, at its meeting on October 27, 2000.

The purpose of the rule change is to update existing policies governing the Board of Practical Nurse Examiners and to reflect changes made to the Practical Nursing Practice Act in the 1999 session of the Louisiana Legislature. More specifically, the change reduces the need for future amendments to the rule by removing specific dates and numbers from the text, corrects typographical and syntax errors, provides a mechanism to grant a retired/emeritus license, updates and clarifies the rules and adjudication and license suspension and revocation proceedings, adds the definition of Executive Director, provides for Associate Degree Registered Nurses to serve as faculty of practical nursing programs, and updates the section regarding fees to reflect statutory changes made by Act 942 of the 1999 session of the Louisiana Legislature.

The change to §1715, related to fees, reflects the new fees outlined in the statute governing the practice of practical nursing.

The statutory change was required to allow the board to continue its operations as, in spite of a hiring and spending freeze, deficit spending had depleted the board's cash reserves. The renewal of license is the main source of revenue for the board and was last raised in 1991. This revenue source declines each year, as the pool of practical nurses shrinks. As revenue decreases, and even if all other expenditures remain stable, classified employee salaries and benefits increase each year. In addition, the board is currently responsible for benefits of four retired employees.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLVII. Nurses

##### Subpart 1. Practical Nurses

#### Chapter 1. Foreword

##### §101. Foreword

A. This manual of administrative rules and minimum requirements contains the approved rules and regulations of the Louisiana State Board of Practical Nurse Examiners relating to practical nurse education, the development, progression and discontinuation of practical nursing programs, and practical nurse licensure in the state of Louisiana. These rules and requirements have been adopted and promulgated in accordance with the law relating to the practice of practical nursing with the authorization vested in the board by the Louisiana Revised Statutes of 1950, Title 37, Chapter 11. Nurses, Part II. Practical Nurses, Section 961 et seq., as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:961 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:192 (April 1977), amended LR 5:355 (November 1979), LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 26:2614 (November 2000).

#### Chapter 3. Board of Practical Nurse Examiners

##### §301. Organization

A. The Louisiana State Board of Practical Nurse Examiners consists of members appointed by the Governor and is the regulatory agency created by statute to act with legal authority on matters related to practical nursing education and the practice of practical nursing in Louisiana as determined by the Louisiana Revised Statutes, Title 37, Section 961 et seq., as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, and 37:962 as amended Act 272, 1982 and Act 642, 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:192 (April 1977), amended LR 5:355 (November 1979), LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 26:2614 (November 2000).

##### §303. Additional Duties and Powers of the Board

A. In accordance with the Louisiana Statutes, Title 37, Section 969, the board shall have all such powers and duties as written. In addition, the board shall:

1. - 3. ...

4. deny, revoke or suspend a license to practice practical nursing;

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended LR 26:2614 (November 2000).

##### §305. Procedure for Adoption of Rules

A. ...

B. The board, on its own motion or on the petition of any interested person, may request the promulgation, amendment, or repeal of a rule.

1. Such petition shall:

a. ...

b. state the name and address of its author;

c. - e. ...

2. The board shall consider the petition within 90 days after receipt of said petition, at which time the board shall deny the petition in writing, stating reasons therefore, or shall initiate rulemaking proceedings in accordance with this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 2:274 (September amended LR 26: 1976), amended LR 3:193 (April 1977), LR 10:336 (April 1984), amended LR 26:2614 (November 2000).

##### §306. Rules and Adjudication and License Suspension and Revocation Proceedings

A. - B. ...

C. Communications received by the board expressing such allegation(s) shall be privileged, confidential, and shall



not be revealed to any person except when such document(s) are offered for evidence in a formal hearing, or are requested pursuant to a subpoena by a court of competent jurisdiction.

D. The allegation(s) shall be investigated by the executive director, his/her designee, and/or staff. Any information and/or documents generated pursuant to such investigation of the allegation(s) shall be considered the work product of the board and shall be privileged, confidential, and shall not be revealed to any person except when such investigative information and/or documents are offered for evidence in a formal hearing or are requested pursuant to a subpoena by a court of competent jurisdiction.

E. - G.4. ...

H. Formal hearing procedures shall commence with the filing of a formal complaint by the board. The complaint shall include:

1. a statement of the time, place and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

3. a reference to the particular sections of RS 37:961 et seq., and/or rules involved;

4. a short and plain statement of the matters asserted.

If the board is unable to state the matters in detail at the time the complaint is served, the initial complaint may be limited to a statement of the issues involved. Thereafter, upon request, a more definite and detailed statement shall be furnished.

I. The formal complaint shall be sent by certified mail, a minimum of 20 days prior to the hearing date, to the last known address of the accused licensee. If the mailing is not returned to the board, it is assumed to have been received by said licensee as it is the licensee's obligation and duty to keep the board informed of his/her whereabouts.

J. The licensee shall return his/her response to the complaint to the board within 10 days or shall be deemed to have waived his/her right to a hearing. In response, the licensee shall either deny or admit the allegations of the complaint and may either:

1. appear for the scheduled hearing;

2. submit a written response to the hearing officer to be presented at the hearing in lieu of the licensee's live testimony; or

3. waive his/her right to a hearing.

K. ...

L. Opportunity shall be afforded to all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

M. ...

N. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default. A consent order or agreed settlement shall be presented to the board for approval before it becomes binding.

O. Discovery

1. Prior to a formal hearing, an accused licensee shall have the right to retain an attorney to represent his/her interest before, during, and after the proceedings. All costs and/or expenses incurred by a licensee as a result of his/her

exercise of said right shall be the sole responsibility and obligation of the licensee.

2. Prior to a formal hearing, the executive director or his/her designee will, upon written request received by the board at least five days prior to the formal hearing, issue subpoenas on behalf of the board and/or the accused licensee. Such subpoenas include or are for the purpose of:

- a. requiring that a person appear and give testimony in the formal hearing; and

- b. subpoena duces tecum, requiring that a person produce books, records, correspondence, or other materials over which he/she has control providing:

- i. the information requested is reasonable in terms of amount; and

- ii. the scope of the information requested is limited to documentary material that is relevant to the proceeding;

- iii. the information requested does not include those documents referred to in §307.C - D; and

- iv. the requesting party deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in the proceedings is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

3. Prior to a formal hearing, an accused licensee shall, upon written notice received by the board at least five days prior to said hearing, be given a list of all witnesses the board will or may call to give testimony during a formal hearing.

4. Prior to a formal hearing, an accused licensee, his/her attorney, or any party representing his/her interest is prohibited from having any contact whatsoever with any witness which will or may be called to give testimony in a formal hearing.

5. Depositions for the purpose of discovery are not permissible and may only be allowed for the perpetuation of a witness' testimony upon good showing to the board that a witness will be unavailable to appear in person at a formal hearing. All costs of a deposition are borne by the requesting party.

6. Motions may be made before, during, and/or after a formal hearing. All motions made before and after a formal hearing shall be made in writing and in a timely manner in accordance with the nature of the request. Motions made during a formal hearing shall be made orally, as they become a part of the transcript of the proceeding.

P. During a formal hearing, the licensee or his/her attorney shall be afforded the opportunity to present documentary, visual, physical or illustrative evidence and to cross-examine witnesses as well as call witnesses to give oral testimony on behalf of the licensee. All testimony given during a formal hearing shall be under oath and before a certified stenographer.

Q. The record of the proceeding shall be retained until such time for any appeal has expired or until an appeal has been concluded. The record of the proceeding shall not be transcribed until such time as a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

R. After the hearing is concluded, the hearing officer shall issue a report containing his/her findings of fact, conclusions of law and recommendations. This report shall be presented to the board.

S. The board shall make a decision based on the hearing officer's report and determine what sanctions, if any, should be imposed and issue an appropriate order with respect thereto. This order of the board shall be sent to the licensee by certified mail.

T. Sanctions imposed by the board may include reprimand, probation, suspension, revocation, as well as penalties provided under R.S. 37:961 et seq., as amended or any combination thereof.

1. Reprimand. May include a personal conference between the licensee and the executive director and/or a letter to the licensee regarding the incident or incidents which have been brought to the board's attention and which may or may not be determined to warrant a hearing.

2. Probation. Will include stipulations which may be imposed by the board as a result of the findings of facts of a hearing and the order shall clarify the obligations of the licensee through a specified period of time. A licensee who is placed on probation by the board may practice practical nursing in the state of Louisiana provided the probation terms are met.

3. Suspension. A license to practice practical nursing in the state of Louisiana may be withheld by the board as a result of the findings of facts presented in a hearing. The time of suspension may be a definite stated period or an indefinite term. A licensee whose license is suspended may not practice practical nursing in the state of Louisiana during the suspension period so designated.

a. Definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period the licensee shall be entitled to receive his/her license upon payment of the required fee and upon documented compliance with the conditions which may have been imposed by the board at the time of the original order.

b. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his/her license only after one calendar year has lapsed from the date of the original order. The board may terminate the suspension and reinstate such license after a hearing is held and the board determines that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted the licensee shall pay the required reinstatement fee.

4. Revocation. A license to practice practical nursing in the state of Louisiana may be withdrawn by the board. A person whose license is so revoked shall never again be allowed to practice practical nursing in the state.

U. A petition by a party for reconsideration or rehearing must be in proper form and filed within 30 days after notification of the board's decision. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

1. the board's decision is clearly contrary to the law and the evidence;

2. there is newly discovered evidence which was not available to the board or the licensee at the time of the hearing and which may be sufficient to reverse the board's action;

3. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

4. it would be in the public interest to further consider the issues and the evidence.

V. The grounds for disciplinary proceedings against a licensed practical nurse include, but are not limited to:

1. is guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing;

2. is guilty of a crime;

3. is unfit, or incompetent by reason of negligence, habit or other causes;

4. is habitually intemperate or is addicted to the use of habit-forming drugs;

5. is mentally incompetent; or

6. is guilty of unprofessional conduct; unprofessional conduct includes, but is not limited to the following:

a. failure to practice practical nursing in accordance with the standards normally expected;

b. failure to utilize appropriate judgement in administering nursing practice;

c. failure to exercise technical competence in carrying out nursing care;

d. violating the confidentiality of information or knowledge concerning a patient;

e. performing procedures beyond the authorized scope of practical nursing;

f. performing duties and assuming responsibilities within the scope of the definition of practical nursing when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;

g. improper use of drugs, medical supplies, or patients' records;

h. misappropriating personal items of an individual or the agency;

i. falsifying records;

j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;

k. delegating nursing care, functions, tasks, or responsibilities to others contrary to regulation;

l. leaving a nursing assignment without properly notifying appropriate personnel;

m. failing to report, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice of any health care provider;

n. is convicted of a crime or offense which reflects the inability of the nurse to practice practical nursing with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding including, but not limited to, expungement or nonadjudication or pardon;

o. is guilty of moral turpitude;

p. inappropriate, incomplete or improper documentation;

q. use of or being under the influence of alcoholic beverages, illegal drugs or drugs which impair judgement while on duty, to include making application for employment;

r. possess a physical or psychological impairment which interferes with the judgement, skills or abilities required for the practice of practical nursing;

s. has violated any provisions of this Part (R.S. 37:961 et seq.), as amended or aid or abet therein.

W. The board may, at its discretion, impose a reasonable monetary assessment against the licensee or applicant for licensure for the purpose of defraying expenses of a hearing and/or expenses of the board in monitoring any disciplinary stipulations imposed by order of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 20:663 (June 1994), amended LR 26:2614 (November 2000).

## **Chapter 5. Definitions**

### **§501. Terms in the Manual**

\* \* \*

*Executive Director* Where used in this manual includes his/her designee and/or staff.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:961 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 2:274 (September 1976) amended LR 3:193 (April 1977), LR 10:336 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 26:2617 (November 2000).

## **Chapter 7. Program Establishment**

### **§703. Initial Requirements**

A. - J. ...

K. Cooperating agencies shall meet the following requirements.

1. - 5. ...

6. The hospital administrator, directors of nursing service and others responsible for patient care shall be aware of the objectives of the practical nursing program and shall participate in the furthering of such objectives in so far as is consistent with the objectives of the hospital staff.

7. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976 as amended Act 642, 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:194 (April 1977), amended LR 10:337 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 14:708 (October 1988), LR 18:1126 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 26:2617 (November 2000).

## **Chapter 9. Program Projection**

### **Subchapter A. Faculty and Staff**

#### **§901. Faculty**

A. ...

B. Qualifications

1. - 3. ...

4. Nurse Instructor shall be:

a. a graduate of a three-year diploma registered nursing program or a graduate of a baccalaureate registered nursing program with a minimum of three years experience in medical-surgical nursing or nursing education. At least one of these three years must have been as a hospital staff nurse providing direct patient care. An applicant for nurse instructor must have worked as a nurse for a minimum of six full-time months during the three years immediately preceding application, or complete an approved review course and/or successfully pass a board approved competency examination; or

b. a graduate of an associate degree registered nurse program with a minimum of five years of medical-surgical nursing with at least one of these being immediately prior to consideration of appointment. An associate degree registered nurse with prior preparation and experience as a licensed practical nurse shall have a minimum of two years experience in medical-surgical nursing as an associate degree registered nurse, with at least one of these years being immediately prior to consideration of appointment.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:194 (April 1977), amended LR 10:338 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 16:133 (February 1990), LR 18:1127 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 21:1244 (November 1995), amended LR 26:2617 (November 2000).

## **Subchapter F. Admissions**

### **§939. Advanced Standing**

A. - C. ...

D. At the discretion of the nursing faculty and based upon individual evaluation, a student who has withdrawn from an approved or accredited practical nursing program within the previous four years may be granted advanced credit for units previously completed.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 5:65 (March 1979), LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1128 (October 1992), repromulgated LR 18:1261 (November 1992), amended LR 26:2617 (November 2000).

## **Subchapter H. Board Reports and Records**

### **§953. Periodic Reports**

A. - 1. ...

2. annual report forms to be obtained from the board office and completed in duplicate; one copy shall remain at the institution, one shall be submitted to the board office by July 1 each year;

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1128 (October 1992), repromulgated LR 18:1261 (November 1992), amended LR 26:2617 (November 2000).

## **Chapter 13. Program Approval and Accreditation**

### **§1305. Type of Approval**

A. - D. ...

E. Provisional Approval

1. - 2. ...

3. Programs on provisional accreditation shall:

3.a. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 5:355 (November 1979), LR 10:340 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1262 (November 1992), amended LR 26:2617 (November 2000).

**Chapter 17. Licensure**

**§1707. Retirement from Practice**

A. Inactive and Emeritus/Emerita License

1. A licensee who is retiring from practice shall send a written notice to the board. Upon receipt of this notice the board shall place the name of the licensee upon an inactive list. While on this list, the licensee shall not be subject to the payment of any renewal fees and shall not practice practical nursing in the state. When the licensee desires to resume practice, a renewal license shall be issued to a licensed practical nurse who submits the required fee.

2. Should a retired licensee in good standing with the board wish to receive an Emeritus/Emerita license, s(he) shall request and complete an Emeritus/Emerita renewal application and submit same with the appropriate license renewal fee. Upon receipt of the fee and approval of the renewal application s(he) may be issued an "Emeritus/Emerita" license. Said license does not permit practice in the State of Louisiana. If a retired licensee desires to return to practice, s(he) will be subject to the same requirements as any licensee.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:972-975, 37:977, 37:978, and 37:979.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:2618 (November 2000).

**§1715. Approved Fees**

A. Fees

- |   |       |
|---|-------|
| 1. License by examination   | \$ 85 |
| 2. License by endorsement   | \$ 50 |
| 3. Duplicate license  | \$ 20 |
| 4. Renewal of license   | \$ 30 |
| 5. Reinstatement of license which has been suspended, revoked or which has lapsed by nonrenewal | \$100 |
| 6. Duplicate renewal  | \$ 10 |
| 7. Delinquency fee in addition to renewal fee for nursing license (per year delinquent)         | \$ 50 |
| 8. Survey fee   | \$250 |
| 9. Renewal of certificate of accreditation  | \$100 |
| 10. Evaluation of credits of applicants for admission to approved program                       | \$ 25 |
| 11. Evaluation of credits of out-of-state applicants for Louisiana practical nurse license      | \$ 50 |
| 12. Verification of Louisiana license to out-of-state board                                     | \$ 15 |
| 13. Certification of good-stand license   | \$ 5  |

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:977 as amended Act 272, 1982 and Act 54, 1991.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:2618 (November 2000).

Claire Doody Glaviano  
Executive Director

0011#015

**RULE**

**Department of Health and Hospitals  
Office of Public Health**

Sanitary Code Chapter XIII (Sewage Disposal)

Editor's note: This Rule is being repromulgated to correct an error. The original Rule, including graphics, may be viewed in its entirety on pages 2289-2299 in the October 20, 2000 edition of the *Louisiana Register*.

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health amends Section 13:011-3 of Chapter XIII (Sewage Disposal) of the Louisiana State Sanitary Code, pursuant to R.S. 40:4. Predominantly, the enactment of these portions of the Louisiana State Sanitary Code are necessary in order to comply with the requirements of Act 505 of the 1995 Regular Session of the Legislature. Act 505 mandated installation of effluent reduction systems following approved individual sewerage systems up through 1500 gpd capacity, and gave the Department of Health and Hospitals authority to require such effluent reduction systems. The Department of Health and Hospitals hereby enacts Section 13:011-3 and Section IX of Appendix A of Chapter XIII as follows.

**13:011-3** Effective October 20, 2000, this rule applies to new individual sewerage system installations, upgrades and/or modifications to existing systems required as a result of an investigation by the Office of Public Health (OPH) into an allegation that a violation of Chapter XIII of the Louisiana State Sanitary Code has occurred or is occurring, and has the potential for causing harm or creating a nuisance to the general public (R.S. 40:1154). Such individual sewerage systems with a capacity up to and including 1,500 gpd, that produce treated effluent, and which, by design, do not significantly reduce the amount of off-site effluent, shall be followed by an effluent reduction system constructed as described in Section IX of Appendix A of this Chapter.

*Insert Section IX of Appendix A to Chapter XIII as follows.*

**IX. Effluent Reduction System Requirements for Treated Wastewater**

**A:9.1 Disinfectants.** Where effluent discharges are required to be disinfected, and chlorine is used as the disinfectant, a chlorine contact chamber is required. Calcium hypochlorite, labeled for wastewater disinfection, shall be added in sufficient concentrations to maintain a minimum residual of 0.5 ppm total chlorine in the effluent. In order to achieve the required chlorine contact time, a baffled chlorine contact chamber (Figure 11, Figure 12, Figure 13) designed to meet

the needs for each system with the specified liquid holding capacity shall be used as follows:

| Disinfectant Chamber Minimum Liquid Capacity |                                    |
|--|------------------------------------|
| Treatment Capacity Contact Chamber           | Of Sewerage System Liquid Capacity |
| 500 GPD or less                              | 30 Gallons                         |
| 501 - 750 GPD                                | 45 Gallons                         |
| 751 - 1000 GPD                               | 60 Gallons                         |
| 1001 - 1500 GPD                              | 90 Gallons                         |

Any other disinfectant proposed for use should provide an equivalent level of disinfection.

**A:9.2 Pumping Stations.** Pumping station, when required, must be constructed of approved materials, and must comply with the applicable provisions of this Code.

**A:9.3 Effluent Reduction Systems.** Individual sewage systems, with a capacity up to and including 1500 gpd, that produce a treated, off-site effluent, shall include an effluent reducer as part of the overall system (Figure 14).

**A:9.4** Special situations may arise where an individual on-site wastewater treatment system is allowed as per paragraph 13:011-2 of this Code, but it is physically impossible to install the required size of the effluent reduction system or the effluent reduction system itself due to lot size or when a limited use sewerage system is installed in a marsh/swamp area or located over water. The size of the effluent reduction system can be reduced to the maximum amount the lot can accommodate or the installation waived with the authorization of the Sanitarian Parish Manager. Written notification of such authorization must be submitted to the Sanitarian Regional Director and a copy attached to the "Application For Permit For Installation of On-Site Wastewater Disposal System" (LHS-47).

**A:9.5** All effluent reduction systems shall be installed by a licensed installer. Existing field lines can not be used as the effluent reduction system.

**A:9.6** The size of the effluent reduction system installed has to correspond with the recommended size of the sewerage system. For example if a 750 GPD plant is required on the "Application For Permit For Installation of On-Site Wastewater Disposal System" (LHS-47), the applicant may install a 1000 GPD plant, however the size of the effluent reduction system only has to correspond to the minimum size required for a 750 GPD plant.

**A:9.7** The sample port for a sewerage system must be installed immediately downstream of the system and in accordance with the appropriate edition and section of NSF Standard 40, as currently promulgated, as well as the applicable provisions of this Code.

#### Effluent Reduction Options

**A:9.8-1 Effluent Reduction Field.** This system is installed downstream of a mechanical treatment plant or other sewage treatment system listed in Appendix A of this Code that produces an effluent, but does not by design significantly reduce that effluent. The effluent reduction field is essentially a soil absorption field as described in Section 3 of this Appendix, but with modification as noted in this Section. Figure 15 has a diagram with specifications and cross-sections of the Effluent Reduction Field.

**A:9.8-2** If there is not sufficient grade to install the sewerage system and the Effluent Reduction Field with gravity flow to the discharge point, then a pump station in compliance with applicable provision of this Code must be installed.

**A:9.8-3** The force of the pumped effluent must be reduced by use of a distribution box, "Tee", or similar appurtenance.

**A:9.8-4** The Effluent Reduction Field trenches shall be at least 18 inches wide and between 16 to 24 inches in depth.

**A:9.8-5** The bottom of the Effluent Reduction Field must be level.

**A:9.8-6** The fill or cover material shall be of porous soil or sand which allows the passage of water in all directions, with sod started on top. Fill should be at least 4 to 6 inches above grade and spread at least 3 to 4 feet on either side of the trench.

**A:9.8-7** The Effluent Reduction Field (ERF) must be installed a minimum of ten feet from any property line. In addition the ERF field location shall comply with the minimum distance requirements from water wells and suction lines, water pressure lines etc., as contained in Chapters XII and XIV of this Code.

**A:9.8-8** The minimum length of the Effluent Reduction Field shall be determined by the treatment capacity of the Sewerage System:

| Treatment Capacity of Sewerage System | Minimum Total Length Per Field |
|---------------------------------------|--------------------------------|
| 500 GPD or less                       | 100 ft                         |
| 501 - 750 GPD                         | 150 ft                         |
| 751 - 1000 GPD                        | 200 ft                         |
| 1001 - 1500 GPD                       | 300 ft                         |

**A:9.8-9** If more than one absorption trench is used to provide the minimum required length of the effluent reduction field, the distance between individual trenches must be at least six feet with one discharge pipe provided.

**A:9.8-10** The pipe from the end of the Effluent Reduction Field to the discharge point must be solid.

**A:9.8-11** A backwater valve must be provided at the end of the effluent reduction field whenever the discharge line is less than 12 inches above the ditch flow-line.

**A:9.8-12** Each individual trench must not be greater than 100 feet in length. Clam or oyster shells may be substituted for gravel in the Effluent Reduction Field. If used, gravel must be clean, graded and 2-inch to 22 inches in diameter. Other media may be considered for use if determined to have acceptable characteristics and properties. Although it may not be noted in the attached figures, the end of the discharge line must have a 1/2 diameter PVC end cap over the lower half of the endpipe, causing longer retention of the effluent and providing greater opportunity for absorption. If the end of the discharge line is more than two inches lower than the absorption line, other provisions must be made to cause the effluent to be retained in the reduction field.

**A:9.8-13** Gravelless pipe or other distribution chambers may be used in lieu of conventional soil absorption pipe. If gravelless pipe is used, the fill must be porous soil or sand which allows the passage of water in all directions, with a 6-inch layer below the pipe and filled 4 to 6 inches above grade and spread 3 to 4 feet on either side of the trench.

**A:9.9-1 Rock-Plant Filter.** All rock plant filters must be a minimum of five feet wide to a maximum of ten feet wide.

**A:9.9-2** The square footage will be determined by the treatment capacity of the Sewerage System as follows:

| Treatment Capacity of Sewerage System | Rock Plant Filter Size |
|---------------------------------------|------------------------|
| 500 GPD or less                       | 150 square feet        |
| 501 - 750 GPD                         | 225 square feet        |
| 751 - 1000 GPD                        | 300 square feet        |
| 1001 - 1500 GPD                       | 450 square feet        |

Refer to Figure 16 for a schematic and cross section of a rock plant filter with a sewerage system installation.

**A:9.9-3** The rock plant filter (RPF) must be installed a minimum of ten feet from any property line. In addition, the RPF location shall comply with the minimum distance requirements from water wells and suction lines, water pressure lines, etc., as contained in Chapters XII and XIV of this Code.

**A:9.9-4** If there is not sufficient grade to install the sewerage system and the Rock Plant Filter with gravity flow to the discharge point, then a pumping station in compliance with applicable provisions of this Chapter must be installed.

**A:9.9-5** In order to prevent backflow, a backwater valve is required whenever the discharge line is less than 12 inches above the ditch flow-line.

**A:9.9-6** Only a standard shape bed may be installed with a minimum width of five feet and of such length as to provide the required square footage.

**A:9.9-7** Plans for any other configuration must be submitted for review and approval to the Sanitarian Regional Director.

**A:9.9-8** A liner will be required when the ground water level is within 24 inches of the bottom of the trench.

**A:9.9-9** The polyethylene liner may be of more than one layer provided a total thickness of 16 mil is achieved.

**A:9.9-10** When a liner is not required, the use of landscape fabric is highly recommended to prevent weed intrusion.

**A:9.9-11** The bottom of the bed must be level and be no deeper than 14 inches.

**A:9.9-12** A depth of approximately 10 to 12 inches is best.

**A:9.9-13** Gravel must be 2-3 inches in diameter and laid to a depth of 12 inches.

**A:9.9-14** An 8-inch water level must be maintained. Gravel should fill the filter bed to above surface grade to prevent erosion.

**A:9.9-15** The minimum four-inch perforated inlet pipe must be located no closer than 4 inches from the bottom of the bed and supported by a footing of noncorrosive material, such as concrete or treated timber.

**A:9.9-16** The inlet should extend no more than two feet into the rock plant bed and must be provided with a "Tee" (with ends capped) extending the width of the bed to within one foot of the side walls.

**A:9.9-17** The outlet pipe shall also be set in a footing of noncorrosive material (concrete or treated timber) on the bottom of the bed with the same "Tee" and configuration. The outlet must be elbowed up and out (Figure 17).

**A:9.9-18** Do not allow plants to grow within three (3) feet of the inlet and outlet of the bed.

**A:9.9-19** A levee support system around the perimeter of the filter should be constructed to exclude surface water. The use of landscape timbers for this purpose is acceptable. Other materials, such as concrete, can also be used.

**A:9.10-1 Spray Irrigation.** The spray irrigation system (Figure 18) uses an electric pump that distributes the effluent to the yard through sprinkler heads. It is highly recommended for spray irrigation effluent to be chlorinated

in a contact chamber, sized according to A:9.1, following the treatment unit and preceding discharge. At a predetermined level, a float switch activates a pump that forces the effluent through piping to pop-up or elevated rotating type sprinkler heads. Evaporation and soil infiltration of the dispersed effluent should prevent any run-off from occurring.

**A:9.10-2** A pump station system must be sized according to use and comply with the applicable provisions of this Chapter.

**A:9.10-3** The pressure pump must be a minimum of 1/2 horse power capable of producing a minimum flow of 12 gallons per minute and maintaining 25 pounds per square inch at all sprinkler heads.

**A:9.10-4** The pump will be activated by a high/low water switch through an automatic on/off switch. The pump must be deactivated through a low- volume cut off switch.

**A:9.10-5** A time cycle device may be used to allow for specific sprinkling times (e.g., nighttime, afternoon). The pump chamber must be of adequate liquid capacity to allow sufficient storage to accommodate the desired time settings.

**A:9.10-6** A minimum of three (3) four-inch type sprinkler heads coded for wastewater effluent, spaced a minimum of forty (40) feet apart are required.

**A:9.10-7** The spray irrigation sprinklers shall comply with American Society of Agricultural Engineers (ASAE) Standard S 398.1 (Procedure for Sprinkler Testing and Performance Reporting).

**A:9.10-8** The slope of the land shall be such as to facilitate drainage away from any water well or well suction lines. The edge of the spray and its drainage shall be a minimum of fifty (50) feet from any private water well and its associated suction lines and 10 feet from any property line. The edge of the spray and its drainage shall be a minimum one-hundred foot from public any water supply well and its associated suction lines, if any. In addition , the edge of the spray and its drainage shall be a minimum of twenty-five feet from any potable water (pressure ) lines. As contained in Chapters XII and XIV of this Code.

**A:9.10-9** Exceptions due to lot size, topography or other constraints may be authorized by the Sanitarian Parish Manager with written notification of such authorization to the Sanitarian Regional Director and a copy attached to the LHS-47.

**A:9.11-1 Overland Flow.** When the size of the property is 3 acres or more, an overland flow may be utilized (Figure 19).

**A:9.11-2** The discharge through perforated pipe must be distributed in such a manner as to confine the effluent on the property owned by the generator.

**A:9.11-3** The location of the overland discharge must have a permanent vegetative cover.

**A:9.11-4** The slope of the land shall be such as to facilitate drainage away from any water well or well suction lines. The discharge point and the field of flow shall be a minimum of fifty (50) feet from any private water well and its associated suction lines. The discharge point and the field of flow shall be a minimum one-hundred foot from public water supply wells and its associated suction lines, if any. In addition , the discharge point and the field of flow shall be a minimum of twenty-five feet from any potable water (pressure ) lines. As contained in Chapters XII and XIV of this Code.

**A:9.11-5** A header should be used at the end of the discharge line to help disperse the effluent and to discourage channelization. The point of discharge must be such that there is at least a 200 foot flow of effluent over the property of the generator.

**A:9.11-6** Construction of the system should be such that it is not closer than 20 feet from the property line.

**A:9.12 Mound System or Subsurface Drip Disposal (Figure 20; Figure 21).** Either can be considered by DHH-OPH on a case to case basis. Plans and specifications must be submitted to DHH-OPH Engineering Services in consultation with the Sanitarian Regional Director for review and approval prior to construction.

Copies of this rule as titled (including accompanying drawings) are available at the Office of the State Register, 1051 North Third Street, Baton Rouge, Louisiana 70802, (504) 342-5015, and at the following Office of Public Health offices during normal business hours: 6867Bluebonnet Blvd., Baton Rouge, LA; Plaza Towers Annex Bldg, 1001 Howard Ave; Ste 100A, New Orleans, LA; 1500 Lee Street, Alexandria, LA; 1772 Wooddale Boulevard, Baton Rouge, LA; 1525 Fairfield Ave, Room 569, Shreveport, LA; 106 Canal Blvd., Thibodaux, LA; 2913 Betin Street, Monroe, LA; 825 Kaliste Saloom Road, Brandywine III Bldg., Suite 100, Lafayette, LA; 21454 Koop Drive, Suite 1C, Mandeville, LA; 4240 Senator J. Bennett Johnston Ave., Lake Charles, LA.

David W. Hood  
Secretary

0011#006

#### **RULE**

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

#### **Inpatient Psychiatric Services Medicare Part A Claims**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Rule**

The Department of Health and Hospitals, Bureau of Health Services Financing compares the Medicare payment to the Medicaid per diem rate on file for inpatient psychiatric services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare

payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

David W. Hood  
Secretary

0011#061

#### **RULE**

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

#### **Inpatient Hospital Services Medicare Part A Claims**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid per diem rate on file for inpatient services rendered in small rural hospitals and skilled nursing units in hospitals. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

David W. Hood  
Secretary

0011#059

**RULE**

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

Laboratory and Portable X-Ray  
Services Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

**Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the procedure codes on Medicare Part B claims for laboratory and portable x-ray services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

David W. Hood  
Secretary

0011#063

**RULE**

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

Outpatient Hospital Services Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid

program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

**Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing compares the Medicare payment to the Medicaid rate on file for the revenue or procedure codes on Medicare Part B claims for outpatient hospital services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

David W. Hood  
Secretary

0011#058

**RULE**

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

Rehabilitation Services Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This proposed rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

**Rule**

The Department of Health and Hospitals, Bureau of Health Services Financing compares the Medicare payment and the Medicaid rate on file for the procedure codes on Medicare Part B claims for rehabilitation services. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeds the Medicare payment, the claim is



reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

David W. Hood  
Secretary

0011#060

## RULE

### Department of Public Safety and Corrections Corrections Services

Medical Reimbursement Plan  
(LAC 22:I.2105)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, amends regulations dealing with the Medical Reimbursement Plan.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 21. Medical Reimbursement Plan

#### §2105. Medical Reimbursement Plan Pursuant to R.S. 15:831(B)(1)

A. - A.1. ...

A.2. Inmates shall file a claim with a private medical or health care insurer, (or any public medical assistance program under which the inmate is covered and from which the inmate may make a claim), for payment or reimbursement of the cost of any such medical treatment. Upon receipt of the claim proceeds, the inmate shall reimburse the department for the cost of medical services provided.

B. - B.1. ...

B.2. The facility should require that the inmate file a claim with a private medical or health care insurer, (or any public medical assistance program under which he is covered and from which the inmate may make a claim), for payment or reimbursement of the cost of any such medical treatment. Upon receipt of the claim proceeds, the inmate shall reimburse the facility for the cost of medical services provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Corrections Services, LR 26:331 (February 2000), amended LR 26:2623 (November 2000).

Richard L. Stalder  
Secretary

0011#071

## RULE

### Department of Public Safety and Corrections Corrections Services Office of Adult Services

Adult Offenders  
(LAC 22:I.365)

In accordance with the Administrative Procedures Act R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, amends regulations dealing with the Disciplinary Rules for Adult Offenders.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 3. Adult and Juvenile Services

#### Subchapter B. Disciplinary Rules for Adult Offenders

#### §365. Disciplinary Rules

A. - C. ...

D. Defiance (Schedule B). No inmate shall commit or threaten physically or verbally to commit bodily harm upon an employee. No inmate shall curse or insult an employee and/or his family. No inmate shall threaten an employee in any manner, however, an inmate may advise an employee of planned legal redress even during a confrontational situation (although an inmate's behavior in such a situation may not be disrespectful or violate any other disciplinary rule.) No inmate shall obstruct or resist an employee who is performing his proper duties. No inmate shall try to intimidate an employee to make the employee do as the inmate wants him to do. Employees shall not be subject to abusive conversation, correspondence, phone calls or gestures.

E. - Z. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonald*, 94 S.Ct.2963 (1974) and *Ralph v. Dees*, C/A/ 81-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 26:2623 (November 2000).

Richard L. Stalder  
Secretary

0011#072

## RULE

### Department of Public Safety and Corrections Office of State Police

Analysis of Blood and Urine for Alcohol and Drugs  
(LAC 55:I.555, 561, and 571-591)

Pursuant to R.S. 32:663 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, hereby amends Lac 55, Part

I, Chapter 5, Subchapter B §555.G and §561.D and adopts LAC 55, Part I, Chapter 5, Subchapter C pursuant to R.S. 49:950 et seq. The amendment to §555.G is necessary as a result of a name change in a previously approved kit currently in use for testing of alcohol in blood under Louisiana's Implied Consent Law. The amendment to §561.D is necessary to delete the requirement of a solution check because this check is currently being performed by the manufacturer of the solution. The new rules found in Subchapter C are necessary as a result of the passage of Act 1212 of the 1999 Regular Legislative Session which requires promulgation of the Department's approved testing methods for alcohol and controlled dangerous substances under Louisiana's Implied Consent Law.

#### **Title 55**

### **PUBLIC SAFETY**

#### **Part I. State Police**

### **Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques**

#### **Subchapter B. Analysis of Blood**

##### **§555. Certified Techniques of Analyst**

A. - F. ...

G. Blood drawn for the purposes of determining the alcoholic content therein shall have been taken with the contents of a sealed "B-D Blood Alcohol Kit" Numbers 4000, 4990 or 4991 (manufactured by Becton-Dickinson division of Becton-Dickinson and Company), or "NIK Blood Alcohol Kit" Numbers 4000, 4990, 4991 (manufactured by NIK Public Safety, Inc.) or similar blood collection kits as approved. Such kits will be made available to all law enforcement agencies by the Louisiana State Police.

G.1. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR11:256 (March 1985), LR 14:360 (June 1988), LR 17:676 (July 1991), repromulgated LR 17:798 (August 1991), amended LR 26:2624 (November 2000).

##### **§561. Quality of Glassware and Supplies**

A. - C. ...

D. All reagent solutions utilized in confirming instrument calibration, maintenance and certification shall be drawn from commercially available solutions with known and certified alcohol contents between 0.04 grams and 0.40 grams percent. The manufacturer's certificate of standard reagent quality shall be prima facie evidence as to the standard of quality of the reagent solutions.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR11:256 (March 1985), LR 14:361 (June 1988), LR 17:677 (July 1991), repromulgated LR 17:800 (August 1991), amended LR 26:2624 (November 2000).

#### **Subchapter C. Analysis of Blood and Urine for Controlled Dangerous Substances**

##### **§571. Definitions**

The following words and terms used in this subchapter shall have the following meanings:

*Aliquot* Cdifferent samples from the same specimen.

*Analyte* Cthe drug or drug metabolite suspected or detected.

*Chain of Custody* Cthe accounting of the integrity of each specimen through the tracking of all individuals or agencies which may have handled the sample from the point of collection to final disposition.

*Confirmation Test* C a second analytical procedure to identify the presence or absence of a specific drug or drug metabolite.

*Crime Laboratory* Cthe Louisiana State Police Crime Laboratory.

*Department* Cthe Department of Public Safety and Corrections, Public Safety Services.

*False Negative* Cnot reporting an analyte which is present in the sample.

*False Positive* Cthe reporting of an analyte which is not present in the sample.

*Proficiency Testing Program* Cperformance of testing on specimens containing drugs or drug metabolites or lack of which the laboratory shall be prepared to assay in concentration ranges that allow detection of the analyte by commonly used screening techniques.

*Quality Assurance* C a program to ensure quality standards in all aspects of the testing process including but not limited to, specimen acquisition, chain of custody, screening and confirmation testing, and validation of analytical procedure.

*Quality Control* Cprocedures designed to assess the conduct of each step of the process for testing of drugs.

*Retention Times* Cthe time for a sample component to elute from a chromatographic column which is useful in the possible identification of that component.

*Screening (Initial) Test* C a test documented to indicate the possible presence or absence of a particular drug, drug class, or drug metabolite.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2624 (November 2000).

##### **§573. Qualifications of Forensic Laboratories**

Each forensic laboratory seeking approval from the Department to perform analysis of controlled dangerous substances in bodily fluids shall comply with the qualifications as established by the Louisiana State Police Crime Laboratory in accordance with these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S.: 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2624 (November 2000).

##### **§575. Operating Procedures**

A. The laboratory shall have a procedural manual which will include detailed descriptions of procedures for testing. In addition, laboratory policies shall exist which govern sample receiving, chain of custody, analysis, quality control and quality assurance, choice of reagents, review of data, and reporting. The procedural manual shall include the following:

1. instructions for preparation of reagents;
2. details of the analytical procedure;
3. instructions for preparation of controls and calibrators;

4. references to include theory and principle of the method.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.: 32:663.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Office of State Police, LR 26:2624 (November 2000).

#### **§577. Personnel**

A. The Toxicology Laboratory shall be supervised by a person who is qualified by reason of appropriate education and experience to assume the required professional, organizational, educational, and administrative responsibilities. The supervisor shall possess at least a bachelor's of science degree from an accredited college or university in one of the chemical, physical or biological sciences, medical technology, criminalistics, forensic science, toxicology, or pharmacology, and shall have at least four years of full-time experience in a toxicology or forensic laboratory.

B. Analytical personnel shall also possess the minimum educational requirements as stated for the supervisor. The analyst shall be trained and show proficiency in each procedure performed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.: 32:663.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625 (November 2000).

#### **§579. Certification**

A. Individuals seeking to conduct drug testing in compliance with R.S. 32:661-669, shall:

1. make application to the Louisiana State Police Crime Laboratory;
2. submit a copy of their laboratory's operating procedural manual as related to toxicological testing;
3. successfully screen a sample comprised of one or more drugs or drug metabolites in a sample of whole blood, serum, or urine matrix. The sample may be furnished through the Louisiana State Police Crime Laboratory. Successful screening shall consist of:
  - a. not reporting any false positives;
  - b. confirming the presence of no less than 75 percent of the analytes routinely screened.

B. Personnel employed full time in the Toxicology Laboratory for a period of two years prior to the adaptation of these rules, shall be granted certification based upon review by the Louisiana State Police Crime Laboratory.

C. Certification shall be valid for a period of two years from the date of issuance or such time as determined by the Director of the Louisiana State Police Crime Laboratory. Certificates may be renewed upon subsequent application and successful completion of A.3. above.

D. Failure to adhere to any of the Rules and Regulations set forth herein or to maintain any qualification, as determined by the Director of the Crime Laboratory, may result in suspension, revocation, or cancellation of the certificate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S.: 32:663.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625

#### **§581. Receiving and Sampling of Evidence**

A. Evidence submitted for toxicological examination shall be labeled for identification, securely sealed, and

submitted in a container appropriate for shipping and maintaining security. They shall have been taken with the contents of a NIK Kit No. 4000, 4990, or 4991 (manufactured by NIK Public Safety, Inc.), B-D Kit No. 4000, 4990, or 4991 (manufactured by Becton-Dickinson Division of Becton-Dickinson and Company), or similar kit previously approved by the Louisiana State Police Crime Laboratory. Such kits shall be made available to all law enforcement agencies through the Louisiana State Police.

B. The kits shall contain no components which would interfere with the results of the test and each kit must be suitable for the purpose of collecting blood and/or urine for forensic toxicological determinations.

C. The sample taken for analysis should be refrigerated and delivered to a designated collection site within 24 hours following the end of the collecting officer's shift. It shall then be transported to the laboratory utilized for the analysis at the earliest possible opportunity after collection, not to exceed seven days.

D. After submitting the sample to the testing facility, specimens shall then be refrigerated in a designated evidence security area.

E. Following analysis, the evidence will be stored for a period of one year under refrigeration either at the testing facility or by the submitting agency. After the one year storage period, the evidence may be destroyed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:663.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625 (November 2000).

#### **§583. Analytical Procedures**

A. Analytical procedures shall include the use of at least two tests (a screening test and a confirmation test, or two confirmation tests) performed for each analyte present. If a screening test is used, the confirmation tests shall be based on a different physical or chemical principle from that of the screening test and offer a higher degree of specificity. All confirmation tests shall be performed using gas chromatography/mass spectrometry. Screening tests may include, but not be limited to, colorimetric, enzymatic, or chromatographic analysis. Confirmation of the identity of an analyte in a different specimen from that used for the first test (e.g. blood and urine) is acceptable, as is reconfirmation in a second aliquot of the same specimen.

B. Positive identification of an analyte shall at a minimum be based on the possible presence of the analyte or the analyte class in the screening test and its presence in the confirmatory test. Confirmation shall be based on the identification of at least three major ions with that of a reference analyte along with a 20 percent correlation between ion ratios of the base peak and another major ion. Retention times between the analyte in question and the reference analyte shall be within + or - 2 percent.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:663.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625 (November 2000).

#### **§585. Review of Data**

Before results are reported, all analytical data shall be reviewed and approved by the Toxicology Supervisor or a

designee with the analytical protocols used by the laboratory. The review shall be documented within the analytical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625 (November 2000).

**§587. Quality Assurance**

The laboratory shall participate in an external proficiency testing program for drugs in at least one type of specimen at least once every calendar year. The results of the proficiency testing shall be reviewed by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2626 (November 2000).

**§589. Maintenance, Repair and Inspection of Instrumentation**

Maintenance and repair of all analytical instrumentation used for the purpose of analyzing the samples required in these guidelines may be performed by the supervisor of the Toxicology Unit or by an analyst assigned to the unit. This may include, but not be limited to, cleaning, replacing septa and injection port liners, changing columns, changing gases and gas flows, adjusting temperature settings, and other routine checks deemed necessary for accurate performance. In addition, the supervisor or analyst may perform diagnostic testing and repair as instructed by a service engineer from the equipment manufacturer or other service repair facility or from a manual provided by the equipment manufacturer detailing diagnostics and repair. Following each maintenance and repair, inspection of the instrument shall include the analysis of a known drug standard or mixture of standards to insure that the instrument is in proper working order. Instrumentation is to be checked each day that analysis is to be performed. A maintenance log shall be maintained for each particular instrument listing all repair or maintenance work performed. The log shall at a minimum list the date, time, nature of work and the name of the person performing the work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2626 (November 2000).

**§591. Reagents and Supplies**

A. All drugs used for the preparation of reference drug standards shall be commercially purchased and shall be traceable to a certificate of analysis indicating that it has met the manufacturer's acceptable specifications for use. Purity of chemicals used in the analytical procedures shall be at least reagent grade as recognized by the American Chemical Society and water shall be distilled or de-ionized.

B. All instrument reagents shall be prepared in accordance with the manufacturer's instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2626 (November 2000).

Nancy Van Nortwick  
Undersecretary

0011#028

**RULE**

**Department of Public Safety and Corrections  
Office of State Police**

**User Fees for Louisiana State Police Facility  
(LAC 55:I.301)**

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and R.S. 40:1375(F), amends LAC 55:I.301, the rule setting user fees for the State Police training facilities.

**Title 55**

**PUBLIC SAFETY**

**Part I. State Police**

**Chapter 3. Training and Education Section**

**§301 User Fees for Louisiana State Police Facilities**

The Louisiana State Police announces maximum user fees for its training facilities pursuant to R.S. 40:1375(F) according to the following schedule:

| Louisiana State Police Training Facility Rates |                     |   |
|--|---------------------|---|
| Academy Dorm Room                              |                     | \$30 per day                                      |
| VIP Dorm Room                                  |                     | \$40 per day                                      |
| Large Flat Room                                | 50 person capacity  | \$150 per day                                     |
| Large Tiered Room                              | 50 person capacity  | \$150 per day                                     |
| Gymnasium Class                                | 40 person capacity  | \$100 per day                                     |
| Conference Room                                | 15 person capacity  | \$100 per day                                     |
| Exercise Room                                  | 75 person capacity  | \$300 per day                                     |
| Auditorium                                     | 250 person capacity | \$500 per day                                     |
| Gymnasium                                      | 250 person capacity | \$500 per day                                     |
| Training Tank                                  | 50 person capacity  | \$500 per day                                     |
| Walker Firearms Range                          |                     | \$500 per day                                     |
| Firearms Range Classroom                       | 50 person capacity  | \$500 per day                                     |
| Holden Classroom                               |                     | \$200 per day                                     |
| Holden Site Usage                              |                     | \$3,000 per day                                   |
| Classroom Audio Visual Package*                |                     | \$80 per day                                      |
| Computer Equipment                             |                     | \$100 per day                                     |
| Holden Cabin                                   |                     | \$30 per day                                      |
| Video Production Service                       |                     | \$2-\$750 per day, depending on requested service |
| Bomb Ranges                                    |                     | \$500 per day                                     |
| Driving Track                                  |                     | \$500 per day                                     |
| Facility Grounds                               |                     | \$500 per day                                     |
| Courses of Instruction                         |                     | \$300 per day                                     |
| Applied Technology Labs                        |                     | \$100 per day                                     |

\*Audio Visual Package consists of: Overhead Projector, Slide Projector, Projection Screen, VHS Video Cassette Player, Television Monitor, Carts and Necessary Cabling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1375(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:116 (February, 1986), amended Office of State Police, LR 26:95 (January 2000), LR 26:2626 (November 2000).

Jerry Jones  
Undersecretary

0011#017

**RULE**

**Department of Public Safety and Corrections  
Office of State Police**

**Weights and Standards Mobile Police Force  
(LAC 55:I:Chapter 23)**

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and R.S. 32:380-389 enacts LAC 55, Part I Chapter 23, §2301 et seq., the rule creating the Weights and Standards Mobile Police Force.

**Title 55**

**PUBLIC SAFETY**

**Part I. State Police**

**Chapter 23. Weights and Standards**

**§2301. Weights and Standards Mobile Police Force**

A. Within the Office of State Police there shall be a Weights and Standards Mobile Police Force which shall perform the functions of the state related to the enforcement of R.S. 32:380-389, and R.S. 47:718, and the provisions of Chapter 4 of Subtitle II of Title 47 relating to trucks, trailers, and semi-trailers of the Louisiana Revised Statutes of 1950 and these regulations adopted pursuant thereto.

B. The Weights and Standards Mobile Police Force is authorized to carry weapons and to make arrests in the enforcement of these regulations, and in that regard, shall have the same authority and powers conferred by law upon other law enforcement officers of this state; however, no member of the Weights and Standards Mobile Police Force shall be authorized to carry a weapon until the member has received P.O.S.T. certification training.

C. The weights and standards police force and the State Police shall have concurrent authority to enforce the provisions of R.S.32:380-389 and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2627 (November 2000).

**§2303 Definitions**

A. For the purposes of these rules, the following terms shall have the meanings ascribed to them in this section:

*Axle Group* Ca combination of two or more consecutive axles considered together in determining their combined load effect on a highway (as tandem, tridum, or quadrum axle groups).

*Axle With Single-Mounted Tires* Cany single or individual axle which is composed of one tire on each side of the vehicle (as opposed to dual-mounting).

*Department* CLouisiana Department of Public Safety and Corrections, Public Safety Services

*Designated Truck Routes:* (National Network CNN)Chighways designated by the secretary of the Louisiana Department of Transportation and Development in accordance with the Federal Surface Transportation Assistance Act of 1982 that includes provisions for truck-semi trailer-trailer combinations and maximum vehicle width of 8 feet, 6 inches.

*Domicile* Cthe fixed, permanent, and principal residence for legal purposes.

*Dromedary Unit* Ca load carrying compartment on a truck-tractor located between the cab and fifth wheel.

*Dummy Axle* Ca single axle attached independently to the frame of a vehicle and so designed and placed as to indicate the appearance of and to carry a uniformly distributed load of a normal axle group.

*Gross Weight* Cthe weight of a vehicle and/or combination of vehicles plus the weight of any load thereon.

*Individual Axle* Cany of the two, three, or four axles which make up the tandem, tridum, or quadrum axle groups.

*Interstate Commerce* Ctrade, traffic, or transportation in the United States:

- a. between a place in a state and a place outside of such state (including a place outside of the United States);
- b. between two places in a state through another state or a place outside of the United States; or
- c. between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States.

*Intrastate Commerce* Cany trade, traffic, or transportation in any state which is not described in the term *interstate commerce*.

*Length* Cthe total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear and includes load-holding devices thereon.

*Loose Material* Cdirt, sand, gravel, or other material that is capable of blowing spilling from a vehicle as a result of movement or exposure to air, wind currents, or weather but shall not include agricultural products in their natural state or wood chips.

*Measurable Precipitation* Ca minimum of 1 inch of precipitation in a 24-hour period as recorded by a National Weather Service recognized observation station.

*Quadrum Axle* Cany four consecutive axles whose centers are 40 or more inches but not more than 96 inches apart. A quadrum axle must be designed to equalize the load between the axles.

*Single Axle* Cany single axle or any assembly of two or more axles whose centers are less than 40 inches apart.

*Semi-Trailer* Cany single vehicle without motive power designed for carrying property and passengers and so designed in conjunction and used with a motor vehicle that some part of its own weight and that of its own load rests or is carried by another vehicle and having one or more load-carrying axles.

*Solid Waste* Cincludes residential solid waste, agricultural waste, commercial solid waste, construction or demolition debris, garbage, industrial solid waste, trash, white goods, wood waste, and yard trash.

*Stinger-Steered Combination* Ca truck-tractor semi-trailer wherein the fifth wheel is located on a drop frame

located behind and below the rear-most axles of the power unit.

**Tandem Axle** Any two consecutive axles whose centers are 40 or more inches but not more than 96 inches apart. A tandem axle must be designed to equalize the load between axles.

**Trailer** Any single vehicle without motive power designed for carrying property or passengers wholly on its own structure, drawn by a motor vehicle which carries no part of the weight and load of the trailer on its own wheels and having two or more load carrying axles.

**Trunion Axle** Can axle configuration with two individual axles mounted in the same transverse plane, with four tires on each axle, connected at a pivot point which allows each individual axle to oscillate in a vertical plane to provide constant and equal weight distribution on each individual axle.

**Trunion Axle Group** Two or more consecutive trunion axles which are individually attached to, and/or articulated, from the vehicle by a weight equalizing suspension system.

**Variable Load Suspension Axles** Axles which can be regulated by the driver of the vehicle either through the use of an in-cab valve or switch or by turning a valve on the outside of the truck. These axles are controlled by hydraulic and air suspension systems, mechanically, or by a combination of these methods.

**Vehicle** Any device by which a person or things may be transported upon a public highway or bridge. A trailer or semi-trailer shall be a separate vehicle.

**Width** The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but, excluding approved safety devices and tire bulge due to load.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:380-389.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2627 (November 2000).

### **§2305. Width**

A. Safety-devices shall include flags, lights, and/or reflectors not to project more than 12 inches beyond the width of the vehicle's body.

B. Vehicles and/or loads which exceed the legal width shall meet the following requirements.

1. The owner of the vehicle shall obtain an oversize permit.

2. Warning flags are required on vehicles and loads which exceed the legal width. There must be flags at the following points.

a. Four flags—two on the front edges and two on the rear edges—must be attached at the widest points on the part of the vehicle or load which exceeds the legal width.

b. A load which projects to only one side of a vehicle of legal width, shall have at least one flag to the front edge of the load, and at least one flag to the rear of the load provided each flag meets the requirement set forth herein; except a load which measures three feet or less from front most portion to the rear most portion shall have at least one flag which meets the requirements set forth herein affixed to each side of the projecting load.

c. Flags must be attached on any other portion of the vehicle or load which is wider than the flagged front or rear edges.

d. All warning flags must be red/fluorescent orange and at least 18 inches square. Flags must either be securely fastened by at least one corner or securely mounted on a staff which keeps the flag upright.

3. Vehicles and loads exceeding 10 feet in width must display two signs with the wording "OVERSIZE LOAD."

a. One sign must be on the front of the vehicle. The other must be on the rear of the load or if that does not result in an easily read sign, then the sign must be on the rear of the vehicle.

b. All warning signs must be at least seven feet long and 18 inches high. The background must be yellow and the lettering black. Letters must be at least 10 inches high with a 12-inch brush stroke.

4. All vehicles and loads (which exceed the legal width) with permits which have not been prohibited from traveling at night or during inclement weather must be equipped with the following lights:

a. Two amber lights must be attached at the widest points on the front edges of the over width part of the vehicle or load, and these lights must be visible from both the front and the side.

b. Two red lights must be attached at the widest points on the rear edges of the over-width part of the vehicle or load, and these lights must be visible from the rear and the side.

c. An amber light must be attached on any part of the vehicle or load which is wider than the front or rear edges, and this light must be visible from the front, side, and rear.

d. A single amber light on each side, visible from the front, side and rear, may be used if the over-width part of a vehicle or load does not exceed 3 feet from front to back. If the over-width part is at or near the rear of the vehicle, this light may be red and visible from the front, side, and rear.

5. Two or more lights may be combined if the resulting light still conforms to the requirements and its effectiveness is not hurt by the combination.

6. All lights must be visible from a distance of 500 feet and must be of types approved for such use by the Department of Public Safety and Corrections. Approval can be obtained at State Police troops.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:380-389.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2628 (November 2000).

### **§2307. Length**

A. Warning flags are required on vehicles and loads which exceed the legal length, or which have a rear overhang of more than four feet. There must be flags at the following points.

1. If the over-length or projecting portion is 2 feet wide or less, one flag must be located at the extreme rear end of the load.

2. If the over-length or projecting portion is wider than 2 feet, two flags at the extreme rear end of the load must be located to indicate maximum width.

3. All warning flags must be red/fluorescent orange and at least 18 inches square. Flags must either be securely fastened by at least one corner or securely mounted on a staff which keeps the flag upright.

B. Vehicles and loads exceeding legal length or the legal rear end overhang must display two signs with the wording "OVERSIZE LOAD." These signs must be on the sides of the overhanging part of the load or, if this is not possible, then the signs must be on the sides of the vehicle.

C. Vehicles and loads exceeding the legal front end overhang must display one sign with the wording "OVERSIZE LOAD." This sign must be displayed on the front of the vehicle. If the overhang clears the pavement by 6 feet or more, no sign is required.

D. All warning signs must be at least seven feet long and 18 inches high. The background must be yellow and the lettering black. Letters must be at least 10 inches high and with a 12-inch brush stroke.

E. Louisiana also requires the following lights at night and during inclement weather on vehicles and loads which are over length or have rear end overhangs of more than four feet or greater.

1. Two red lightsCone on each sideCmust be visible from the side and indicate the extreme rear of the vehicle or load.

2. Two red lightsCone on each sideCand two red reflectorsCone on each sideCmust be visible from the rear, must be located on the rear of the vehicle or load, and must indicate maximum width of the over-length or projecting part. However, if the over-length or projecting part is 2 feet wide or less, one red light and one red reflector is sufficient.

F. Two or more lights may be combined if the resulting light still conforms to the requirements and its effectiveness is not hurt by the combination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2628 (November 2000).

### §2309. State Police Escorts

A. State Police escorts are required for all vehicles and loads which are:

1. over 16 feet wide on a two-lane highway;
2. over 16 feet wide on a multi-lane highway;
3. over 125 feet in length.

B. Escorts should be arranged at the troop nearest the beginning of the movement.

C. State Police escorts must be used for escorted loads that exceed the above dimensions on all state highways outside of municipality limits, and also inside city limits if on state highway.

D. Travel through metropolitan areas may require city or parish escorts and/or permits. Contact with city or parish authorities is the responsibility of the hauler for possible requirements and/or restrictions.

E. Private escorts are required for all vehicles and loads:

1. over 12 feet wide and up to 16 feet wide on a two-lane highway;
2. over 12 feet wide and up to 16 feet wide on a multi-lane highway;
3. over 90 feet long and up to 125 feet long.

F. An escort vehicle may escort two over-length vehicles or loads, but only one over-width vehicle or load.

G. All private escort vehicles must have a Louisiana Approved Escort Vehicle Permit. Companies domiciled outside of the state of Louisiana must pay a \$10 fee for a Louisiana Approved Escort Vehicle Permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2629 (November 2000).

### §2311. Care of Vehicle Load

Vehicle owner/operator shall ensure that the vehicle is equipped with equipment in proper working condition for care of load to prevent escape of loose material. The driver of the vehicle is responsible for the proper installation of equipment provided by owner to prevent the escape of loose materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2629 (November 2000).

### §2313. Farm Vehicles and Equipment

A. Farm vehicles and equipment, except draglines and bulldozers, being operated and/or transported for bona fide agricultural purposes or the transportation of farm vehicles and equipment to be used for normal farm purposes by persons transporting such farm equipment or machinery for distances not to exceed 50 miles from the point of origin shall be exempt from the requirements for width, height, length, and for trailers and towed vehicles, but shall not be exempt from any weight limitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2629 (November 2000).

### §2315. Weight Limitations

A. Legal Limitations.

1. The maximum legal axle weights on interstate highways are:

- |                  |                |
|------------------|----------------|
| a. single axles  | 20,000 pounds  |
| b. tandem axles  | 34,000 pounds  |
| c. tridum axles  | 42,000 pounds  |
| d. quadrum axles | 50,000 pounds. |

2. Axle variances of 2,000 pounds for single axles and 3,000 pounds for tandem, tridum, and quadrum axles are allowed on non-interstate highways. Therefore, the maximum legal weights on non-interstate highways are:

- |                  |                |
|------------------|----------------|
| a. single axles  | 22,000 pounds  |
| b. tandem axles  | 37,000 pounds  |
| c. tridum axles  | 45,000 pounds  |
| d. quadrum axles | 53,000 pounds. |

3. The maximum legal weight on a tire is 650 pounds per inch width of tire.

4. The sum of the legal axle weights on a vehicle or combination of vehicles is its legal gross weight. But regardless of the number and type of axles the maximum legal gross weight of any vehicle or combination of vehicles (except a combination with a tridum or quadrum axle) is 80,000 pounds.

5. Regardless of the number and type of axles, the maximum legal gross weight of any combination of vehicles which has a tridum or quadrum axle is:

- a. 83,400 pounds on interstate highways;
- B. 88,000 pounds on non-interstate highways.

B. Vehicles operating on the interstate highway shall comply with the federal bridge formula subject to the following exceptions:

1. vehicles with type two axle configuration (three-axle combination with one single axle and one set of tandem axles); or

2. type six axle configuration (five-axle combination with one single axle and two sets of tandem axles); or

3. a vehicle with type eight axle configuration (six-axle combination with one single axle, one tandem axle, and one tridem axle);

4. or vehicles with type ten axle configuration (double bottom);

5. or type eighteen axle configuration (four-axle combination with one single axle and one set of tridem axles) carrying any of the following bulk commodities thereof:

- a. forest products in their natural state;
- b. lumber;
- c. sand;
- d. gravel;
- e. agricultural products in their natural state;
- f. loose or mixed concrete (including asphaltic or Portland cement); or
- g. bulk liquid commodities.

C. Any truck fitted with a compactor body which is engaged in the collecting and hauling of solid waste shall not be assessed a penalty for exceeding the maximum permissible gross weight if the waste is wet and the location from which the waste was collected had received measurable precipitation within 24 hours prior to collection. The owner or operator of such truck shall bear the burden of proving such precipitation by providing certified data from the Louisiana Office of State Climatology located at LSU in Baton Rouge.

D. The owner or operator of a vehicle which exceeds the maximum allowable axle weights shall be permitted to shift the load as long as no part of the shipment is removed and only if the shift can be performed safely and within a reasonable period of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2629 (November 2000).

### §2317. Special Permits

A. Special permits must be in the vehicle at all times of operation, and such permit shall be produced upon request by any police officer.

B. Violation of any terms or conditions of a special permit shall subject the driver and/or owner of the permitted vehicle to the penalties provided for in R.S. 32:388.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2630 (November 2000).

### §2319. Assessment of Civil Penalties

A. Any person who is determined by the superintendent of the department after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act, to have committed an act that is a violation of these regulations (excluding §2315), is subject to a civil penalty of \$100 per violation. Penalties for §2315 shall be computed in accordance with R.S. 32:388.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2630 (November 2000).

### §2321. Recovery of Civil Penalties

A. To enforce the collection of a civil penalty levied upon a person determined by the deputy secretary of the Department of Public Safety and Corrections to have committed an act that is a violation of these regulations, the deputy secretary:

1. may order the removal of the offending vehicle's license tag if the registration is from this state;

2. may seize any vehicle not registered within the state which is owned by the person or company in violation;

3. shall have the driver's or operator's license suspended for a violation(s) committed by the driver or operator.

B. The secretary shall enforce the provisions of Subsection A as follows.

1. The removal of a vehicle's license tag shall be completed and, upon remittance of the levied penalty, reinstated in a manner consistent with the procedures required by the Office of Motor Vehicles.

2. When the person or company fails to remit a levied civil penalty within 90 days subsequent to the seizure of a vehicle as authorized in this Section, the Department of Public Safety and Correction shall collect the penalty in a manner consistent with applicable portions of R.S. 32:521 et seq.

3. The suspension of a driver's license shall be completed and, upon remittance of the levied penalty, reinstated in a manner consistent with the provisions required by the Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2630 (November 2000).

Jerry Jones  
Undersecretary

0011#018

## RULE

### Department of Revenue Office of Alcohol and Tobacco Control

#### Caterer's Permits (LAC 55:VII.325)

Under the authority of R.S. 26:793 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, has amended LAC 55:VII.325 to provide for a Class A-Caterer's Permit.

Act 987 of the 1999 Regular Session of the Louisiana Legislature amended R.S. 26:793(A) to provide that the Commissioner establish by regulation a Class A-Caterer's Permit for any person who does not otherwise qualify for a retail dealers permit pursuant to the provisions of R.S. 26:71.1 or R.S. 26:271.2.



**Title 55  
PUBLIC SAFETY**

**Part VII. Alcohol and Tobacco Control**

**Chapter 3. Liquor Credit Regulations**

**§325. Caterer-s Permits**

A. The Office of Alcohol and Tobacco Control may issue a Class A-Caterer's permit to persons who meet the qualifications and criteria of either Paragraph 1 or 2 below.

1. Holders of any Class A or B liquor or beer retail permit will be allowed to sell and serve alcoholic beverages, on a temporary basis, limited to three days in duration, at events other than on the premises for which the holder's regular permit is issued.

a. This holder of a Class A-Caterer's permit must use the permit in conjunction with their Class A or B liquor and/or beer permit and shall expire at the same time as the regular Class A or B permit.

b. If the regular Class A or B permit ceases to be valid for cause, the caterer's permit ceases to be valid.

2. Persons who do not otherwise qualify for a retail dealer permit pursuant to the provisions of R.S. 26:71.1 or R.S. 26:271.2, but who operate a facility with a fully equipped kitchen where food is prepared for the purpose of catering functions, will be allowed to obtain a Class A-Caterer's permit under the following conditions.

a. This holder of a Class A-Caterer's permit must derive 70 percent of their gross annual revenue from the sale of food or food-related product, and 40 percent of the gross revenue per event must be derived from the sale of food or food-related product.

b. This holder of a Class A-Caterer's permit must maintain separate sales figures for alcoholic beverages.

B.1. An application for a Class A-Caterer's permit shall be made on forms prescribed by the Commissioner of the Office of Alcohol and Tobacco Control.

2. A Class A-Caterer must display the permit on the premises of the event being catered.

3. A Class A-Caterer must only cater events in an area in which the sale of alcoholic beverages has been authorized by local option election and with permission from the local governing authority.

4. A Class A-Caterer must provide the Office of Alcohol and Tobacco Control with written notice of the date, time, and place of each catered event at least one week prior to the date of the event.

5. All alcoholic beverages at a catered event must be dispensed by the holder of the Class A-Caterer's permit or his employee, agent, or servant.

6. Class A-Caterers must comply with the provisions of the Responsible Vendor Program of R.S. 26:931 et seq.

7. The cost of the Class A-Caterer's permit is \$200 per year or any portion thereof; costs shall not be prorated.

8. Class A-Caterer permits shall be renewed annually in accordance with the provisions relative to all other retail permits, specifically R.S. 26:88 and 285 and LAC 55:VII.321.

C. - C.10. ...

D. Any violation of these regulations or causes enumerated in Title 26 of the Louisiana Revised Statutes shall subject the retailer to revocation, suspension, or withholding of his alcoholic beverage permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 19:904 (July 1993), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 26:2631 (November 2000).

Murphy J. Painter  
Commissioner

0011#023

**RULE**

**Department of Revenue  
Office of Alcohol and Tobacco Control**

Liquor Credit RegulationsCSampling  
(LAC 55:VII.317)

Under the authority of R.S. 26:75(C) and 275(B) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, has amended LAC 55:VII.317.A.4.f.iii(a), (b) and (e) to allow Class A and Class B retail dealers to provide beer, wine, or beverage alcohol for samplings on their licensed premises.

**Title 55**

**PUBLIC SAFETY**

**Part VII. Alcohol and Tobacco Control**

**Chapter 3. Liquor Credit Regulations**

**§317. Prohibition of Certain Unfair Business Practices**

A. - A.3. ...

4. Exceptions

a. - e. ...

f. Trade Calls

i. - ii. ...

iii. Beer, wine, or beverage alcohol sampling for

the purposes of allowing a customer to taste a brand of beverage alcohol may be conducted on any premises holding a permit as designated in R.S. 26:75(C)(1) and 275(B)(1) in accordance with the following restrictions.

(a). A retail dealer, wholesaler, and/or manufacturer may furnish the beer, wine, or beverage alcohol to be sampled and the cups to hold such beverages. The wholesaler and/or manufacturer may also provide and display point-of-sale material in an amount not to exceed \$150 in value. Said display materials shall only be placed inside of the facility and shall not block the aisles or other points of ingress or egress.

(b). No retail dealer, wholesaler, or manufacturer shall furnish a sampling of beverage alcohol in a greater quantity than two ounces per brand of beverage alcohol to each individual and no individual shall consume more than two ounces of each brand of beverage alcohol provided at the sampling. The sampling of a beverage alcohol having an alcoholic content of more than 23 percent by volume shall be limited to one half ounce per serving per individual.

(c). All samplings shall be limited in duration to one day.

(d). No more than two samplings per brand of beverage alcohol shall be conducted on the same licensed premises in any month.

(e). The retail dealer, wholesaler, or manufacturer shall provide the Office of Alcohol and Tobacco Control with written notice of the date, time, place, permit number and brand of beverage alcohol to be sampled at least one week prior to the date of the sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:75 and 275.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20:671 (June 1994), amended by the Department of Revenue and Taxation, Office of Alcoholic Beverage Control, LR 22:116 (February 1996), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 26:2631 (November 2000).

Murphy J. Painter  
Commissioner

0011#022

## RULE

### Department of Social Services Office of Community Services

Louisiana Children's Trust Fund (LAC 67:V.1001)

The Department of Social Services, Office of Community Services, has amended the Louisiana Administrative Code, Title 67, Part V, Subpart 2. Community Services. In accordance with R.S. 46:2406, the Children's Trust Fund has completed preparation of the Plan for Preventing Child Abuse and Neglect in Louisiana 2000-2002.

#### Title 67

#### SOCIAL SERVICES

#### Part V. Community Services

#### Subpart 2. Community Services

#### Chapter 10. Children's Trust Fund

#### §1001. Plan for Preventing Child Abuse and Neglect

A. Pursuant to R.S. 46:2406, the proposed Plan has been submitted to the Joint Committee on Health and Welfare of the Louisiana Legislature for approval prior to adoption by the Louisiana Children's Trust Fund Board. The plan becomes effective subsequent to adoption by the Louisiana Children's Trust Fund Board and will form the basis for future activities of the Children's Trust Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2406.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 20:898 (August 1994), amended LR 23:1326 (October 1997), LR 26:2632 (November 2000).

J. Renea Austin-Duffin  
Secretary

0011#045

## RULE

### Department of Social Services Office of the Secretary Bureau of Licensing

Adult Residential Care Facility (LAC 48:I.8805)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, has amended the Louisiana Administrative Code, Title 48, Part I, Chapter 88.

This Rule is authorized by R.S. 40:2154, which authorizes the Department of Social Services to set an annual license fee for adult residential care homes, not to exceed the maximum amount of \$250. The amendment will increase the license fee from the current amount of \$75 to \$175, \$200 or \$250, depending on the licensed capacity of the facility, effective January 1, 2001.

#### Title 48

#### PUBLIC HEALTH-GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 88. Adult Residential Care Home

#### §8805. License and Other Fees

A. License Fees. There shall be a license fee of \$175 for adult residential care homes with a licensed capacity of two to four residents; \$200 for homes with a capacity of five to eight residents; \$250 for homes with a capacity of nine or more residents.

Note: License fees must be paid annually and must be received by the Bureau of Licensing prior to renewal of a license. License fees, and all other fees, must be paid by certified check or money order. Fees are nonrefundable.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2154.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification. LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2328 (December 1998), LR 26:2632 (November 2000).

J. Renea Austin-Duffin  
Secretary

0011#046

## RULE

### Department of Treasury State Employees' Retirement System

Trustee Election (LAC 58:I.301, 303, 307, 501 and 503)

Under the authority of by R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) amends and reenacts LAC 58:I.301, 303, 501 and 503, and enacts LAC 58:I.307. The amendments and enactment to the rules changes the procedures utilized for the election of Trustees of the Board of Trustee of LASERS.

**Title 58**  
**RETIREMENT**

**Part I. State Employees' Retirement**

**Chapter 3. Election of Active Member Trustees**

**§301. General Schedule of Elections**

A. - B.4. ...

5. Fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time). No faxed ballots shall be accepted.

B.6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 26:2633 (November 2000).

**§303. Election Rules**

A. - D. ...

E. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes. Votes shall be confidential. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) shall be rejected. Ballots must be returned to the address set forth in the instructions on the election brochure.

F. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997(August 1997), amended LR 26:2633 (November 2000).

**§307. Optional Retirement Plan Participants**

A. Because optional retirement plan participants do not acquire service credit for purposes of determining eligibility under R.S. 11:511(4), these participants will not be eligible to vote in the Trustee elections or run for a position on the Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 26:2633 (November 2000).

**Chapter 5. Election of Retired Member Trustees**

**§501. General Schedule of Elections**

A. - B.4. ...

5. Fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time).

B.6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 26:2633 (November 2000).

**§503. Election Rules**

A. - D. ...

E. Each retiree may vote for two candidates during the election when two retiree members are up for election, but may only vote for one candidate during the election where only one retiree member is up for election. If electronic voting methods are utilized, members shall follow the

instructions on the election brochure for registering their votes.

F. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) shall be rejected. Ballots must be returned to the address set forth in the instructions on the election brochure.

G. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 26:2633 (November 2000).

Glenda Chambers  
Executive Director

0011#009

**RULE**

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

Daily Take and Possession Limits of King Mackerel,  
Spanish Mackerel and Cobia (LAC 76:VII.327)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.327, establishing a commercial trip limit of 3,000 pounds for king mackerel. Authority for adoption of this Rule is included in R.S. 56:6(25)(a) and R.S. 56:326.3.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishing**

**§327. Daily Take and Possession Limits of King Mackerel, Spanish Mackerel, and Cobia**

A. - D. ...

E. Commercial King Mackerel

1. No person shall take, harvest, land, or possess aboard a harvesting vessel king, mackerel in excess of a recreational bag limit unless that person is in possession and has in his immediate possession a valid commercial fishing license, commercial gear licenses (if applicable) and a valid commercial vessel license. Persons taking, harvesting, landing, possessing or selling or attempting to sell king mackerel taken in or from the EEZ shall be in possession of a valid federal permit for Gulf King Mackerel issued by the National Marine Fisheries Service. The holder of such valid commercial licenses or federal permits (if applicable) shall not take, possess, land, sell, barter, trade or exchange or attempt to take, sell, barter, trade or exchange king mackerel, whole or eviscerated, in excess of 3,000 pounds at any time.

2. No person aboard any vessel shall transfer or cause the transfer of king mackerel between vessels on state or federal waters.

3. Persons possessing king mackerel for commercial purposes shall not possess a recreational bag limit in addition to the 3,000 pound limitations as required herein.

4. No person shall sell, purchase, barter, trade or exchange or attempt to sell, purchase, barter, trade or

exchange king mackerel, whole or eviscerated, in excess of 3,000 pounds. Except that such limitation shall not apply to the resale of king mackerel by a validly licensed wholesale/retail seafood dealer who purchased such king mackerel in compliance with the regulations and requirements of this section and in compliance with other requirements of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.1, and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:868 (October 1989), amended LR 17:207 (February 1991), LR 19:513 (April 1993), LR 26:2633 (November 2000).

Thomas M. Gattle, Jr.  
Chairman

0011#029

**RULE**

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

Turkey SeasonC2001  
(LAC 76:XIX.113)

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of wild turkeys.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Seasons**

**§113. Turkey Hunting Regulations**

A. Daily limit is one gobbler, three gobblers per season. 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 number 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. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages feeding agricultural grains to wild turkeys as this practice increases the risk of birds contracting

potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. 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.

G. All licensed turkey hunters are required to have a Turkey Stamp in their possession while turkey hunting in addition to basic and big game licenses.

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).

**§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               | 3/season         |

B. Turkey Hunting Schedule

| Area | Season Dates      |
|------|-------------------|
| A    | March 24-April 22 |
| B    | March 31-April 15 |
| C    | March 24-April 1  |

C. 2001 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. East Baton Rouge;
- ii. East Feliciana;
- iii. LaSalle;
- iv. Livingston;
- v. Natchitoches (Exception: See Kisatchie National Forest hunting schedule for National Forest dates);
- vi. St. Helena;
- vii. St. Tammany;
- viii. Tangipahoa;
- ix. Washington;
- x. West Baton Rouge;
- xi. West Feliciana (including Raccourci Island).

b. Portions of the following parishes are also open:

- i. Allen: North of La. 26 from DeRidder to the junction of La. 104 and north of La. 104;
- ii. Avoyelles: That portion bounded on the east by the Atchafalaya River northward from Simmesport, on the north by Red River to the Brouillette Community, on the west by La. 452 from Brouillette to La. 1 eastward to Simmesport, and that portion surrounding Pomme de Terre WMA, bounded on the north, east and south by La. 451, on the west by the Big Bend Levee from its junction at the

Bayou des Glaise structure east of Bordelonville southward to its junction with La. 451;

iii. Beauregard: North of La. 26 east of DeRidder, north and east of U.S. 171-190 from the junction of La. 26 to DeRidder, and north of U.S. 190 from DeRidder to Texas state line;

iv. Caldwell: West of Ouachita River southward to Catahoula Parish line, east of La. 165 from LaSalle Parish line to the junction of La. 126, north of La. 126 westward to the Winn Parish line;

v. Catahoula: West of Ouachita River southward to La. 559 at Duty Ferry, north of La. 559 to La. 124, south and west of La. 124 from Duty Ferry to La. 8 at Harrisonburg and north of La. 8 to La. 126, north and east of La. 126. Also that portion lying east of La. 15;

vi. Concordia: That portion east of Hwy. 15 and west of Hwy. 65 from its juncture with Hwy. 15 at Clayton;

vii. 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;

viii. Franklin: That portion lying east of Hwy. 17 and east of Hwy. 15 from its juncture with Hwy. 17 at Winnsboro;

ix. Grant: All of the parish except that portion of land that lies north of the Red River between U.S. 71 and La. 8. EXCEPTION: See Kisatchie National Forest hunting schedule for season dates;

x. Iberville: West of La. Hwy. 1. Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xi. Madison: That portion lying west of U.S. Hwy. 65 and south of U.S. Hwy. 80;

xii. Pointe Coupee: All except that portion bounded on the west by La. 77 and La. 10, northward from U.S. 190 to La. 1 at Morganza, on the north and east by La. 1 to its junction with La. 78 and by La. 78 from Parlange to U.S. 190. Further exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xiii. Rapides: All of the parish except that portion of lands that lies north of the Red River and south of U.S. Hwy. 71 from its juncture with the Red River northward to the Grant Parish line. Exception: See Kisatchie National Forest hunting schedule for season dates;

xiv. Richland: That portion south of U.S. Hwy. 80 and east of Hwy. 17;

xv. Sabine: That portion north of Hwy. 6 from Toledo Bend Lake to Many; east of Hwy. 171 from Many to the Vernon Parish line;

xvi. St. Landry: That portion bounded on the north by U.S. 190, west by the West Atchafalaya Basin Protection Levee. ALSO that portion of the parish bounded on the north by La. 10 from the West Atchafalaya Basin Protection Levee to Burton's Lake, on the east by Burton's Lake, on the south by Petite Prairie Bayou to its junction with the old O.G. Railroad right-of-way then by the O.G.R.R. right-of-way westward to U.S. 71 and on the west by the West Atchafalaya Guide Levee to its junction with La. 10, EXCEPT the Indian Bayou tract owned by the U.S. Corps of Engineers;

xvii. Upper St. Martin: All within the Atchafalaya Basin. Exception: see Sherburne WMA for special season

dates on all state, federal and private lands within Sherburne boundaries;

xviii. Tensas: That portion west of Hwy. 65 from the Concordia Parish line to its juncture with Hwy. 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 lying east of the main channel of the Mississippi River;

xix. Vernon: That portion east of Hwy. 171 from the Sabine Parish line to the junction of Hwy. 111, south of Hwy. 111 westward to Hwy. 392, and south of Hwy. 392 westward to the Sabine Parish line. Exception: See Kisatchie National Forest hunting schedule for season dates.

### 2. Area B - March 31-April 15

#### a. All of the following parishes are open:

i. Bienville;

ii. Bossier;

iii. Claiborne;

iv. Lincoln;

v. Red River;

vi. Webster, including Caney Ranger District of Kisatchie National Forest.

vii. Union

#### b. Portions of the following parishes are open:

i. Caddo: That portion north of La. 2 from the Texas state line to U.S. 71, east of U.S. 71 from La. 2 to I-20, south of I-20 from U.S. 71 to U.S. 171, and east of U.S. 171 to the DeSoto Parish line;

ii. DeSoto: That portion east of U.S. 171 from the Caddo Parish line to U.S. 84 and south of U.S. 84;

iii. East Carroll: East of U.S. 65 from Arkansas state line to Madison Parish line;

iv. Jackson: West of Parish Road 243 from Lincoln Parish line to Parish Road 238, west and south of Parish Road 238 to La. 144, west of La. 144 to La. 34, west of La. 34 to Chatham, north and west of La. 4 from Chatham to Weston, north and west of La. 505 from Weston to Wyatt, west of U.S. 167 from Wyatt to Winn Parish line;

v. Ouachita: East of La. 143 from Union Parish line to Highway 80 in West Monroe, north of Highway 80 to LA 139, west LA 139 to the Morehouse Parish line;

vi. Morehouse: West of U.S. 165 from the Arkansas line to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to U.S. 165, north of U.S. 165 to LA 139, west of LA 139 to Ouachita Parish line;

### 3. Area C - March 24-April 1

#### a. All of the following parish is open:

i. Winn (Exception: see Kisatchie National Forest hunting schedule for season dates)

#### b. Portions of the following parishes are open:

i. Ascension: All east of the Mississippi River;

ii. Allen: South of La. 26 from DeRidder to Oberlin, west of U.S. 165 south of Oberlin;

iii. Avoyelles: South of La. 1 to West Protection Levee, south to Avoyelles Parish line;

iv. Beauregard: South of La. 26 east of DeRidder, east of U.S. 171 from the junction of La. 26 to Ragley, south of La. 12 west to Ragley;

v. Calcasieu: South of La. 12 east of Dequincy, east of La. 27 from Dequincy to I-10, and north of I-10 east of Sulphur;

vi. Concordia: North and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to U.S. Hwy. 84, south of U.S. Hwy. 84 eastward to La. Hwy. 15 (Ferriday), east of La. Hwy. 15 northward to U.S. Hwy. 65 (Clayton), east of U.S. Hwy. 65 northward to Tensas Parish line;

vii. Iberville: All east of the Mississippi River;

viii. Jefferson Davis: West of U.S. 165 and north of I-10;

ix. Madison: South of Hwy. 80 and east of U.S. Hwy. 65 to Tensas Parish line and all lands lying east of the main channel of the Mississippi River;

x. St. Landry: That portion bounded on the south by La. 10, on the west by the West Atchafalaya Basin Protection Levee, on the east by La. 105, and on the north by the Avoyelles Parish line;

xi. Tensas: East and south of U.S. Hwy. 65 from Concordia Parish line to Hwy. 128, south of Hwy. 128 to St. Joseph, east and south of La. Hwy. 605, 604 and 3078 northward to Port Gibson Ferry.

xii. Franklin and Richland Parishes - That portion lying west of La. Hwy. 17 from Ringle Road to La. Hwy. 577 at Crowville, north of La. Hwy. 577 to La. Hwy. 15 at Baskin, east of La. Hwy. 15 to Big Creek, and south and east of Big Creek to junction of Little Road, and south of Little, Ferguson and Ringle Roads to La. Hwy. 17.

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).

**§117. 2001 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. All trails and roads designated as ATV Only shall be closed to ATVs from March 1 through September 15. ATV off-road or trail travel is prohibited. Walk-in hunting only (bicycles permitted), unless opened by sign on trail.

4. Bag limits on WMAs are part of the season bag limit. The bag limit for turkeys on Wildlife Management Areas is two per area, not to exceed two per season for all WMAs. Only one turkey is allowed to be taken during special lottery hunts. The bag limit for turkeys is one gobbler per day and three gobblers per season including those taken on WMAs.

**B. Permits**

1. Self-Clearing Permits: All turkey hunts, including lottery hunts, are self-clearing and all hunters must check in daily by picking up a permit from a self-clearing station. Upon completion of each daily hunt, the hunter must check out by completing the hunter report portion of the permit and

depositing it in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts: Bayou Macon, Dewey Wills, Georgia-Pacific, Loggy Bayou, Sabine, Sherburne, Sicily Island and Tunica Hills WMAs are restricted to those persons selected as a result of the pre-application lottery. Deadline for receiving applications is February 15, 2001. Application fee of \$5 must be sent with each application. 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.

3. Requests for information on WMA regulations, permits, lottery hunt applications and maps may be directed to any district office: [District 1 C 1401 Talton Street, Minden, 71055; 318/371-3050]; [District 2 C 368 Century Park Drive, Monroe, 71203; 318/343-4044]; [District 3 C 1995 Shreveport Hwy., Pineville, 71360; 318/487-5885]; [District 4 C P.O. Box 1640, Ferriday, 71334; 318/757-4571]; [District 5 C 1213 N. Lakeshore Dr., Lake Charles, 70601; 337/491-2575]; [District 6 C 5652 Highway 182, Opelousas, 70570; 337/948-0255]; [District 7 C P.O. Box 98000, Baton Rouge, 70898; 225/765-2360].

**C. Wildlife Management Area Turkey Hunting Schedule\***

| WMA                     | Season Dates                    | Permit Requirements | Lottery Dates**                 |
|-------------------------|---------------------------------|---------------------|---------------------------------|
| Bayou Macon             | March 31 -April 1               | Self-clearing       | March 31 -April 1               |
| Bens Creek <sup>1</sup> | March 24 -April 15              | Self-clearing       | None                            |
| Big Lake                | March 24 -April 1               | Self-clearing       | None                            |
| Bodcau                  | March 31 -April 15              | Self-clearing       | None                            |
| Boeuf                   | March 24 -April 1               | Self-clearing       | None                            |
| Boise Vernon            | March 24 -April 15              | Self-clearing       | None                            |
| Camp Beauregard         | March 24 -April 8               | Self-clearing       | None                            |
| Dewey Wills             | March 24 -25, March 31 -April 1 | Self-clearing       | March 24 -25, March 31 -April 1 |
| Fort Polk               | March 24 -April 22              | Self-clearing       | None                            |
| Georgia-Pacific         | March 31 -April 8               | Self-clearing       | March 31 -April 1               |
| Grassy Lake             | March 24 -April 1               | Self-clearing       | None                            |
| Jackson-Bienville       | March 31 -April 15              | Self-clearing       | None                            |
| Little River            | March 24 -April 8               | Self-clearing       | None                            |
| Loggy Bayou             | April 14 -15                    | Self-clearing       | April 14 -15                    |
| Pearl River             | March 24 -April 15              | Self-clearing       | None                            |
| Peason Ridge            | March 24 -April 22              | Self-clearing       | None                            |
| Pomme de Terre          | March 24 -April 1               | Self-clearing       | None                            |
| Red River               | March 24 -April 1               | Self-clearing       | None                            |
| Sabine                  | March 24 -25, March 31 -April 1 | Self-clearing       | March 24 -25, March 31 -April 1 |
| Sandy Hollow            | March 24 -April 15              | Self-clearing       | None                            |
| Sherburne <sup>2</sup>  | March 24 -April 1               | Self-clearing       | March 24 -25, March 26 -28      |

|  |   |               |   |
|--|---|---------------|---|
| Sicily Island                          | March 24-25, March 31-April 1, April 7-8, April 14-15 | Self-clearing | March 24-25, March 31-April 1, April 7-8, April 14-15 |
| Three Rivers                           | March 24-April 1                                      | Self-clearing | None  |
| Tunica Hills Angola Tract <sup>3</sup> | March 24-25, March 31-April 1, April 7-8, April 14-15 | Self-clearing | March 24-25, March 31-April 1, April 7-8, April 14-15 |
| Tunica Hills South Tract               | March 24-25, March 31-April 1, April 7-8, April 14-15 | Self-clearing | March 24-25, March 31-April 1, April 7-8, April 14-15 |
| Union                                  | March 31-April 1                                      | Self-clearing | March 31-April 1                                      |
| West Bay                               | March 24-25   | Self-clearing | March 24-25   |

\*The deadline for receiving applications for all turkey Lottery Hunts on WMAs is Feb. 15, 2001.

<sup>1</sup>No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

<sup>2</sup>All turkeys harvested on Sherburne WMA must be weighed and checked at WMA headquarters.

<sup>3</sup>Scouting access limited. Contact Region 7 office for details (225) 765-2360.

#### D. Wildlife Management Area Youth Hunts

| WMA         | Lottery Youth Hunt Date | Number Of Youth Permitted |
|-------------|-------------------------|---------------------------|
| Big Lake    | March 17                | 10 Youth                  |
| Loggy Bayou | April 7                 | 5 Youth                   |

#### E. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) turkey hunting schedule: Caney Ranger District, March 31-April 15; KNF lands in Winn Parish, March 24-April 1, except that portion of the Catahoula Wildlife Preserve; all remaining KNF lands, March 24-April 15 (including Catahoula Wildlife Preserve).

2. U.S. Army Corps of Engineers, Indian Bayou area turkey hunting schedule: March 24-28, lottery hunt only. Lottery application period from December 1, 2000 through January 31, 2001. Applicants may submit only one application. Contact USCE at 337-585-0856 for further information.

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).

Thomas M. Gattle, Jr.  
Chairman

0011#030

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Environmental Sciences Office of Agriculture and Environmental Sciences Advisory Commission on Pesticides

#### Restriction on Application of Certain Pesticides (LAC 7:XXIII.143 and 147)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Environmental and Agricultural Sciences, Advisory Commission on Pesticides, proposes to amend regulations regarding the restrictions on applications of certain pesticides and their exemption to waiver of restrictions.

The aerial applications of certain herbicides, in certain parishes, in accordance with the current regulations and labels has not been sufficient to control drift onto non target areas. Failure to prevent the drift onto non-target areas will adversely affect other crops particularly cotton. The adverse effects to the cotton crop and other non-target crops will cause irreparable harm to the economy of Central Louisiana and to Louisiana agricultural producers.

These rules comply with and are enabled by R.S. 3:3203 and R.S. 3:3223.

#### **Title 7** **AGRICULTURE AND ANIMALS** **Part XXIII. Pesticide**

#### **Chapter 1. Advisory Commission on Pesticides**

#### **§143. Restrictions on Application of Certain Pesticides**

A. - O. ...

P. Regulations Governing Aerial Applications of 2,4-D or Products Containing 2,4-D

##### 1. Registration Requirements

a. The commissioner hereby declares that prior to making any aerial application of 2,4-D or products containing 2,4-D, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs (DPEP) in writing.

b. The commissioner hereby declares that prior to making any aerial application of 2,4-D or products containing 2,4-D, the aerial owner/operator must have in his\her possession and shall be a part of the record keeping requirements, a written permit from the Division of Pesticides and Environmental Programs (DPEP).

2. Grower Liability. Growers of crops shall not force or coerce applicators to apply 2,4-D or products containing 2,4-D to their crops when the applicators, conforming to the Louisiana Pesticide Laws and Rules and Regulations or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this section shall forfeit their right to use 2,4-D or products containing 2,4-D on their crops, subject to appeal to the Advisory Commission on Pesticides.

3. 2,4-D or products containing 2,4-D Application Restriction. Aerial application of 2,4-D or products

containing 2,4-D is limited to only permitted applications annually between April 1 and July 15 in the following parishes: Allen (East of U.S. Highway 165), Avoyelles, Evangeline, Pointe Coupee, Rapides, and St. Landry.

4. Procedures for Permitting Applications of 2,4-D or Products Containing 2,4-D

a. Prior to any application of 2,4-D or products containing 2,4-D, approval shall be obtained in writing from the Louisiana Department of Agriculture and Forestry (LDAF). Such approval is good for two days from the date issued. Growers or aerial applicator shall obtain approval from the DPEP.

b. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:

- i. weather patterns and predictions;
- ii. wind speed and direction;
- iii. propensity for drift;
- iv. distance to susceptible crops
- v. quantity of acreage to be treated;
- vi. extent and presence of vegetation in the buffer zone;
- vii. any other relevant data.

5. Monitoring of 2,4-D or Products Containing 2,4-D

a. Growers or aerial owner/operators shall apply to the DPEP, on forms prescribed by the commissioner, all request for aerial applications of 2,4-D or products containing 2,4-D.

b. Aerial owner/operators shall maintain a record of 2,4-D or products containing 2,4-D applications.

6. Determination of Appropriate Action

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

- i. stop orders for use, sales, or application;
- ii. label changes;
- iii. remedial or protective orders;
- iv. any other relevant remedies.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 27:

#### **§147. Waiver of Restrictions**

A. No commercial applicator shall apply any of the pesticides listed in §143.B in the parishes and during the periods specified in §143.C, D and E without written authorization from the commissioner prior to such application, except as described in §143.P.

B. - C. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April



1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 27:

**Family Impact Statement**

The proposed amendments to rules LAC 7:XXIII.143 and 147 regarding applications of certain pesticides in certain parishes should not have any known or foreseeable impact on any family as Defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business on January 3, 2001 at 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble regarding these rules is necessary.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Restriction on Application of Certain  
Pesticides**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no net estimated implementation costs or savings to state or local governmental units. The department has current regulations requiring registration by owner/operators aerially applying 2,4-D. The proposed rule change requires all aerial owner/operators to obtain a permit, in writing, from the Division of Pesticides and Environmental Programs prior to administering aerial applications of 2,4-D, or products containing 2,4-D. The savings from implementation of these regulations is anticipated to equally offset the minimal cost of permits by reducing the investigations of citizen complaints caused by aerial applications of 2,4-D drifting onto non-target areas.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no estimated effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Estimated costs will be minimal to the directly affected persons or groups. The applications in the parishes, except for the portion of Allen parish are currently under waiver restriction in existing regulations. The economic benefits will be that the growers and owner/operators can expect less drift because the product should stay on the targeted area.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no estimated effect on competition and employment.

Skip Rhorer  
Assistant Commissioner  
0011#053

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
Boll Weevil Eradication Commission**

Boll Weevil Eradication Zones: Continuation, Program Participation, Fee Payment and Penalties (LAC 7:XV.327)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry hereby proposes to amend regulations regarding the Boll Weevil Eradication Program.

The Department of Agriculture and Forestry intends to adopt these rules and regulations for the purpose of continuing the Boll Weevil Eradication Program.

These rules are enabled by R.S. 3:1609, 1612, 1613.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XV. Plant Protection and Quarantine**

**Chapter 3. Boll Weevil**

**§327. Boll Weevil Eradication Zones: Continuation, Program Participation, Fee Payment and Penalties**

A. Upon passage of any referendum that continues a boll weevil eradication zone, all cotton producers growing cotton in the eradication zone shall be required to participate in the eradication program established for that zone.

B. Cotton producers in any boll weevil eradication zone continued by referendum, shall each year, submit to the FSA office the annual assessment as set by the commission in accordance with the Administrative Procedure Act, which assessment shall not exceed \$10 per acre for each year.

C. All of the provisions in §321.C-I of these regulations shall apply to each boll weevil eradication zone continued by referendum.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:1609, 1612, 1613.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 27:

**Family Impact Statement**

The proposed amendments to rules LAC 7:XV.327 regarding the Boll Weevil Eradication Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family

earnings and family budget, the behavior and personal responsibility of children, or the ability of the family or a local government to perform the function as contained in the proposed rule.

All interested persons may submit written comments on the proposed rules through December 27, 2000, to Dr. John Andries, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments, in writing, by the close of business on December 27, 2000. No preamble concerning the proposed rules is available.

Bob Odom  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Boll Weevil Eradication Zones:  
Continuation, Program Participation, Fee  
Payment and Penalties**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The purpose of this regulation is to continue the Boll Weevil Eradication Program in the Red River Zone. This continuation is for the containment part of the eradication program. Following passage of a referendum, the costs to state government units to implement the program is an estimated \$5,376,827 over a five-year period. This cost will be paid by producer assessments.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The maximum estimated effect on revenue collections to state governmental units per the rule is \$7,500.00 over a five-year period. This estimate is based on a \$50 per acre assessment collected over the five-year lifetime of this program. Cotton producers will be assessed \$10 per acre on an average of 150,000 acres of cotton each year. Actual revenue collections are estimated to be \$5,376,827, since assessments will be limited to actual costs.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The estimated cost to directly affected persons is \$5,376,827 over a five-year period. This estimate is based on a \$50 per acre assessment over the five-year lifetime of the program. The estimate assumes approximately 150,000 acres of cotton each year.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There should be no effect on competition within the state, but will facilitate competition with out of state producers. Approximately 50 positions will be maintained by this program. These will be a combination of full-time year round, full-time seasonal, and part-time jobs. The number of jobs will decrease over the life of the program.

Skip Rhorer  
Assistant Commissioner  
0010#052

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Economic Development  
Board of Architectural Examiners**

Limited Liability Companies (LAC 46:I.1505)

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the board of Architectural Examiners gives notice that rule making procedures have been initiated for the amendment and repromulgation of LAC 46:I.1505 pertaining to the practice of architecture by limited liability companies. The Board proposes to amend its rules to (1) delete the requirement that a limited liability company may practice architecture only if a majority of the membership is owned by one or more natural persons duly licensed to practice architecture in this state, and (2) allow a limited liability company to practice architecture which satisfies the requirements of the Architectural-Engineering Corporation Law, R.S. 12:1171 et seq. The proposed rules have no known impact on family formation, stability, or economy, as described in R.S. 49:972.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part I. Architects**

**Chapter 15. Professional Architectural Corporations,  
Architectural-Engineering Corporations,  
and Limited Liability Companies**

**§1505. Limited Liability Companies**

A. The practice of architecture by limited liability companies is only permissible when lawfully constituted under the laws pertaining to limited liability companies, R.S. 12:1301, et seq.

B. No person, firm, partnership, corporation, or group of persons shall solicit, offer, execute, or perform architectural services in this state as a limited liability company without first receiving a certificate from the board authorizing the limited liability company to do so.

C. A limited liability company soliciting, offering, contracting to perform, or performing the practice of architecture shall be subject to the discipline of the board and to its authority to adopt rules and regulations governing the practice of architecture.

D. Any person seeking to practice architecture as a limited liability company shall on an annual basis file with the board a request for licensure and registration, stating the name of the proposed limited liability company and designating therein the supervising professional architect who shall perform all professional architectural services or who shall directly supervise the performance of all architectural services by said limited liability company. The applicant is required to complete said application fully and return same to the executive director. Upon receipt of such application and the fee, the board shall promptly either approve said application and certify the limited liability company as authorized to practice architecture or disapprove said application advising the applicant of the reasons therefor.

E. Only those persons who are presently licensed by the board pursuant to the provisions of R.S. 37:141 through R.S. 37:158, who are in compliance with said provisions, who are full-time active employees of the limited liability company, and whose primary occupation is with that limited liability company may be designated as supervising professional architects.

F. The limited liability company shall authorize the registered supervising professional architect to appear for and act on behalf of the limited liability company in connection with the execution and performance of all contracts to provide architectural services.

G. In the event that such registered supervising professional architect ceases being a full-time active employee of the limited liability company or no longer employed by the limited liability company on a primary basis, the authority of the limited liability company to practice architecture is suspended until such time as the limited liability company designates another supervising professional architect pursuant to §1505.D above. However, if a contract to provide architectural services has been executed and the performance of architectural work is in progress on the date the authority of the limited liability company would be suspended in accordance with the first sentence of this paragraph, the authority of the limited liability company to practice architecture concerning that contract only may continue for a period not exceeding 90 days from the date the registered supervising professional architect ceases being a full-time active employee of the limited liability company or no longer employed by the limited liability company on a primary basis, or until that contract is completed, whichever occurs first.

H. The designated supervising professional architect will be responsible to this board for all acts and conduct of such limited liability company.

I. It will be the responsibility of the supervising professional architect to advise the board of any organizational change that would relate to the authority granted under this rule. Failure to do so could result in disciplinary action, including suspension, revocation, or rescission of the license of the supervising professional architect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 20:996 (September, 1994), amended LR 27:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809.

Mary "Teeny" Simmons  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Limited Liability Companies**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

An architectural firm which decides to practice architecture as a limited liability company may incur some legal costs in establishing such an entity, or in converting to such an entity. It is anticipated that any such costs would be nominal.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule.

Maty "Teeny" Simmons  
Executive Director  
0011#033

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Economic Development Office of Financial Institutions

#### Residential Mortgage Lending Continuing Education (LAC 10:XII.101-113)

Editor's Note: This Notice of Intent is being repromulgated to correct an error in the Fiscal and Economic Impact Statement. The original Notice of Intent may be viewed on pages 2335 - 2336 in the October 20, 2000 edition of the *Louisiana Register*.

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:1085 and R.S. 6:1094(A) of the Residential Mortgage Lending Act, (RMLA), the Commissioner of Financial Institutions hereby promulgates the following rule to provide guidelines governing required professional education for licensure pursuant to the RMLA by establishing requirements, procedures and standards for persons intending to participate in the RMLA continuing education program by conducting educational programs regarding licensure activity pursuant to the RMLA.

## Title 10

### FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

#### Part XII. Residential Mortgage Lending

##### Chapter 1. Residential Mortgage Lending Program

###### §101. Purpose

A. This Rule establishes minimum requirements that a certified continuing education facilitator must meet; procedures and standards for the facilitator's certification; and a procedure for verifying that continuing education requirements have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

###### §103. Procedures and Standards for Facilitator Course Certification

A. Persons who want to participate in the Residential Mortgage Lending Continuing Education Program as a Facilitator must obtain certification by the Commissioner of Financial Institutions ("commissioner") before engaging in that activity. Facilitators are subject to review by the Residential Mortgage Lending Board and must demonstrate their ability to provide an educational program that includes quality student materials and instructors with knowledge, experience and teaching skills necessary to improve the professional level of licensees. A facilitator must submit to the board the following not less than 30 days prior to the expected use of the program and pay a \$500 course evaluation fee as provided by R.S. 6:1094(C)(2). The commissioner may waive the 30-day requirement for good cause upon written request.

1. Continuing Education Facilitator Application on a form provided by the commissioner, along with its required attachments.

2. A copy of the student workbook and materials and a course outline on subject matter chosen from the approved topic list provided by the commissioner. The outline shall include presentation time specifications, a list of resource material, training aids, and the method of presentation.

a. If a facilitator submits a course with copyrighted materials, every student must be provided with original materials as part of the registration. No substitute texts, outlines, summaries or copyright infringements will be allowed.

b. Proprietary student material must be submitted to the board for review based on its own merits and must not infringe on existing copyright materials.

c. Description of the course material provider's method and frequency of updates to insure the integrity of the material.

3. Evidence that the course material is current and includes new developments in the residential mortgage business.

4. Any course that has not been certified by the commissioner before the date on which it is to be presented shall not be represented or advertised in any manner as "certified" for continuing education credit.

5. Certification is for one year. A facilitator may be re-certified by providing evidence that course materials are current and include recent changes in federal and state laws, rules, and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

###### §105. Course Requirements

A. Each certified facilitator conducting courses in Louisiana must meet the following requirements.

1. Courses must consist of at least eight hours of certified continuing education courses on topics submitted with the application and chosen from the approved topic list on a form provided by the commissioner.

2. Two hours of RMLA Orientation covering the Office of Financial Institutions' (OFI) application process, examination, and general overview of the Residential Mortgage Lending Act. OFI will provide material to instructors.

3. Classes will be in a live setting only; internet or correspondent courses will not be allowed.

4. One credit hour will be given for 50 minutes of instruction.

5. A minimum of 10 hours of certified courses must be conducted once monthly in New Orleans, Baton Rouge, or Shreveport. Courses must be conducted in each of these cities at least once per quarter.

6. A training schedule on a form provided by the commissioner must be submitted with each request for certification and re-certification. Any change in this schedule must be filed with the commissioner not less than seven days prior to the scheduled date.

7. Registration fee for 10-hour program shall not exceed \$400.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

###### §107. Training Facility Requirements

A. The training facility must be easily accessible and secure for the safety of the student. It must comply with all applicable state and federal laws, including but not limited to the Americans with Disabilities Act of 1990.

B. An atmosphere conducive to the education presentation shall be maintained, including good housekeeping; controlled environment as to heating and cooling; proper lighting; and proper furnishings.

C. The instructional area of the facility should be for the exclusive use of the instructional course while in session.

D. The facilitator is responsible for adequate training aids, overhead viewing equipment availability and proper visual layout of the classroom.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

###### §109. Procedures for Verifying Continuing Education Credits

A. The facilitator must submit a list of all participants who complete their course to the commissioner in a format approved by the commissioner. The list must be submitted within five business days of the course. The facilitator shall issue a certificate on a form approved by the commissioner, to each individual within 10 business days of successfully completing the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

**§111. Program Review**

A. The commissioner, his designee, or a board member with approval of the commissioner shall have the authority to visit a training facility and review the facilitator's program at any time. Visits may include the review of curriculum records, review of attendance records and observation of instructional sessions in progress.

B. The certification of a facilitator may be suspended or revoked by the commissioner if he determines that:

1. the facilitator's teaching method or curriculum does not meet the standards of this rule or has been significantly changed from that submitted for certification without notice to the commissioner for approval;

2. the facilitator certifies to the commissioner that an individual has completed an approved course in accordance with the standards furnished for certification or completion of the program, when in fact the individual has failed to do so;

3. the facilitator fails to issue a certificate to an individual who has satisfactorily completed the seminar in accordance with the standards furnished for certification; or

4. the commissioner determines there is good and just cause to suspend or revoke certification.

C. Reinstatement of a suspended certification may be made upon the furnishing of proof satisfactory to the commissioner that the conditions responsible for the suspension have been corrected.

D. The commissioner, his designee, or the board at the commissioner's direction, shall review all written complaints lodged against a facilitator or instructor. A meeting may be called for the purpose of investigating the complaint and/or taking necessary action to resolve the complaint. If the facilitator's certification is suspended, the facilitator must respond to the commissioner within 15 days after receiving notice of such suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

**§113. Facilitators for Courses Conducted Out of State**

A. Certified Facilitators who provide courses at locations out of state must comply with all parts of this Rule except for §105.A.5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

Any interested person may submit written comments regarding the contents of the proposed Rule to Gary L. Newport, Chief Attorney, Office of Financial Institutions, in person to: 8660 United Plaza Boulevard, Second Floor, Baton Rouge, Louisiana, 70809; or by mail to Louisiana Office of Financial Institutions, P.O. Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 4:30 p.m. November 20, 2000.

John D. Travis  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Residential Mortgage  
Lending**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule will result in an approximate cost of \$1,000 annually for travel expenses incurred by the residential mortgage lending board to attend board meetings. In addition a one-time cost of \$60 will be incurred to publish this Proposed Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be a \$500 fee collected from each educational provider. It is estimated that there will be five for a total revenue of \$2,500.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Estimated expenses to the mortgage loan originators will be up to \$400 per year. There are approximately 1,500 originators in Louisiana resulting in up to \$600,000 which they will pay to the educational providers.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment because all originators will be required to attend continuing education classes.

John D. Travis  
Commissioner  
0011#077

John R. Rombach  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification of School Personnel  
Alternative Certification of School Psychologists (LAC 28:I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The proposed amendment provides for the acceptance of an individual's current national certification by the National Association of School Psychologists for the issuance or renewal of Louisiana school psychologist certification. The standards for national certification currently exceed the Louisiana standards for certification of school psychologists.

**Title 28**

**EDUCATION**

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

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

A. Bulletin 746

\* \* \*

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000), LR 26:635 (April 2000); LR 26:638 (April 2000), LR 27:

**Bulletin 746: Louisiana Standards For State Certification Of School Personnel**

**Alternative Certification of School Psychologists  
School PsychologistC Mandatory January 1, 1983**

**Standard Certificate** (valid for five years, renewable)

1. Issued upon completion of a school psychology training program in Louisiana which meets the requirements of the Standards for Training Programs in School Psychology\*

2. Issued to persons who have completed academic preparation in school psychology in another state and whose academic preparation, as evaluated by the Bureau of Higher Education and Teacher Certification, is judged to meet the requirements of the Standards for Training Programs in School Psychology

3. Issued to persons who hold current national School Psychologist certification by the National Association of School Psychologist.

4. Issued to persons who were certified according to criteria previously adopted by the State Board of Elementary and Secondary Education, and

a. Were certified at levels A or B, or

b. Show evidence of 30 additional graduate semester hours (to Level C for 60 hours total) in the areas specified under Level E from a regionally accredited college or university, and who have been employed for at least two years under the supervision of a licensed psychologist or a Level A or B school psychologist with three years of supervised experience as a school psychologist, at least two years of which have been in Louisiana.

5. There shall be two levels of certification issued as Standard Certificates in School Psychology.

a. Level A: Issued to applicants who meet the requirements for the Standard Certificate and who possess a doctoral degree (such as Ph.D, Ed.D, or Psy.D) in psychology from a regionally accredited institution.

b. Level B: Issued to applicants who meet the requirements for the Standard Certificate and who possess a master's or specialist degree from a school psychology training program in a regionally accredited institution.

**Provisional Certificate** (valid for one year; renewable once, unless lapsed)

1. Issued to persons who have completed academic preparation in school psychology that meets the requirements of the Standards for Training Programs in School Psychology, except for the internship. The internship shall be completed during the time of the provisional certificate in accordance with the internship requirements specified in the Standards for Training Programs in School Psychology.

2. Issued to persons whose certification has lapsed and who have not met the requirements for certification renewal.

**Renewal Period**

1. The Standard Certificate in School Psychology shall be issued for a period of five years and may be renewed for subsequent five-year periods upon completion within each period ...

a. At least one year of full-time experience or the equivalent as a psychologist, and

b. Six semester hours of additional graduate credit in any of the areas specified in the Standards for Training Programs in School Psychology, or

c. The equivalent number of Continuing Professional Development/Education Units currently awarded by the State Department of Education, the National Association of School Psychologists, or the American Psychological Association, or

d. A combination of graduate credit hours and Continuing Professional Development/Education Units equivalent to six semester hours, or upon presentation of current national School Psychologist certification awarded by the National Association of School Psychologists.

2. The Provisional Certificate may be renewed for one additional year when necessary to complete the internship and upon written request of the applicant and the Director of the Training Program or Intern Supervisor.

3. Lapsed certificates may be renewed upon verification of 1b, 1c, or 1d above. A Provisional Certificate may be awarded for a one-year period during which time the individual must meet the renewal requirements to be awarded the Standard Certificate.

A School Psychologist or School Psychological Assistant certified at Levels E, D, or C (if less than two years of experience) according to criteria previously adopted by the State Board of Elementary and Secondary Education shall have continuing approval for the provision of School Psychological services so long as such certification is kept valid according to the previous renewal criteria. Graduate training taken to meet the renewal requirements for the previous criteria shall be earned in the areas specified in the Standards for Training Programs in School Psychology.

\*These standards are on file in the Office of Certification and Higher Education in the State Department of Education.

Interested persons may submit comments until 4:30 p.m., January 10, 2001, to: Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Alternative Certification of School Psychologists**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy provides for the acceptance of an individual's current national certification by the National Association of School Psychologists for the purposes of issuance and renewal of school psychologist certification in Louisiana. It will eliminate the necessity for the individual to submit required documentation to both the state agency and the national certification body.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
0011#074

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Special Certificate for K-8 Foreign Language Teachers with Foreign Credentials (LAC 28:I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The proposed amendment will enable certain individuals who hold foreign credentials and who have been employed in Louisiana as Foreign Associate Teachers to be granted a Special Certificate. Some of these individuals who choose to remain in Louisiana have encountered difficulty in achieving standard certification according to the guidelines in effect for applicants with foreign credentials.

**Title 28  
EDUCATION**

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

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

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435,

541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000); LR 26:635-638 (April 2000); LR 26:638-639 (April 2000), LR 27:

**Bulletin 746: Louisiana Standards For State Certification Of School Personnel**

**Special Certificate for K-8 Foreign Language Teachers with Foreign Credentials**

A Special Certificate, valid only to teach a foreign language in grades K-8 and allowing the holder to receive the same benefits as other regularly certified teachers, may be issued to a person who:

- a. holds a degree from a foreign university;
- b. holds a teaching certificate from that country;
- c. is a native speaker of the language to be taught;

and

- d. has completed at least two years of service in Louisiana as a Foreign Associate Teacher.

Interested persons may submit comments until 4:30 p.m., January 10, 2001, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Special Certificate for K-8 Foreign Language Teachers with Foreign Credentials**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy will enable individuals who hold appropriate foreign credentials and who have been employed in Louisiana as foreign associate teachers to become certified to teach the foreign language in grades K-8 without pursuing further course evaluation(s) and/or course credit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy should result in a slight increase in the number of certified teachers available to teach foreign language in grades K-8 in Louisiana.

Marlyn Langley  
Deputy Superintendent  
0011#076

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Restructure of Board Committees (LAC 28:I.103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement the following revision to the structure, focus areas and charges of the standing committees of the board. The revision reflects the transfer of the post secondary technical system and the adjustments made in order to better address critical initiatives.

#### **Title 28 EDUCATION**

#### **Part I. Board of Elementary and Secondary Education Chapter 1. Organization**

#### **§103. Board Committees**

A. ...

B. Standing committees composed of not less than three members of the board and appointed by the president are:

1. 8(g) Committee. Charge: To allocate funds to any or all constitutional categories to enhance elementary and secondary education; to consider all administrative matters of the 8(g) program; and to establish expectations of academic excellence and require accountability of performance.

2. Accountability and Assessment Committee. Charge: To consider all matters relating to student, school and district accountability; to consider all student assessment issues; to determine necessary student and school level interventions based on assessment results of established assessment; to consider all issues regarding the statewide Accountability System; to coordinate resources for school improvement; to monitor the performance of student and schools.

3. Board Relations/Strategic Planning/Administration Committee. Charge: To improve the credibility and visibility of the board and communicate the problems and needs of education through activities of the board and superintendent; to provide for strategic planning and recommend performance outcomes for education initiatives; to consider routine administrative matters of the board; to organize issues-related information to guide board decisions; to administer the superintendent's evaluation; and to receive updates on the benefits of the department's reorganization; to consider program and personnel issues impacting the state Special Schools; to develop policies and procedures for charter school approval and implementation; and to administer loan fund activities of charter schools.

4. Career and Technical Committee. Charge: To serve as liaison with the LCTCS Board to oversee the administration of Carl Perkins funds; to consider matters related to secondary career training programs, such as JTPA; to monitor Department activities related to secondary vocational education; to build an articulated framework from 9-16.

5. Finance/Audit Review Committee. Charge: To provide for a budget process; to annually develop and adopt a formula to equitably allocate education funds to parish and city school systems; to formally review operational plans developed by BESE, SDE, and Special Schools prior to submission to the Office of Planning and Budget; to grant

budget approval and any revisions for the SDE, BESE, and Special Schools; to assure that adequate funding and appropriations are passed along with accountability measures for Special Schools; to review and approve all contracts and leases with agencies under its jurisdiction; to review and address SDE, BESE, and Special Schools audit reports and plans to correct irregularities; and to consider payment of invoices submitted for approval.

6. Legal/Due Process Committee. Charge: To consider legal issues and matters of litigation; to serve as an administrative court of last resort prior to adjudication in the judicial court system (usually revocation/reinstatement of teaching certificates, employee grievances involving property rights, and all due process matters); and to approve nonpublic schools in compliance with *Brumfield v. Dodd*.

7. Legislative/Policy Oversight Committee. Charge: To study the impact of present and future state and federal legislation; to identify the board's role in new legislation; to review goals, implementation and appropriate performance indicators for education initiatives; to develop position statements and/or white papers on education related legislation pending before the legislature and to develop committee/floor strategies for proposed legislation; to draft legislative education reform recommendations; and to receive reports/studies on program results and/or evaluations.

8. Quality Educators Committee. Charge: To make recommendations regarding teacher certification standards, including course studies and teacher licensing test; to consider waivers and/or appeals to standards in special circumstances; to provide for teacher evaluation and assistance, including mentoring; to provide professional development and leadership development designed to improve teaching and learning; to review the impact of professional development activities on teaching and learning; to coordinate activities of the Technology Center; and to coordinate partnerships between secondary and post-secondary institutions.

9. School and Community Support Committee. Charge: To consider school support matters such as nutrition and transportation services, parental involvement, community based learning, school safety, migrant education, child welfare and attendance; and to make recommendations for community support in the area of adult/parental education and training.

10. Student and School Standards/Instruction Committee. Charge: To consider all matters relative to school and student standards; to set standards for high school graduation options; to monitor technical assistance in local curriculum development to align with the state content standards; to monitor curriculum based initiatives, such as Reading/Math; to provide for the education needs of special populations; and to provide for adequate textbooks and materials of instruction.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(D) and R.S. 17.6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 16:297 (April 1990); amended LR 24:1496 (August 1998), amended LR 26:

Interested persons may submit comments until 4:30 p.m., January 10, 2001, 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: Restructure of Board Committees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
This action will have no fiscal effect other than \$80.00 for advertising in the *State Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This action will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
This action will have no effect on cost and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This action will have no effect on competition and employment.

Weegie Peabody  
Executive Director  
0011#075

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Commission Bylaws (LAC 28:VI.209)

The Louisiana Tuition Trust Authority (LATTA), the statutory body created by R.S. 17:3091-3099.2 in compliance with §952 of the Administrative Procedure Act, hereby announces its intention to revise its governing bylaws. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28  
EDUCATION**

**Part VI. Tuition Trust Authority**

**Chapter 2. Bylaws**

**§209. Committees**

- A. - A.3. ...
  - 4. planning committee; and
  - 5. rules committee.
- B. - B.2. ...
  - 3. The vice chairman of the authority shall be chairman of the rules committee.
  - 4. The term of committee appointments shall be one year.

5. Vacancies occurring among the appointive members of any committees, however arising, shall be filled by the chairman of the authority for the remainder of the unexpired term.

C. - F.3. ...

4. The executive committee shall consider such matters as shall be referred to it by the authority and shall execute such orders and resolutions as shall be assigned to it at any meeting of the authority.

5. However, the authority may not delegate to the executive committee the final determination of the rate of interest to be paid on education savings accounts of record at the close of the calendar year.

6. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting.

7. The executive committee shall also approve all budget adjustments prior to submission to the appropriate authority.

8. In the event that an emergency requiring immediate authority action shall arise between authority meetings, it shall be the duty of the executive committee to meet in emergency session to take such action as may be necessary and appropriate.

9. The executive committee shall report the actions it takes in emergency session to the authority for ratification at the authority's next meeting.

G. - H.3.d. ...

I. Planning Committee. The planning committee shall consist of not less than six members of the authority. Normally, to this committee shall be referred the Strategic Plans and related matters.

J. Rules Committee. The rules committee shall consist of not less than seven members of the authority. Normally, to this committee shall be referred all matters related to making and interpreting rules.

K. Special Committees

1. As the necessary therefore arises, the chairman may, with the concurrence of the authority, create special committees with such functions, powers and authority as may be delegated.

2. The chairman may appoint ad hoc committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

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 23:1655 (December 1997), amended LR 27:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., December 20, 2000, to Jack L. Guinn, Executive Director, Office of Student Finance Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley  
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Commission Bylaws**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
No cost is anticipated to implement the proposed rule change. The rule establishes a Planning Committee and a Rules Committee and provides for their duties.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No impact on revenue collections is anticipated to result from this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
No impact on non-governmental groups is anticipated to result from this action.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley  
Assistant Executive Director  
0011#021

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Nursing**

**Alternatives to Disciplinary Proceedings  
(LAC 46:XLVII.3419)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to Alternatives to Disciplinary Proceedings. The proposed amendments of the rules are set forth below.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part XLVII. Nurses  
Subpart 2. Registered Nurses**

**§3419. Alternative to Disciplinary Proceedings**

A. Under the provisions of *Louisiana Revised Statutes* 37:911 et seq., as re-enacted and amended, the Louisiana State Board of Nursing (board) has the authority to establish and implement a recovering nurse program as an alternative to the disciplinary process. The RNP is established to assist registered nurses or student nurses who have demonstrated actual or potential inability to practice nursing with reasonable skill and safety to individuals because of use of alcohol or drugs; or who have demonstrated inability to practice nursing with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition, so that such nurses or student nurses can be treated and return to the practice of nursing in a manner which will not endanger the public health, safety and

welfare. Only nurses or student nurses whose conditions have reliable indicators of ability for safe nursing practice will be eligible for participation in the RNP.

1. The purpose of the RNP is to encourage the voluntary participation of such nurses or student nurses in appropriate rehabilitative medical treatment and/or ongoing aftercare and monitoring, and to allow for the deferral of administrative proceedings of such nurses under the Louisiana Nursing Practice Law, R.S. 37:911-933.

A.2. - B. ...

1. ensure the health, safety and welfare of the public through a program that closely monitors registered nurses or student nurses whose capacity to practice nursing with reasonable skill and safety to patients has been, or may potentially be, compromised because of use of alcohol or drugs, or because of illness or as a result of any mental or physical condition;

2. promote safe nursing care by preventing and/or restricting the practice of the chemically, physically, and/or mentally impaired nurse or student nurse;

3. implement a plan for identification, referral to treatment facilities and monitoring of the chemically, physically and/or mentally impaired nurse or student nurse;

4. establish criteria for identification of a chemically, physically and/or mentally impaired nurse or student nurse;

5. ...

6. provide a structured program for nurses and student nurses seeking recovery from the impairment through a non-punitive process;

7. provide educational programs to the health care community related to the identification and intervention of chemically, physically and/or mentally impaired nurses or student nurses, subsequent treatment alternatives, and monitoring.

C. ...

\*\*\*

*Confidentiality* Call records of a nurse or student nurse who has successfully completed or is in the non-disciplinary alternative program shall not be subject to public disclosure, and shall not be available for discovery proceedings except as required by federal and state confidentiality laws and regulations. The records of a nurse or student nurse who fails to comply with the Program Agreement or who leaves the program without enrolling in a alternative program in the state to which the nurse moves, or who subsequently violates the Nurse Practice Act or the rules of the board, shall not be deemed confidential except for those records protected by Federal and State confidentiality laws and regulations.

*Impaired Nurse* Ca registered nurse or student nurse who has demonstrated actual or potential inability to practice nursing with reasonable skill and safety to individuals because of use of alcohol or drugs; or has demonstrated inability to practice nursing with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition.

\*\*\*

*Recovering Nurse Program (RNP)* Ca program established by the board to identify and assist registered nurses, registered nurse applicants and student nurses whose capacity to practice nursing with reasonable skill and safety to patients has been, or may potentially be, compromised

because of use of alcohol or drugs, or because of illness or as a result of any mental or physical condition.

\*\*\*

*Student Nurse* Can individual who is enrolled in a Louisiana State Board of Nursing approved program preparing for licensure as a registered nurse.

D. - D.2 ...

3. ...

a. licensed registered nurse who resides in the state of Louisiana; or graduate of a school of nursing who is eligible for licensure in Louisiana; or registered nurse currently enrolled in a peer assistance program and who is requesting endorsement from another state; or registered nurse currently enrolled in a peer assistance/alternative program and who is licensed in Louisiana and is requesting transfer back to Louisiana, or a student nurse enrolled in a Louisiana State Board of Nursing approved program;

b. ...

c. addicted to or uses alcohol and/or other mood altering substances including prescription drugs, or has a physical or mental condition, which impairs or potentially impairs the ability of the nurse or student nurse to perform duties safely;

d. no previous disciplinary action within the past two years. No previous peer assistance/alternative program participation unless first relapse uncomplicated by previous history;

e. - i. ...

j. agrees to comply with all RNP specifications and signs Program Agreement including statement of admission of chemical dependency or other impairment.

E. - E.1. ...

2. A registered nurse or student nurse seeking confidential entry into the Recovering Nurse Program (RNP) is initially interviewed by the board's professional staff, the employer, and/or a qualified clinician to assess the nurse's immediate needs, to identify and evaluate the nature and extent of the nurse's or student nurse's impairment, and to determine the nurse's or student nurse's motivation for seeking entry into the program. Eligibility for entry into RNP is based upon the criteria in §3419.D.

3. The board reserves the right to require participation in RNP of any impaired individual who has disciplinary action on their license or who is seeking licensure or who is enrolled in an approved program preparing for licensure as a registered nurse.

4. - 6.c. ...

d. A participant's failure to comply with the RNP agreement may constitute grounds for disciplinary action.

F. ...

1. For nurses or student nurses who have met criteria in §3419.D. and have entered the program confidentially with no disciplinary action will progress according to the guidelines established by the board.

2. Nurses or student nurses who are admitted by disciplinary action will progress according to guidelines established by the board.

G. ...

1. A participant who moves from Louisiana to another state with an alternative program shall have records transferred to that program.

2. A participant nurse or student nurse who moves to a state where there is no alternative program shall have the nurse's records transferred to the board in the receiving state and notification of same to Nursing Consultant for Compliance.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 27:

### Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed rule related to the Board's appointing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments on the proposed rules to: Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd, Suite 501, Metairie, LA, 70002. The deadline for receipt of all written comments is 4:30 p.m. on December 8, 2000.

Barbara L. Morvant, R.N.  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Alternatives to Disciplinary Proceedings

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated increase or decrease in expenditure or savings based on the projection of 8-10 students entering the Recovering Nurse Program (RNP) per year. These same individuals would be monitored by the board through the disciplinary department if not entering RNP. The only implementation cost is the estimated \$45.00 cost of publishing the rule in the *Louisiana Register*.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is projected that the board will experience a \$5,000 per year loss of revenues based on 8-10 students entering the RNP per year. The loss of self-generated revenues will result from disciplinary fines and fees not excused as a result of entering RNP.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals will no longer pay disciplinary fines and fees.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Barbara L Morvant, R.N.  
Executive Director  
0011#032

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of Public Health**

Genetic Diseases C Neonatal Screening (LAC 48:V.6303)

Under the authority of R.S. 40:5 and 40:1299 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend Subsections A, B, E and G of LAC 48:V.6303.

The proposed Rule increases the fee for the purchase of the laboratory specimen form used for newborn screening, adds screening for biotinidase deficiency and includes other requirements necessary for ensuring proper testing, follow-up and reporting. It also restates references on which requirements are based.

The proposed rule should have an overall positive impact on the stability, authority, functioning, behavior and personal responsibility of the family unit in that the rule would ensure that newborn screening is performed timely and properly. Newborn screening is a very important service to families in detecting diseases at birth which can be identified through proper and available screening. Although the proposed rule contains a \$6 increase in the fee for the lab slip used in newborn screening, the proposed fee is well within the average range as charged by other southern states.

**Title 48**

**PUBLIC HEALTHC GENERAL**

**Part V. Public Health Services**

**Subpart 19. Genetic Diseases Services**

**Chapter 63. Neonatal Screening**

**§6303. Purpose, Scope, Methodology**

A. Purpose and Scope. R.S. 40:1299.1.2.3, require physicians to test Louisiana newborns for phenylketonuria, congenital hypothyroidism, sickle cell disease and biotinidase deficiency. The Office of Public Health (OPH) maintains a laboratory for performing screening tests for hyperphenylalanemia manifest in phenylketonuria (PKU), for thyroxine (T<sub>4</sub>) and thyroid stimulating hormone (TSH) used in congenital hypothyroidism detection, hemoglobin identification for sickle cell disease and enzyme assay for detection of biotinidase deficiency. Definitive diagnostic tests are provided if the screening test is positive. The newborn screening battery may also be available through other approved laboratories (see Subsection G). Act 0997 of the 1993 Legislative Regular Session of the state of Louisiana, removed galactosemia from the newborn screening battery and replaced it with a program for informing physicians and hospitals of the current medical standards for diagnosing and treating children who exhibit clinical symptoms which suggest the presence of galactosemia.

**B. Methodology**

1. Filter Paper Specimen Form, (Lab-10) used in blood specimen collection for neonatal screening, can be obtained at parish health units. There are two different types of Lab-10 forms which are color coded.

a. ...

b. For private and non-Medicaid patients, red border Lab-10 forms are used. These red border Lab-10 forms are \$18 each.

2. ...

3. For non-Medicaid patients with a financial status of greater than 100 percent of the Poverty Guidelines as established by the Department of Health and Hospitals (DHH) and who attend a parish health unit for just the newborn screening service, the parent or guardian will be charged \$18 upon registering at the parish health unit.

C. - C.2. ...

**D. Notification of Screening Results**

1. Providers are notified immediately of positive screens by telephone. Otherwise, submitters should receive the result slip from the State Central Lab within two to three weeks. Submitters may call the Central Lab for results 10 days after submission. The telephone number for the Central Lab is (504) 568-5371. Results are also available to submitters 24 hours a day, 365 days a year through the Voice Response System with FAX (VRS) which is accessed by using a touch tone telephone. Information on using VRS can be obtained by calling the Genetic Diseases Program Office at 1-800-871-9548.

E. Unsatisfactory Specimens. The accuracy of a test depends on proper collection of the blood spot. Specimens of unsatisfactory quality for testing will be indicated on the result slip. Training on collecting adequate specimens can be arranged by calling the Genetics Nurse at telephone number (504) 568-5070.

F. - F.1.f. ...

G Acceptable Newborn Screening Testing Methodologies and Procedures for Medical Providers Not using the State Laboratory. Laboratories performing or intending to perform the state mandated newborn screening battery on specimens collected on Louisiana newborns must meet the conditions specified below pursuant to R.S. 40:1299.1.

1. The testing battery must include testing for phenylketonuria (PKU), congenital hypothyroidism, biotinidase deficiency, and the following hemoglobinopathies: sickle cell disease, SC disease, thalassemias, E disease and C disease.

2. ...

3. A laboratory must perform the complete battery at one site. Using two laboratories for completion of the total battery is unacceptable as this increases the risk of error and delay in reporting.

4. When using dried blood spots, only specimen forms using filter paper approved by the Centers for Disease Control (CDC) are acceptable.

5. Only the following testing methodologies are acceptable without prior approval:

| Disease                          | Testing Methodology   |
|----------------------------------|---|
| PKU                              | Flourometric<br>Tandem Mass Spectroscopy<br>Guthrie Bacterial Inhibition Assay<br>Phenylalanine level cut-off: >3 mg, dL, call Genetics Office immediately for obtaining phenylalanine/tyrosine |
| Congenital Hypothyroidism        | Radioimmunoassay (RIA) or Enzyme Immunoassay (EIA) methods for T <sub>4</sub> and/or Thyroid Stimulating Hormone (TSH) which have been calibrated for neonates                                  |
| Biotinidase Deficiency           | Qualitative or Quantitative Enzymatic Colorometric or Fluorometric  |
| Hemoglobinopathies (Sickle cell) | Cellulose acetate/citrate agar<br>Capillary isoelectric focusing (CIEF)   |

|  |  |
|--|--|
|  | Gel isoelectric focusing (IEF)<br>High Pressure Liquid Chromatography (HPLC)<br>Sickle DexCNOT Acceptable<br>Controls must include: F, A, S, C, E<br>Result Reporting: by phenotype<br>Positive/negative is NOT acceptable |
| New Food and Drug Administration approved methodologies may be used if found to be acceptable by the Genetic Diseases Program. Approval should be requested in writing 60 days before the intended date of implementation (see Genetic Diseases Program mailing address below). Requests for approvals will be based on documentation of FDA approval and an inhouse validation study of said methodology. |  |

6. The laboratory must comply with the regulations for proficiency testing as mandated in the Clinical Laboratory Improvement Amendments of 1988 (CLIA 88 Section §493.1707). When using dried blood spots, the laboratory must participate in the proficiency testing program of the Centers for Disease Control. The laboratory must report all proficiency testing results to the Genetic Diseases Program Office within one month of receiving the report from the proficiency testing provider.

7. The laboratory must be able to provide test result data to physicians and nurses on their specific patients by telephone and by FAX 24 hours a day 365 days a year.

8. Mandatory Reporting of Positive Test Results Indicating Disease

a. To ensure appropriate and timely follow-up, positive results must be reported, along with patient demographic information as specified below to the Genetic Diseases Program Office either by FAX at 225/568-7722 or by telephone at 225/568-5070 and followed up by the mailing of the information to the following address: Genetic Diseases Program, P.O. Box 60630, Room 308, New Orleans, LA 70160-0630.

b. Specific time deadlines for Reporting positive results indicating probable disease to the Genetics Office:

- i. PKU: report a phenylalanine level of >3 mg/dL on the initial or repeat blood specimen within 2 hours;
- ii. congenital hypothyroidism: report confirmatory test results within 24 hours;
- iii. biotinidase deficiency: report confirmatory results within 24 hours;
- iv. sickle cell disease: report results of FS, FSC, FSA from initial specimens within 24 hours.

c. The specified information to be reported:

- i. child's name;
- ii. parent or guardian's name;
- iii. child's street address;
- iv. child's date of birth;
- v. child's sex;
- vi. child's race;
- vii. parent's telephone number;
- viii. collection date;
- ix. test results;
- x. primary care physician;
- xi. age at collection (< or > 48 hours old);
- xii. birth weight;
- xiii. full term or premature;
- xiv. transfusion

Yes \_\_\_ Date of last transfusion No \_\_\_.

9. Provision of Follow-up Services. To ensure that reporting time deadlines are met for every positive result indicating probable disease under b above, a follow-up

system must be in operation. The protocol for a follow-up system must include the following.

- a. Locate the infant and ensure diagnostic and medical care:
  - i. telephone call to medical provider within 24 hours of positive lab result;
  - ii. if there is no medical provider available, a telephone call should be made to parent/guardian;
  - iii. if the parent/guardian does not have a telephone, then notify them by certified and regular mail;
  - iv. if there is no response to mail within 5 days, a home visit should be made;
  - v. report to the Genetic Diseases Program Office all patients with suspect results who are unable to be located.
- b. Results of repeat testing should be obtained.
  - i. If results are normal, the case can be closed.
  - ii. If results are abnormal, the case must be reported to the Genetic Diseases Program Office.

10. Reporting requirements of private laboratories to the Genetic Diseases Program Office for public health surveillance and quality assurance purposes.

a. The laboratory must submit quarterly statistical reports to the Genetic Diseases Program Office that indicate the number of specimens screened by method, the number of specimens unsatisfactory for testing, the number normal and positive, and for screening of hemoglobinopathies, the number by phenotype (see Genetics Office address in Subsection G.7).

b. The laboratory must also report to the Genetic Diseases Program Office via electronic transmission newborn screening results on all Louisiana newborns screened each month. The method of transmitting as well as the reporting must be by diskette or another mutually agreed upon form of electronic transmission. The file format and data layout will be determined by the Genetic Diseases Program.

11. The laboratory must register by letter with the Genetic Diseases Program of the Office of Public Health each year. This letter must contain the following and be received in the Genetic Diseases Program Office by February 1 each year:

- a. assurance of compliance with the requirements described in Subsection G.1.-9;
- b. the type of testing methodologies used;
- c. the number of specimens projected to be tested or actually tested annually;
- d. the type of specimen(s) used i.e., filter paper or whole blood;
- e. reporting format for positive/abnormal test results.

12. Guidelines and recommendations on quality assurance of newborn screening from nationally recognized committees and authors should be considered in the establishment and operation of a newborn screening system.

Reference

<sup>1</sup>American Academy of Pediatrics, Committee on Genetics: New Issues in Newborn Screening for Phenylketonuria and Congenital Hypothyroidism. *Pediatrics* 1982; 60-104-6.

<sup>2</sup>References pertaining to Subsection G:  
 a. Committee on Genetics, American Academy of Pediatrics Issues in Newborn Screening. *Pediatrics* 1992;89:345.

b. CORN Newborn Screening Committee, Council on Regional Networks for Genetic Services. U.S. Newborn Screening System

Guidelines: Statement of the Council of Regional Networks for Genetics Services. Screening, 1 (1992 pp. 135-147).

c. Andrews L *Legal Liability and Quality Assurance in Newborn Screening*. Chicago, American Bar Foundation (1985), pp. 82-83.

d. National Committee for Clinical Laboratory Standards (NCLS) Standards for Blood Collection on Filter Paper for Neonatal Screening. Document LA4-A2 July 1992.

e. Committee on Assessing Genetic Risks, Division of Health Sciences Policy, Institute of Medicine *Assessing Genetic Risks* National Academy Press, Washington, D.C. (1994).

f. Clinical Laboratory Improvement Amendments, 1988. Health Care Financing Authority (HCFA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, LR 17:378 (April 1991), LR 18:1131 (October 1992), LR 20:1386 (December 1994), LR 23:301 (March 1997), LR 27:

A public hearing will be held December 29, 2000 at 9:00 a.m. in room 511 of the State Office Building in New Orleans located at 325 Loyola Avenue. Interested persons may submit written comments on the proposed rule until December 20, 2000 to Charles Myers, MSW, Administrator, Louisiana Genetic Diseases Program, Office of Public Health/DHH, Room 308, P.O. Box 60630, New Orleans, Louisiana 70160-0630 or by FAX to (225) 568-7722.

David W. Hood  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Genetic Diseases Neonatal Screening

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Agency is reporting costs of \$66,000 for FY 01, and \$198,000 per year for FY 02 and FY 03 respectively. These costs represent biotinidase screening and other laboratory services that were implemented in FY 99 pursuant to Act 328 (1999) and for the purpose of maintaining national newborn screening and follow-up minimum standards. These costs consist of the following items within the State Central Laboratory: One clerk, computer programming contract, an automated dial up reporting system, supplies for laboratory testing and laboratory equipment. A one time cost for the publication of the rule in the *Louisiana Register* is also included in the projection for FY 01. These projected costs will match the amount of revenue projected from the proposed fee increase for the newborn screening lab specimen form.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed fee increase from \$12.00 to \$18.00 per lab form is projected to increase state collections by an additional \$66,000 for FY 01 and \$198,000 annually thereafter based upon current birth rate projections. Revenue projections should match the cost of services associated with this rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Hospitals, physicians and clinics will pay \$6.00 more per lab form as used in the required screenings of newborns. Private laboratories impacted by this rule will have to change or add reporting and follow-up activities to current procedures.

However, their costs associated with compliance with specified reporting and follow-up procedures are expected to be limited.

The proposed \$6.00 increase for the purchase of the lab form as used for screening any newborns not covered by Medicaid will probably be passed on to their parents/guardians and/or their insurance companies.

This is the first such increase since the inception of the fee in 1988 and is within the range charged by many states. Assurance of proper newborn testing and follow-up will be improved by the proposed rule which will benefit children affected by a disease for which screening is mandated.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment from the proposed action.

Madeline McAndrew  
Assistant Secretary  
0011#057

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

Early Periodic Screening, Diagnosis and  
Treatment Dental Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay. As a result of the budgetary shortfall, the bureau adopted a rule to reduce the reimbursement fees for EPSDT dental services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau determined it was necessary to restore the 7 percent reduction that was previously made to the reimbursement fees for EPSDT dental services. In addition, the reimbursement fees for certain designated procedure codes were increased (*Louisiana Register*, Volume 26, Number 7).

The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2000 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction that was previously made to the reimbursement fees for the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services. In addition, the reimbursement fees for certain designated procedure codes are increased to the following rates:

| Procedure Code | Procedure Name                  | New Rate |
|----------------|---------------------------------|----------|
| 02110          | Amalgam-1 Surface Deciduous     | \$ 35.00 |
| 02120          | Amalgam-2 Surface Deciduous     | \$ 45.00 |
| 02130          | Amalgam-3 Surface Deciduous     | \$ 55.00 |
| 02140          | Amalgam-1 Surface Permanent     | \$ 35.00 |
| 02150          | Amalgam-2 Surface Permanent     | \$ 45.00 |
| 02160          | Amalgam-3 Surface Permanent     | \$ 55.00 |
| 02930          | Stainless Steel Crown-Primary   | \$ 75.00 |
| 02931          | Stainless Steel Crown-Permanent | \$ 75.00 |
| 02950          | Crown Buildup                   | \$ 75.00 |
| 05211          | Upper Acrylic Partial w/Clasp   | \$355.00 |
| 05212          | Lower Acrylic Partial w/Clasp   | \$355.00 |
| 07110          | Simple Extraction               | \$ 35.00 |
| 07210          | Surgical Extraction             | \$ 50.00 |

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, December 28, 2000, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Early Periodic Screening, Diagnosis and Treatment Dental Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$959,137 for SFY 2000-01, \$991,865 for SFY 2001-02, and \$1,021,621 for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-2001 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 \$2,289,888 for SFY 2000-01, \$2,354,507 for SFY 2001-02, and \$2,425,142 for SFY 2002-03.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will increase expenditures to providers of EPSDT dental services by approximately \$3,248,905 for SFY 2000-01, \$3,346,372 for SFY 2001-02, and \$3,446,763 for SFY 2002-03.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0011#062

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Home Health Program Extended Skilled Nursing Visits**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Home Health extended skilled nursing visits provided to medically fragile Medicaid recipients under the age of 21. Reimbursement is made at a prospective rate established by the bureau. As a result of a budgetary shortfall, the bureau adopted a rule to reduce the reimbursement rate for the first hour of the Home Health extended skilled nursing visit to \$20.00 (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau determined it was necessary to increase the reimbursement rate for the Home Health extended skilled nursing visit to \$24.50 per hour (*Louisiana Register*, Volume 26, Number 7).

The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2000 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rate for Home Health extended skilled nursing visits to \$24.50 per hour.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health

Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed rule is scheduled for Thursday, December 28, 2000, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home Health ProgramC Extended  
Skilled Nursing Visits**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately (\$37,680) for SFY 1999-00, (\$175,458) for SFY 2000-01, (\$181,518) for SFY 2001-02, and (186,964) for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-01 for the states administrative cost of promulgating this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately (\$89,316) for SFY 1999-00, (\$418,994) for SFY 2000-01, (\$430,891) for SFY 2001-02, and (\$443,818) for SFY 2002-03.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

Implementation of this proposed rule will establish a separate reimbursement rate when skilled nursing services are provided by a licensed practical nurse. Implementation of this proposed rule will reduce the reimbursement to home health agencies by approximately (\$126,996) for SFY 1999-00, (\$594,572) for SFY 2000-01, (\$612,409) for SFY 2001-02, and (\$630,782) for SFY 2002-03.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There is no known effect on competition. As a result of the rate reduction some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden  
Director  
0011#070

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Home Health ServicesC  
Skilled  
Nursing Reimbursement Reduction**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule in March 1996 that established a prospective reimbursement methodology for home health services as well as other provisions governing these services under the Medicaid Program (*Louisiana Register*, Volume 22, Number 3). As a result of a budgetary shortfall, the bureau determined it was necessary to amend the reimbursement methodology to establish a separate reimbursement rate for skilled nursing and physical therapy services when these services are not performed by a licensed registered nurse (RN) or licensed physical therapist. Reimbursement is set at 80 percent of the current rate when skilled nursing services are performed by a licensed practical nurse (LPN). Reimbursement is set at 80 percent of the current rate when physical therapy services are performed by a physical therapy assistant. However, the current rates on file will continue to be paid when a registered nurse provides the skilled nursing service and when a licensed physical therapist provides the physical therapy services (*Louisiana Register*, Volume 26, Number 2). The bureau has subsequently decided to discontinue the reduced reimbursement for physical therapy services when the service is provided by a physical therapy assistant (*Louisiana Register*, Volume 26, Number 9). The bureau now proposes to adopt a rule to continue all other provisions contained in the February 1, 2000 Emergency Rule, except for the provision that established a separate reimbursement rate for physical therapy services when these services are performed by a physical therapy assistant.



In compliance with Act 1183 of the 1999 Regular Session, the impact of this proposed rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for home health services by establishing a separate reimbursement rate for skilled nursing services when these services are not provided by a licensed registered nurse. Reimbursement is set at 80 percent of the current rate when skilled nursing services are provided by a licensed practical nurse (LPN). However, the current rates on file will continue to be paid when a registered nurse provides the skilled nursing services. The separate reimbursement rate set at 80 percent of the current home health physical therapy rate when the physical therapy services are provided by a physical therapy assistant is discontinued.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2000, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home Health Services Nursing Reimbursement Reduction**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately (\$37,680) for SFY 1999-00, (\$175,458) for SFY 2000-01, (\$181,518) for SFY 2001-02, and (186,964) for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-01 for the states administrative cost of promulgating this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately (\$89,316) for SFY 1999-00, (\$418,994) for SFY 2000-01, (\$430,891) for SFY 2001-02, and (\$443,818) for SFY 2002-03.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will establish a separate reimbursement rate when skilled nursing services are provided by a licensed practical nurse. Implementation of this proposed rule will reduce the reimbursement to home health agencies by approximately (\$126,996) for SFY 1999-00,

(\$594,572) for SFY 2000-01, (\$612,409) for SFY 2001-02, and (\$630,782) for SFY 2002-03.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition. As a result of the rate reduction some providers may find it necessary to reduce staff or staff hours of work.

Ben A. Bearden  
Director  
0011#064

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Medical Transportation Program Emergency  
Ambulance Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, 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 that any third party coverage would pay. As a result of a budgetary shortfall, the bureau adopted a rule to reduce the reimbursement for emergency ambulance transportation services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau determined it was necessary to restore the 7 percent reduction previously made to the reimbursement rates for emergency ambulance transportation services. In addition, the base rate for these services was increased by 2 percent. In addition, the reimbursement fees for certain designated procedure codes were increased (*Louisiana Register*, Volume 26, Number 7).

The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2000 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction previously made to the reimbursement rates for emergency ambulance transportation services. In addition, the base rate for these services is increased by two percent.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-

9030. He is the person responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed rule is scheduled for Thursday, December 28, 2000, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Medical Transportation  
ProgramC Emergency Ambulance Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$276,010 for SFY 2000-01, \$285,384 for SFY 2001-02, and \$293,946 for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-2001 for the states 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 \$658,900 for SFY 2000-01, \$677,450 for SFY 2001-02, and \$697,773 for SFY 2002-03.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will increase expenditures to providers of providers of emergency ambulance transportation services by approximately \$934,790 for SFY 2000-01, \$962,834 for SFY 2001-02, and \$991,719 for SFY 2002-03.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0011#069

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Medical Transportation ProgramC Non-Emergency  
Ambulance Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act. This

proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for non-emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount that any third party coverage would pay. As a result of a budgetary shortfall the bureau adopted a rule to reduce the base rate for non-emergency ambulance transportation services to the rate that was in effect prior to July 1, 1999 (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau determined it was necessary to restore the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999. In addition, the reimbursement fees for certain designated procedure codes were increased (*Louisiana Register*, Volume 26, Number 7).

The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2000 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999. In addition, the reimbursement fees for certain designated procedure codes are increased to the following rates:

|       |  |          |
|-------|--|----------|
| A0360 | Base rate, BLS, 1 <sup>st</sup> Trip                         | \$125.00 |
| A0364 | Base rate, no specialized ALS services, 1 <sup>st</sup> trip | \$125.00 |
| A0366 | Base rate, Specialized ALS services, 1 <sup>st</sup> trip    | \$125.00 |
| A0380 | Loaded miles, BLS, 1 <sup>st</sup> trip                      | \$4.32   |
| A0390 | Loaded miles, ALS, 1 <sup>st</sup> trip                      | \$4.32   |
| Z5100 | Transfer, loaded miles, BLS, 1 <sup>st</sup> trip            | \$125.00 |
| Z5101 | Transfer, loaded miles, ALS, 1 <sup>st</sup> trip            | \$125.00 |
| Z5102 | Loaded miles, ALS or BLS, 2 <sup>nd</sup> trip               | \$4.32   |
| Z9497 | Base rate, ALS or BLS, 2 <sup>nd</sup> trip                  | \$125.00 |

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this proposed rule. A public hearing on this proposed Rule is scheduled for Thursday, December 28, 2000, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Medical Transportation  
Program C Non-Emergency Ambulance Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$1,061,901 for SFY 2000-01, \$1,098,143 for SFY 2001-02, and \$1,131,087 for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-2001 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 \$2,535,242 for SFY 2000-01, \$2,606,791 for SFY 2001-02, and \$2,684,995 for SFY 2002-03.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed rule will increase expenditures to providers of non-emergency ambulance transportation services by approximately \$3,597,023 for SFY 2000-01, \$3,704,934 for SFY 2001-02, and \$3,816,082 for SFY 2002-03.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0011#068

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

Jerry W. Jones  
Undersecretary

**NOTICE OF INTENT**

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

National Fire Protection Code 101 (LAC 55:V.103)

This Notice of Intent advises that the State Fire Marshal will supplant the 1997 Edition of the National Fire Protection Association National Fire Protection Code 101 for Safety to Life from Fire in buildings and Structures (NFPA Life Safety Code) with the 2000 Edition of the NFPA Life Safety Code for all purposes.

**Title 55**

**PUBLIC SAFETY**

**Part V. Fire Protection**

**Chapter 1. Preliminary Provisions**

**§103. General Provisions**

A. ...

\* \* \*

|          |              |   |
|----------|--------------|---|
| NFPA 101 | 2000 Edition | Code for Safety to Life from Fire in Buildings and Structures |
|----------|--------------|---|

\* \* \*

B. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after 12:01 a.m. on June 1, 2001, shall be made

using construction requirements set forth in the 2000 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 412B Special Provisions for High-Rise Buildings published in the 1994 Edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc. All references to performance based criteria in the 2000 Edition of the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1998, and prior to 12:01 a.m. on June 1, 2001, shall be made using construction requirements set forth in the 1997 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 412C Special Provisions for High-Rise Buildings published in the 1994 Edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

C. - J. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1578.6 and R.S. 40:1561(B).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981). LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: National Fire Codes**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The 2000 Edition of the Life Safety Code (NFPA 101) replaces the 1997 Edition. There will be no significant change in practice. The 2000 Edition introduces a performance based option via Section 4.4 and Chapter 5. The Office of State Fire Marshal (SFM) will not implement this option in the 2000 Code. Therefore, there is no projected impact on expenditures until the 2000 Code is updated in three or four years.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that there will be no direct effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

No significant impact from the change to performance based codes is anticipated since Louisiana will not implement this technique in any different manner. The purpose of revising the Life Safety Code periodically is to improve preventative measures. A multitude of detailed measures may be modified during each cycle that are not susceptible of meaningful estimation of fiscal impact on the construction and insurance industries. The purpose of the Code is to prevent fires. This means the economic benefit would be found in estimating the value of lives and property that do not experience a fire loss as a consequence of the changes in the 2000 Edition. However, at such time that the performance based option is implemented, it

is estimated that no significant additional costs would be realized by affected entities.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No net effect on competition or employment is anticipated since all entities will be equally affected.

Jerry W. Jones  
Undersecretary  
0011#050

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police**

**Approved Citation for Litter Enforcement  
(LAC 55:I.2101)**

Pursuant to R.S. 30:2531.7 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, hereby gives notice of its intent to adopt LAC55:I.2102. The proposed adoption of §2101 is necessary as a result of the enactment of Act Number 148 of the 1998 First Extraordinary Legislative Session which requires the department to promulgate rules and regulations to provide for a uniform citation document which shall be used for issuing citations of the litter law.

The Superintendent of the Office of State Police will consider comments and public input for a period of 35 days following publication. All comments should be directed to Tammy Pruet Northrup, Post Office Box 66614, Mailstop #11, Baton Rouge, LA 70896, 225-925-6103 (phone) 225-925-4624 (facsimile). A tentative public meeting on these rules is currently scheduled for 11 a.m. Wednesday, December 27, 2000, in the Operational Development conference room at Louisiana State Police Headquarters located at 265 South Foster Drive, Baton Rouge, LA 70806. Please call to confirm the date, time and location if you plan to attend.

**Title 55  
PUBLIC SAFETY  
Part I. State Police**

**Chapter 21. Litter Enforcement**

**§2101. Approved Citation for Litter Enforcement**

A. The department hereby approves any uniform citation approved and adopted for use pursuant to R.S. 32:398.1 for the enforcement of any litter violations committed in this state.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2531.7.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**Family Impact Statement**

1. The effect of these rules on the stability of the family.

These rules will have no effect on the stability of the family.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children.

These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family.

These rules will have no effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget.

These rules will have no effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children.

These rules will have no effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules.

The rules will have no effect on the ability of the family to perform the function as contained in the proposed rules as families do not write citations for violations of the Louisiana Litter Law. The rules will have an effect on local governments as local governments which write citations for violations of the Louisiana Litter Law will be required to write the citation on one of the forms approved by these rules.

Jerry W. Jones  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Approved Citation for Litter  
Enforcement**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There should be no implementation costs or savings to the department. The proposed new rule only authorizes the use of an existing citation currently in use by the department for the enforcement of litter violations in this state. The proposed new rules are necessary as a result of the passage of Act No. 148 of the 1998 First Extraordinary Session which requires the department to promulgate rules and regulations to provide for a uniform citation document which shall be used for issuing citations for litter violations.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of the state or local governments as the new rule simply provides for a uniform citation to be used for litter violations. To the extent that state and local governments are receiving any funds as a result of litter violations, they should continue to do so after the promulgation of this new rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There should be no effect on costs and there should be no economic benefit to directly affected persons or nongovernmental groups as it relates to the new rule. The uniform citation approved for use for litter violations throughout this state is a citation form which is currently in use and being utilized by affected entities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no affect on competition and employment. The proposed new rules simply authorize the use of existing citation currently in use by the department and other affected entities for the enforcement of litter violations in this state.

Jerry W. Jones  
Undersecretary  
0011#026

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police**

**Collection of DNA Samples for Convicted  
Offenders (LAC 55:I.Chapter 23)**

Pursuant to R.S. 15:601 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Public Safety and Corrections, Public Safety Service, Office of State Police intends to adopt LAC 55:I.Chapter 23. Notice is further given that the department intends to promulgate the following rules and regulations which establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for convicted offenders as defined in R.S. 15:601 et seq.

The superintendent of the Office of State Police will consider comments and public input for a period of 35 days following publication. All comments should be directed to Tammy Pruet Northrup, P.O. Box 66614, Mailslip #11, Baton Rouge, LA 70896, (225) 925-6103 (phone) (225) 925-4624 (facsimile). A tentative public meeting on these rules is currently scheduled for 10 a.m., Wednesday, December 27, 2000, at the Operational Development Conference Room at Louisiana State Police Headquarters located at 265 South Foster Drive, Baton Rouge, LA 70806. Please call to confirm the date, time and location if you plan to attend.

**Title 55**

**PUBLIC SAFETY**

**Part I. State Police**

**Chapter 23. Collection, Submission, Receipt,  
Identification, Storage and Disposal of  
DNA Samples**

**§2301. Scope, Purpose and Application**

A. Scope, Purpose, and Application. To provide rules and regulations governing the collection, submission, receipt, identification, storage and/or disposal of DNA samples for convicted offender for a state database/CODIS pursuant to R.S. 15:601 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**§2302. Definitions**

**AFISC**the Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

**CAJUNC**the Corrections and Justice Unified Network operated by the Department of Public Safety and Corrections.

**CODIS or Combined DNA Index System**the Federal Bureau of Investigation's national DNA identification index system which facilitates the storage and exchange of DNA records submitted by state and local criminal justice and law enforcement agencies.

**Crime Laboratory**Louisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

**Convicted Offender**a person convicted of a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to La. R.S. 15:601 et seq.

**Department**Department of Public Safety and Corrections, Public Safety Services.

**Director**the Director of the Louisiana State Police Crime Laboratory.

**DNA**deoxyribonucleic acid.

**DNA Analysis**DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

**DNA Database**the DNA identification record system maintained and administered by the director.

**DNA Database Blood Collection Kit or Kit**the kit provided by the Department for the collection of DNA samples.

**DNA Record**DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

**DNA Sample**biological evidence of any nature that is utilized to conduct DNA analysis.

**DPS&CC**Department of Public Safety and Corrections.

**Evidence Technician**individual authorized by the Director to perform the duties set forth in LAC 55:I:2301 et seq.

**FBIC**Federal Bureau of Investigation within the United States Department of Justice.

**FTAC**specialized paper that binds DNA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**§2303. Collection, Submission, and Identification of  
DNA Samples for Convicted Offenders**

A. All DNA samples obtained for DNA Analysis from a convicted offender shall be collected using an approved Louisiana State Police Crime Laboratory DNA Database Collection kit as supplied by the department.

1. Each DNA Database Blood Collection Kit shall contain all necessary materials for blood collection via finger stick and for proper identification of the offender.

2. Each kit shall be numbered sequentially from one kit to the next so that each kit number shall serve as a unique identifier. Any DNA Database Collection Kit Envelope, Kit Shipping Envelope, DNA Database Information Card, DNA Database Collection Card or AFIS or CAJUN Printout identifying the convicted offender that may be used as part of the kit shall have the same number as the kit used for collection.

3. For blood collection, all DNA samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall complete the DNA Database Information Card or utilize an AFIS or CAJUN Printout which contains the identifying information of the collected offender when obtaining a sample.

a. In the event a DNA Database Information Card is used, the collector shall fill in all requested information as completely as possible. This information shall include the offenders name in full, current address, social security number, date of birth, sex, race, state identification number, submitting agency, name and signature and agency of person obtaining the blood sample, date, and form of positive identification shown by the offender.

b. If an AFIS or CAJUN printout is used, identifying information of the offender will be contained on the printout.

c. A DNA Blood Collection Card or a space on the AFIS or CAJUN printout utilized for all necessary collection information shall be filled out as completely as possible and shall include the following information: race, sex, name of blood collector, signature of blood collector, date and time of sample collection, signature of person taking offender's fingerprint, date and time of fingerprint application.

d. The state identification number or Department of Corrections number and name of the offender shall be written on the FTA Blood Collection Paper in the information space provided.

5. Finger stick blood samples shall be obtained using recognized and approved medical procedures, and the following guidelines shall be followed.

a. Prior to each individual blood collection procedure, personnel performing the collection shall put on barrier gloves. The FTA Blood Collection Paper contained within the kit shall not be touched unless the individual collecting the offender's blood is wearing barrier gloves.

b. The tip of the offender's finger shall be wiped with an absorbent alcohol pad.

c. The offender's finger shall be pricked using a sterile, fixed depth lancet.

d. The offender's finger shall be positioned over one of the four circles printed on the FTA Blood Collection Paper, and the finger shall be milked, allowing two drops of blood to fall onto the FTA paper, within the circle. This procedure will be repeated for the remaining three circles if possible.

e. A sterile gauze pad shall be used to wipe off any remaining blood from the offender's finger, and an adhesive bandage shall be affixed to the offender's finger.

f. All medical supplies (lancet, absorbent alcohol pad, gauze pad, barrier gloves) shall be discarded in compliance with standard medical procedures.

g. The blood on the FTA Blood Collection Paper shall be allowed to air dry for approximately 30 minutes. The FTA Blood Collection Paper shall not be touched, nor shall it be allowed to come in contact with any other FTA Blood Collection Paper during the drying and packaging stages.

h. The FTA Blood Collection Paper shall be placed in the protective envelope provided in the kit and sealed. The sealed protective envelope shall be stapled to the DNA Database Collection Card or the Completed AFIS or CAJUN printout which shall then be placed in the kit envelope. The kit envelope flap shall be moistened and the envelope sealed.

An evidence or security seal shall then be placed over the envelope seal, and the seal shall be dated and initialed.

i. The sealed kit envelope shall be placed in a pre-addressed mailing envelope which shall be conspicuously marked as containing dried blood specimens with a biohazard label.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

#### **§2304 Shipping of DNA Samples for Convicted Offenders**

A. DNA samples collected in accordance with these procedures shall be submitted to the Crime Laboratory in person by approved personnel or via delivery service, such as U.S. mail in accordance with the Crime Laboratory's Quality Manual. The mailing envelope shall be mailed or delivered to the Crime Laboratory after collection to the following address:

Louisiana State Police Crime Laboratory  
376 East Airport Drive  
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 27:

#### **§2305. Record Keeping of DNA Samples for Convicted Offenders**

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect blood from an offender and the reason for the failure (e.g. refusal of offender to submit, failure to keep scheduled appointment) shall also be indicated. The list will include the following information: the kit number, the offender's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be forwarded in the form of an audit sheet to the director on a daily basis, via both facsimile and U.S. mail. If the mailing envelopes are hand delivered to the Crime Laboratory the audit sheet shall accompany the mailing envelopes being delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

#### **§2306. Storage of DNA Samples for Convicted Offenders**

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area within the Crime Laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit or specimen bags shall be performed in accordance with Crime Lab Evidence and Handling Policies and Procedures. Only authorized personnel shall open a sealed kit or specimen bag and shall initial and date the broken seal and shall reseal the kit or specimen bag in accordance with standard forensic operating procedures.

B. DNA samples on FTA Blood Collection Paper, DNA Database Collection Cards, DNA Database Identification Cards, and AFIS or CAJUN printouts shall be stored

indefinitely in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**§2307. Severability**

A. If any article, section, subsection, sentence, clause or phrase of LAC 55:I:2301 et seq. is for any reason determined to be unconstitutional, contrary to statute, in excess of authority, or otherwise inoperative, such determination shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of LAC 55:I:2301 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

**Family Impact Statement**

1. The effect of these rules on the stability of the family. These rules will have no effect on the stability of the family.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family. These rules will have no effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget. These rules will have no effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children. These rules will have no effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. The rules will have no effect on the ability of the family to perform the function as contained in the proposed rules as families are not required to collect DNA samples from convicted offenders. The rules may have an effect on local governments as local governments which house prisoners for a crime for which a DNA sample is required may be required to have their employees trained to collect DNA samples. Any such training will be supplied by the Louisiana State Police Crime Laboratory.

Jerry W. Jones  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Collection of DNA Samples for  
Convicted Offenders**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There should be no implementation costs or savings to the department. The proposed new rules are necessary as a result of the passage of Act No. 737 of the 1997 Regular Legislative Session which requires promulgation of policies and procedures to implement the DNA Detection of Sexual and Violent Offenders Act. The department is proposing to initiate collections on convicted offenders only. The only expense for

this type of collections will be the costs of the DNA collection kits. The secretary of the Department of Public Safety and Corrections has agreed to fund the costs of at least 2,000 of the DNA collection kits at \$4.47 per kit to begin sampling of convicted offenders.

The enactment of LAC 55 Part I, Chapter 23 et seq. is necessary to establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for convicted offenders as defined in R.S. 15:601 et seq.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of the state as these rules only establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for convicted offenders as defined in R.S. 15:601 et seq. The commencing of sampling for DNA will not raise revenue. There should be no effect on revenue collections of local governments as the programs for which these rules are being adopted and/or amended are not utilized by local governments.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There should be no effect on costs and there should be no economic benefit to directly affected persons or nongovernmental groups as it relates to the program for which the proposed rules apply. This program provides for the sampling of DNA from convicted offenders as defined in R.S. 15:601 et seq. There will be no costs to convicted offenders who will provide the samples in accordance with law and no nongovernmental group will be affected by this program.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There should be no effect on competition and employment. The proposed new rules initiate collections of DNA samples from convicted offenders as defined in R.S. 15:601 et seq. currently housed in correctional facilities throughout the state. The Office of State Police proposes to utilize existing employees to train individuals who are currently employed at those correctional facilities to collect these samples.

Jerry W. Jones  
Undersecretary  
0011#025

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Revenue  
Office of the Secretary**

**Policy Statements (LAC 61:III.101)**

Under the authority of R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of the Secretary, proposes to adopt LAC 61:III.101 to provide for policy statements issued by the Department of Revenue.

The Secretary of Revenue is authorized by R.S. 47:1511 to adopt reasonable rules and regulations to enforce the provisions relating to the taxes collected and administered by the department. LAC 61:III.101 is proposed to establish the types of policy statements to be issued for the proper administration and enforcement of the tax laws and the collection of revenues.

## Title 61

### REVENUE AND TAXATION

#### Part III. Department of Revenue; Administrative Provisions and Miscellaneous

##### Chapter 1. Agency Guidelines

###### §101. Policy Statements

###### A. Purpose

1. This rule defines the types of policy statements that may be issued and the procedures for issuing them. Policy statements provide guidance as to the department's position and ensure that employees enforce the tax laws correctly, consistently, and fairly.

2. In the past, policy statements issued to provide policy guidance included rules, Private Letter Rulings, Technical Advisory Memoranda, Policy and Procedure Memoranda, and informal oral and written advice.

3. The following policy statements will now be issued:

- a. rules adopted according to the administrative procedure act;
- b. policy and procedure memoranda;
- c. declaratory rulings:
  - i. private letter rulings;
  - ii. revenue rulings; and
  - iii. statements of acquiescence or nonacquiescence;
- d. revenue information bulletins; and
- e. informal advice.

###### B. Distinguishing Rules from Other Policy Statements

1. Rules are adopted in accordance with Louisiana's Administrative Procedure Act (APA), R.S. 49:950 et seq., and the APA is the authoritative guide as to when a rule is required.

2. The APA excepts agency statements, guides, or requirements for conduct or action that regulate the internal management of the agency from the definition of a "Rule" [R.S. 49:951(6)]. Policy and Procedure Memoranda are issued under this exception.

3. The APA also provides that "The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in an agency decision upon or disposition of a particular matter as applied to a specific set of facts involved does not render the same a rule within this definition or constitute specific adoption thereof by the agency so as to be required to be issued and filed as provided in this Subsection" [R.S. 47:951(7)]. The term Rule "does not include declaratory rulings or orders." [R.S. 47:951(6)]. Declaratory Rulings are issued under these exceptions.

4. General information may be disseminated and general assistance provided, but taxpayers are only bound by statutes and regulations that have the force and effect of law. Revenue Information Bulletins and informal advice offered to taxpayers do not establish legal requirements for taxpayers.

5. Within the parameters set forth by the APA, Title 47, and other applicable laws, discretion may be used to determine if policy guidance is needed and the type of policy guidance to be issued.

6. Reasons for issuing a rule may include:

- a. the law or current rules are not clear and the issue affects many people;

b. there is inconsistency in the treatment of a tax issue within the department or among taxpayers;

c. the procedures a taxpayer should follow to comply with the law are undefined, unclear, or inconsistently followed;

d. a request for a Private Letter Ruling from one taxpayer concerns an issue that may affect many taxpayers;

e. a request for policy guidance from employees concerns an issue that may affect many taxpayers; or

f. issuance of a rule will assist the public in meeting its legal obligations in an effective and efficient manner.

7. Reasons for not issuing a rule may include:

- a. the matter affects only one taxpayer;
- b. the law is clear;
- c. a statutory change is more desirable; or
- d. the matter may best be handled by another means.

###### C. Declaratory Rulings

1. Declaratory Rulings are statements pertaining to a specific set of facts to provide guidance for department employees and taxpayers. Declaratory Rulings, Policy and Procedure Memoranda, Revenue Information Bulletins, and informal advice are not agency rules and are not binding on the public.

2. The following types of Declaratory Rulings will be issued with a uniform format and numbering system. Each Declaratory Ruling will indicate the date the ruling was issued, a summary title of what the ruling addresses (subject heading), whether it replaces, modifies, or supersedes a previous policy statement, applicable references and authority, a statement of scope, and other pertinent information.

###### a. Private Letter Rulings

i. Private Letter Rulings (PLR) provide guidance to a specific taxpayer at the taxpayer's request. It is a written statement issued to apply principles of law to a specific set of facts or a particular tax situation. A PLR does not have the force and effect of law.

ii. A PLR is not binding on the person who requested it or on any other taxpayer. It is binding on the department only as to that taxpayer and only if the facts provided were truthful and complete and the transaction was carried out as proposed. It continues as authority for the department's position unless a subsequent declaratory ruling, rule, court case, or statute supersedes it.

iii. Requests for PLR are submitted to the Secretary by an identified taxpayer, or the taxpayer's representative who has a power of attorney. Requests must contain the following information:

(a) name, address, and telephone number of person requesting the advisory opinion;

(b) a power of attorney, if the person is represented by a third party;

(c) specific questions to be answered or issues to be addressed;

(d) complete statement of all relevant facts;

(e) citations to or copies of relevant statutes, regulations, court decisions, advisory opinions, or other authority that appear to support the taxpayer's position;

(f) copies of relevant documents such as contracts, wills, deeds, account statements, workpapers, reports, invoices, etc.; and



(g). a statement attesting:

(i). whether the person requesting the opinion has the same issue under audit or appeal with the department or any other taxing or revenue authority;

(ii). if the person requesting the opinion has been notified that an examination or audit is pending;

(iii). if the person requesting the opinion is litigating the issue;

(iv). if the department, or any other taxing or revenue authority, has previously issued the advisory opinion on the same issue (with copy attached); and

(v). if the Attorney General's Office has been, or will be, requested to issue an opinion concerning the issue.

(vi). that, prior to the issuance of a PLR, if the requesting person is notified of a pending examination or audit by the department or other taxing or revenue authority, they will notify the secretary of the pending examination.

iv. PLR's may be published but only after all taxpayer identifying information has been removed and measures are taken to protect taxpayer confidentiality.

v. A PLR request may not be used to delay or interrupt an audit.

vi. Reasons for issuing a Private Letter Ruling may include:

(a). it has been requested by an identified taxpayer, or the taxpayer's representative who has a power of attorney; and

(b). the law and regulations are not clear.

vii. Reasons for not issuing a Private Letter Ruling may include:

(a). the law and regulations are clear;

(b). a rule would be more appropriate under the

APA;

(c). the inquiry concerns alternative treatments or purely hypothetical situations;

(d). the inquiry concerns matters scheduled for audit or in audit, appeal, or litigation;

(e). the inquiry concerns federal tax matters not pertaining to differences in treatment for federal and state purposes;

(f). the inquiry concerns an issue that is being litigated or may be litigated in the near future;

(g). the request is incomplete because it does not contain all of the information required by §101.C.2.a.iii;

(h). the request can best be handled by another means; or

(i). the requesting person withdraws the request at any point prior to issuance of the PLR.

b. Revenue Rulings

i. A Revenue Ruling provides guidance to the public and employees.

(a). It is a written statement issued to apply principles of law to a specific set of facts.

(b). A Revenue Ruling does not have the force and effect of law and is not binding on the public. It is a statement of the department's position and is binding on the department until superseded or modified by a subsequent change in statute, regulation, declaratory ruling, or court decision.

(c). A Revenue Ruling is requested by employees, who provide a complete factual and legal

background similar to that required of taxpayers requesting a Private Letter Ruling.

(d). A Revenue Ruling request cannot be used to delay or interrupt an audit.

ii. Temporary Revenue Rulings may be used when necessary due to time constraints or emerging issues.

(a). Temporary Revenue Ruling must clearly state their lack of finality and once a final Revenue Ruling is issued, the Temporary Revenue Ruling is superseded.

(b). If the final Revenue Ruling reaches a different conclusion than the Temporary Revenue Ruling, the department will honor whichever ruling is more favorable to the taxpayer, but only for those transactions that occurred after the Temporary Revenue Ruling was issued and before the final Revenue Ruling.

iii. Reasons for Issuing a Revenue Ruling may include:

(a). to provide an official interpretation of rules, regulations, statutes, court cases, Board of Tax Appeals decisions, or any other sources of law as to a specific set of facts;

(b). to serve as guidance to taxpayers, tax practitioners, and employees if the law or regulations are not clear as to a specific set of facts.

iv. Reasons for Not Issuing a Revenue Ruling may include:

(a). the law and regulations are clear;

(b). a rule would be more appropriate under the

APA;

(c). the inquiry concerns an issue that is being litigated or may be litigated in the near future;

(d). the facts contain information that could identify a taxpayer and the taxpayer has not consented to publication of the revenue ruling or there are other confidentiality concerns; and

(e). the request can best be handled by another means.

c. Statements of Acquiescence or Nonacquiescence

i. A Statement of Acquiescence or Nonacquiescence (SA/SNA) is intended to provide guidance to the public and to employees.

ii. A SA/SNA is a written statement issued to announce the department's acceptance or rejection of specific unfavorable court or administrative decisions. If a decision covers several disputed issues, a SA/SNA may apply to just one of them, or more, as specified.

iii. A SA/SNA is not binding on the public, but is binding on the department unless superseded by a later SA/SNA, declaratory ruling, rule, statute, or court case.

iv. If the department acquiesces, these guidelines will be followed.

(a). In cases that are substantially the same as the facts, the same result will be reached by department officials and may be relied on by employees and taxpayers. Taxpayers must be careful to apply acquiescence to the same or substantially the same facts. Acquiescence does not mean agreement with the court's reasoning; simply that the department will abide by it.

(b). The department may acquiesce in the result only, which only concedes the litigation with that particular taxpayer. The issue may still be pursued with other taxpayers. This indicates that the department will likely seek

out another opportunity to litigate the issue with the hope of having the issue addressed by an authoritative court.

(c). The department may consider any of the following factors in deciding whether to issue a Statement of Acquiescence or Nonacquiescence:

(i). whether the issue in the court or administrative decision affects many taxpayers;

(ii). whether the issue is one of fact or law, or a mixed question;

(iii). whether the decision is binding statewide with no statement needed;

(iv). whether other cases on the same or a similar issue are pending;

(v). whether cases in other jurisdictions have been decided, and in whose favor;

(vi). the cost of litigation as it relates to that issue, as well as overall;

(vii). the clarity of the applicable statutes and regulations on the disputed issue;

(viii). the soundness of the reasoning of the decision; or

(ix). the likelihood of success if the Department relitigates the issue.

### C. Other Types of Policy Guidance

#### 1. Policy and Procedure Memoranda

a. A Policy and Procedure Memorandum (PPM) is an internal document providing internal administrative or management guidance to employees. A PPM does not have the force and effect of law and is not binding on the public. It does not focus on taxpayers' substantive or procedural rights or obligations. It is binding on employees.

b. A PPM may be issued for any of the following reasons:

i. to notify employees of internal policies that apply only to employees and do not apply to taxpayers;

ii. to notify employees of internal procedures and instructions that do not apply to taxpayers; or

iii. to inform employees of internal programs that affect only employees.

c. A PPM may not be the appropriate policy statement if:

i. a taxpayer's substantive or procedural rights or obligations would be affected; or

ii. a rule would be more appropriate under the APA.

#### 2. Revenue Information Bulletin

a. A Revenue Information Bulletin (RIB) is an informal statement of information issued for the public and employees that is general in nature. A RIB does not have the force and effect of law and is not binding on the public or the department. RIB's will be established in a standard format and issued in sequence. Each RIB will address one topic.

b. A RIB announces general information useful in complying with the laws administered by the department and may be issued under any of the following circumstances:

i. to inform the public and employees that a statute or regulation has been added, amended, or rescinded;

ii. to inform the public and employees that a case has been decided;

iii. to publish information to employees and the public that is based on data supplied by other agencies, such

as per capita income figures or comparative tax collections by parish;

iv. to publish IRS information;

v. to publish information such as deadlines;

vi. to inform the public of services offered by the department, such as regional office hours, website features, and like information; or

vii. to revise a previous Revenue Information Bulletin, Tax Topics, or other similar publication.

c. A RIB may not be used under the following circumstances:

i. if the primary purpose is to provide a declaratory ruling, interpretation, or procedural guidance; or

ii. if announcements of general information can best be handled by other means.

#### 3. Informal Advice

a. In addition to Rules, Declaratory Rulings, Policy and Procedure Memoranda, and Revenue Information Bulletins, taxpayers and employees may still seek advice on tax questions. To assist customers, the department will provide informal advice. Informal advice does not have the force and effect of law and is not binding on the department, the public, or the person who asked for the advice. Informal advice will have no effect on an audit.

b. Any of the following types of informal advice may be provided.

i. Informal Oral Advice. There is no formal procedure for requesting informal oral advice. Employees will answer questions by telephone or in person as requested, within resource and appropriateness constraints. Advice given at audit meetings, protest conferences, and the like is considered informal oral advice.

ii. Informal EMail Advice. Has the same status as informal oral advice.

iii. Informal Written Advice. Requests for informal written advice should be in writing. Informal written advice is not a declaratory ruling.

iv. Newsletters, Pamphlets, and Informational Publications. The department may publish informational newsletters, pamphlets, and publications at regular intervals. Statements contained in these publications do not have the force and effect of law and they are not binding on the public or the department. They are merely helpful tools for disseminating information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 27:

Interested persons may submit data, views, or arguments, in writing to Susan Louise Dunham, Assistant Secretary, Office of Legal Affairs, P.O. Box 4064, Baton Rouge, LA 70821-4064 or by fax to (225) 925-6612. All comments must be submitted by 4:30 p.m., Wednesday, December 27, 2000. A public hearing will be held on Thursday, December 28, 2000, at 1:00 p.m. in the Department of Revenue Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, Louisiana.

Cynthia Bridges  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Policy Statements**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation of this proposed regulation, which establishes the types of policy statements to be issued by the Department for the proper administration and enforcement of the tax laws and the collection of revenues, will have no impact on the agency's costs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of this proposed regulation will have no effect on the costs of taxpayers submitting requests for policy statements.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges  
Secretary  
0011#034

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**Family Impact Statement**

1. The effect on the stability of the family. The proposed emergency rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding education and supervision of their children. The proposed emergency rule will have no effect on the authority and rights of parents regarding education and supervision of their children.

3. The effect on the functioning of the family. The proposed emergency rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. The proposed emergency rule will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. The proposed emergency rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. The proposed emergency rule does not contain any function which would need to be performed by a family or a local government.

J. Renea Austin-Duffin  
Secretary

**NOTICE OF INTENT**

**Department of Social Services  
Office of Community Services**

**Residential Facilities Reimbursement Rates  
(LAC 67:V.3503)**

The Department of Social Services, Office of Community Services, proposes to amend the *Louisiana Administrative Code*, Title 67, Part V, Subpart 5, Foster Care. The agency proposes to amend §3503 entitled "Reimbursement Rates for Residential Facilities" to change Subsection D.

**Title 67**

**SOCIAL SERVICES**

**Part V. Office of Community Services**

**Subpart 5. Foster Care**

**Chapter 35. Payments, Reimbursables and Expenditures**

**§3503. Reimbursement Rates for Residential Facilities**

A.1. - C. ...

D. The department will freeze residential rates at the 1999/2000 amount.

Authority Note: Promulgated in accordance with R.S.15:1084.

Historical Note: Promulgated by the Department of Social Services, Office of Community Services, LR 14:542 (August 1988), amended LR 20:898 (August 1994), LR 25:1144 (June 1999), LR 25:1609 (September 1999), LR 26:24 (January 2000), LR 26:1342 (June 2000), LR 27:

Interested persons may submit written comments relative to this proposed rule through November 20, 2000 to Carmen D. Weisner, Assistant Secretary, P.O. Box 3318, Baton Rouge, LA 70821.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Residential Facilities  
Reimbursement Rates**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated that the costs to publish this rule will be \$80 which will be paid out of current year funds in the Office of community Services (OCS). there will be no increased cost as a result of implementation of the proposed rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections as a result of implementation of this proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Residential facilities reimbursed under the rate setting system will experience no change in their currently frozen rates as a result of the implementation of this rule. Failure to continue the frozen rates would cause a fiscal emergency for many residential providers which would adversely affect their ability to continue caring for foster children in residential placements.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No impact on competition or employment is expected from the proposed rule.

Debbie Johnson  
Budget Director  
0011#044

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Social Services Office of Rehabilitation Services

Vocational Rehabilitation Services  
Eligibility and Ineligibility  
(LAC 67:VII. Chapter 1)

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) is revising its Vocational Rehabilitation Policy Manual Sections: 109. Eligibility and Ineligibility and 115. Financial. Revisions to the Eligibility and Ineligibility are being made to the "Order of Selection" to provide the agency with sufficient flexibility in allocating the order of selection groups on the basis of functional impairment with the most significant continuing to receive priority. Moving to five selection groups will also provide the agency with increased flexibility in managing the opening and closing of the groups to ensure that the most significantly disabled continue to receive priority for services. Revisions to the Financial section are being made to the Individual's Participation in the Cost of Vocational Rehabilitation Services, to exempt certain Social Security recipients from a financial need test.

#### Title 67

### SOCIAL SERVICES

#### Part VII. Rehabilitation Services

#### Chapter 1. General Provisions

#### §109. Eligibility and Ineligibility

##### A. - H.1.b. ...

##### I. *Individual with a Significant Disability*C

1. Individuals eligible for vocational rehabilitation services are determined to be significantly disabled if the disabling condition and subsequent functional limitations fall into one of the following:

- a. The individual is a recipient of Social Security Disability Insurance (SSDI); or
- b. The individual is a recipient of Supplemental Security Income (SSI) by reason of blindness or disability (SSI based on age alone does not automatically render an individual significantly disabled); or
- c. The individual is one:
  - i. who has a severe physical or mental impairment which severely limits one or more functional capacities (mobility, motor skills, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and
  - ii. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time (extended period of time means six months or longer); and
  - iii. who has one or more physical or mental disabilities resulting from:
    - (a). amputation;
    - (b). arthritis;
    - (c). autism;
    - (d). blindness;
    - (e). burn injury;
    - (f). cancer;
    - (g). cerebral palsy;
    - (h). cystic fibrosis;

- (i). deafness;
- (j). head injury;
- (k). heart disease;
- (l). hemiplegia;
- (m). hemophilia;
- (n). respiratory or pulmonary dysfunction;
- (o). mental retardation;
- (p). mental illness;
- (q). multiple sclerosis;
- (r). muscular dystrophy;
- (s). musculoskeletal disorders;
- (t). neurological disorders (including stroke and epilepsy);
- (u). paraplegia, quadriplegia, other spinal cord conditions;
- (v). sickle cell anemia;
- (w). specific learning disability;
- (x). end-stage renal disease; or
- (y). another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations.

J. **Functional Capacity Areas** Defined. Functional Capacity Areas are defined as follows: mobility, motor skill, communication, self-care, self-direction, interpersonal skills, work tolerance, and work skills.

##### K. Order of Selection

1. LRS follows an Order of Selection to ensure that individuals with the most significant disabilities receive priority for vocational rehabilitation services.

2. The following factors shall not be used either in determining the order of selection or in determining the placement category of eligible individuals:

- a. any duration of residency requirement, provided the individual is present in the state;
- b. type of disability;
- c. age, gender, race, color, creed, or national origin;
- d. source of referral;
- e. type of expected employment outcome;
- f. the need for specific services or anticipated cost of services required by an individual; or
- g. the income level of an individual or an individual's family.

3. Prerequisite to Placement in the Order of Selection Assignment to a selection group is made after a determination of both of the following:

- a. eligibility for Vocational Rehabilitation Services; and
- b. significance of disability.

4. Selection Groups. In accordance with the criteria below, an individual is placed in one of the following:

a. **Selection Group I** Most Significantly Disabled. An eligible individual is considered most significantly disabled when all of the following apply:

- i. the individual meets the definition of an "individual with a significant disability" as defined in Subsection I above.
- ii. the individual's significant physical or mental impairment seriously limits four or more functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time;

b. Selection Group IICThe Most Significantly Disabled. An eligible individual is considered the most significantly disabled when the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in Subsection I above.

ii. the individual's severe physical or mental impairment seriously limits three functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

c. Selection Group IIICSignificantly Disabled. An eligible individual is considered significantly disabled when the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in Subsection I above.

ii. the individual's severe physical or mental impairment seriously limits two (2) functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

d. Selection Group IVCSignificantly Disabled. An eligible individual is considered significantly disabled when the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in Subsection I above.

ii. the individual's severe physical or mental impairment seriously limits one functional capacity area; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

e. Selection Group VCNNon-Significantly Disabled. An individual is considered non-significantly disabled when:

i. the individual has a physical or mental impairment;

ii. the individual has been determined eligible for vocational rehabilitation services; and

iii. the individual does not meet the above stated criteria for an individual who is either "the most significantly disabled" or "significantly disabled."

f. Other Considerations

i. individuals shall be placed in the highest priority category for which they are eligible;

ii. upon placement into a priority category, individuals will be notified in writing of their category assignment and of their right to appeal their category assignment.

5. Scope of Services Available. LRS' order of selection shall not limit the scope of services available for eligible individuals within the selection group(s) being served.

6. Information and Referral. LRS will, as appropriate, refer those individuals in selection Groups(s) not being served to other components of the statewide workforce

investment system that are best suited to address the specific employment needs of the individual with a disability.

7. Continuity of Services. LRS shall provide for continuity of services once an otherwise eligible individual is selected for and begins to receive services under an IPE, irrespective of the severity of the individual's disability.

8. Other Assurances

a. All individuals within a higher priority category for services shall be served before individuals in the next lowest priority category.

b. When it is impossible to serve all eligible individuals within a priority category, the individuals (in addition to referral to other components of the statewide workforce investment system) will be placed on a deferred services waiting list. Individuals on the deferred services waiting list will be served in chronological order based on the date of application.

c. If the order of selection is rescinded, individuals on deferred services waiting lists and in unserved categories will be contacted and served in chronological order based on the date of application.

9. Client Participation in the Cost of Services. All LRS policy relative to client participation in the cost of services shall apply to individuals receiving services under the order of selection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 19:891 (September 1991), amended LR 20:317 (March 1994), LR 21:191 (February 1995), LR 22:993 (October 1996), LR 23:994 (August 1997), LR 25:1267 (July 1999), LR 27:

## **§115. Financial**

A. Comparable Services and Similar Benefits

1. Determination of Availability

a. Prior to providing any vocational rehabilitation service to an eligible individual, except those services specified below in c.i.(a)-(f), LRS will determine whether comparable services and benefits are available under any other program (other than a program carried out under Title IV, Rehabilitation Act Amendments of 1998) unless such a determination would interrupt or delay;

i. the progress of the individual toward achieving the employment outcome identified in the IPE of the individual;

ii. an immediate job placement; or

iii. the provision of such service to any individual at extreme medical risk.

b. Awards and Scholarships. For purposes of the determination of availability in A.1 above, comparable benefits do not include awards and scholarships based on merit.

c. Exceptions to Use of Comparable Services and Benefits. The following vocational rehabilitation services can be provided without making a determination of the availability of comparable services and benefits:

i. services provided through LRS' Information and Referral System;

ii. assessment for determining eligibility and vocational rehabilitation needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

- iii. counseling and guidance, including information and support services to assist an individual in exercising informed choice;
- iv. referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS;
- v. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;
- vi. rehabilitation technology, including telecommunications, sensory, and other technological aids and devices.

**B. Individual's Participation in the Cost of Vocational Rehabilitation Services.**

1. Neither a financial needs test nor a budgetary analysis of assets, income, monthly liabilities, and/or comparable services and similar benefits shall be applied as a condition for furnishing any vocational rehabilitation services if the individual in need of the services has been determined eligible for Social Security benefits under Title II or Title XVI if the Social Security Act.

2. LRS will consider, through budgetary analysis of assets, income, monthly liabilities, and comparable services and similar benefits, the financial need of eligible individuals and individuals who are under extended evaluations for purposes of determining the extent of the individual's participation in the costs of certain vocational rehabilitation services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following vocational rehabilitation services:

- i. assessment for determining eligibility and priority for services, except those non-assessment services that are provided during an extended evaluation to explore the individual's abilities, capabilities, and capacity to perform in work situations (trial work periods);
- ii. assessment for determining vocational rehabilitation needs;
- iii. counseling, guidance, including information and support services to assist an individual in exercising informed choice;
- iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;
- v. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;
- vi. rehabilitation technology assessments;
- vii. supported employment, on-site training, and on-the-job training;
- viii. personal assistance services directly related to a direct job placement outcome and provided simultaneously with any of the above-listed vocational rehabilitation services. (Examples include attendant, reader, scribe, interpreter, braille, notetaker, and adjustment/orientation and mobility training services.)
- ix. assistive technology devices and services.

b. A financial needs test will be applied through budgetary analysis to determine the ability of the individual to financially contribute to the cost of the following vocational rehabilitation services:

- i. physical restoration and/or mental restoration;
- ii. maintenance;
- iii. transportation;
- iv. books and supplies;
- v. occupational tools and equipment;
- vi. cost services to other family members;
- vii. occupational licenses;
- viii. discretionary training fees such as car registration fees, student health service fees, etc. not included in tuition;
- ix. adjustment/orientation and mobility, attendant, reader, scribe, and interpreter services not directly related to a direct job placement outcome;
- x. vocational and other training services, such as college/university, vocational and proprietary school training, not related to an immediate direct job placement outcome;
- xi. other goods and services;
- xii. post-employment services consisting of the services listed above.

c. The only exception to items ix. and x. above is as follows:

i. to preserve LRS' Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, Clauses ix and x in Subparagraph b above will only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. The following services are exempt from the application of a budget surplus, if the counselor determines that a surplus exists:

- i. adjustment/orientation and mobility services
- ii. attendant services
- iii. reader services
- iv. scribe, notetaker/braille services,
- v. interpreter services
- vi. assistive technology services

e. When it is determined by a counselor and an eligible client that self-employment, through establishment of a small business enterprise, is the best option for the client, the client must provide a minimum cash capital contribution of 20 percent of the total transaction. (Refer to LRS Policy on Small Business Enterprise.)

f. An individual's status for the budget analysis will be determined as follows:

- i. the agency will perform the budget analysis on the basis of the resources of both the client and the spouse if the client is married;
- ii. the agency will perform the budget analysis on the basis of the resources of the family unit for all single clients living in the family home as a family member. Temporary absences from the home, such as for vacations, school, or illness, count as time lived in the home;
- iii. the agency will perform the budget analysis on an individual who has returned to the family unit on the basis of the resources of only that individual if the following conditions are met:

(a) the individual's disability has precluded their obtaining or maintaining employment; and

(b) the individual has a documented history of self-sufficiency that includes providing over one-half the

costs of maintaining a residence for at least one year prior to their return to the family unit; and

(c). the individual's parent(s), legal guardian, or other head of household provides documentation that indicates such person(s) do not claim the individual as an exemption for federal and/or state income tax purposes;

(d). the agency will perform a budget analysis on the basis of the resources of a single consumer living away from the family home if the individual meets the following conditions:

(i.). the individual can document history of self-sufficiency that included providing over one-half the costs of maintaining a residence. Documentation must include, but is not limited to, the following: copy of the lease which is in consumer's name; utility bills in consumer's name; and income verification sufficient to cover living expenses; and

(ii.). the consumer files his/her own state and federal income tax forms and is not claimed as an exemption on another individual's state/federal income tax return;

(iii.). at annual review, the Counselor must verify that consumer still meets the criteria established for individual status.

(e). Family unit is defined as the client and the client's parents or the client and any significant other(s), such as aunts, uncles, friends, legal guardians, etc., who are living in the household and are providing support for the maintenance of the household in which the client lives. Adult siblings of the client can be excluded as a member of the family unit for income reporting; but, must also be excluded from the family unit in the determination of allowable monthly liabilities.

g. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those vocational rehabilitation services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

h. Individuals who have defaulted on a student loan must make good faith efforts with the lender to clear the default or to defer payment before LRS will participate in the cost of the client's vocational rehabilitation program.

i. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in §15.B.2b.i.-xii. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

3. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS' Medical Fee Schedule and LRS' Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of vocational rehabilitation clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document. The only exception is in an emergency situation.

ii. If oral authorization of approved services is made in an emergency situation, there must be prompt documentation, and the authorization must be confirmed in writing and forwarded to the provider of the services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 19:891 (September 1991), amended LR 20:317 (March 1994), LR 21:191 (February 1995), LR 22:993 (October 1996), LR 23:994 (August 1997), LR 25:1267 (July 1999), LR 27:

#### **Family Impact Statement**

The Department of Social Services, Louisiana Rehabilitation Services hereby issues this Family Impact Statement: The proposed rules for the Vocational Rehabilitation Policy Manual, Order of Selection and the Individual's Participation in the Cost of Vocational Rehabilitation Services, to exempt certain Social Security recipients, will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments for 40 days from the date of this publication to May Nelson, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834. Ms. Nelson is responsible for responding to inquiries regarding the proposed rule.

Public Hearings will be conducted at 10:00 a.m. on Thursday, December 28, 2000, as follows, Baton Rouge, LRS Regional Office, 3651 Cedarcrest Avenue; Alexandria, LRS Regional Office, 900 Murray Street, Shreveport, LRS Regional Office, 1525 Fairfield Avenue; New Orleans, LRS Regional Office, 3500 Canal Street.

Individuals with disabilities who require special services should contact Judy Trahan, Program Manager, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call (225) 925-4131 or 1-800-737-2958, or 1-800-543-2099 for voice and TDD.

J. Renea Austin-Duffin  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Vocational Rehabilitation ServicesC Eligibility and Ineligibility**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

LRS is proposing to change the Order of Selection categories from three (3) to five (5) groups. The purpose of this change is to provide the agency with greater flexibility in opening and closing selection groups and thus provide for more efficient administration of the Order of Selection, while ensuring that services are first provided to those individuals who are the most significantly disabled. This portion of the rule change will not have a fiscal impact on the Agency because services are not currently being provided to clients in the Order of Selection Group III. However, in the event services are opened beyond the current groups that are being served the fiscal impact will be within the budgeted amount for services provided within this program, which is undetermined at this time.

LRS is also proposing to change the Financial section to exempt from an economic needs test those consumers who have been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act. The anticipated increase in costs to implement the proposed action is \$1,939,630.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated increase or decrease on revenue collections for this proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

LRS consumers who have been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act would be directly affected and would benefit from the proposed action. Also, in the event services are opened beyond the current groups that are being served, those individuals that would fall within the guidelines of the categories provided for in this rulemaking would be directly affected and would benefit from the proposed action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact of the proposed action on competition and employment in either the public or the private sectors.

May Nelson  
Director  
0011#043

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of the Treasury Office of the Treasurer

#### Time Certificates of Deposit (LAC 64:V.103)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act (the "Act"), notice is hereby given that the Department of the Treasury, Office of the Treasurer, approved for notice and advertisement, a revision to LAC 64:V.103, its Rules for Securities Investments, Permissible Investments, Time Certificates of Deposit, as set forth below. The revision of §103 has no known impact on family formation, stability and autonomy as described in R.S. 49:972 of the Act. It primarily provides new procedures for Internet online competitive bidding for Time Certificates of Deposit investments by the Treasury.

## Title 64 SECURITIES INVESTMENTS Part V. Office of the Treasurer Subpart 1. Investments

### Chapter 1. Permissible Investments

#### §103. Time Certificates of Deposit

A. - A.2.a. ...

i. National Certificates of Deposit which is the average of the top rates paid by major New York money banks on primary new issues of negotiable certificates of deposits, usually on amounts of \$1,000,000 or more with similar length of maturity as quoted from the *Wall Street Journal* or a nationally recognized quotation system, less 15 basis points.

A.2.a.ii. - A.3.d. ...

B. Competitive Bid Time Certificates of Deposit. Pursuant to R.S. 49:327B(1)(d), as amended from time to time, a certain percentage of the amount designated by the treasurer to be available for time certificates of deposit to financial institutions with a location in the state of Louisiana may be competitively bid. The following procedures and system, to be called "BidLouisiana," shall govern the competitive bidding for such certificates of deposit.

1. Frequency of Bidding. On the third Tuesday of each month, or in the case of a holiday or any other closure of the Office of the Treasurer on such day, the first business day following the third Tuesday of each month, the state treasurer may offer the amount of funds determined to be available for competitive Internet online auction bid, to be invested effective on the business day following the acceptance of bids, through BidLouisiana as more fully set forth herein. Should additional funds become available for competitive bid between such dates, the state treasurer reserves the right to offer such funds for competitive Internet online auction bid in accordance herewith upon giving all institutions currently eligible to bid at least three business days notice via the Internet or other reasonable notice procedure prior to the online auction. On each such auction bid day, the online auction shall begin at 10 a.m. and shall conclude at 10:30 a.m., Central time. In the event of a BidLouisiana website failure or other cause which delays the commencement of an online auction of certificates of deposit on a scheduled auction bid day, the auction will be attempted at the top of every hour the day of the scheduled auction between the hours of 10 a.m. and 4 p.m. In the event the auction is not completed on the scheduled day, the next attempt of the scheduled auction shall be at 10 a.m. the next business day, and the treasurer will attempt to inform all registered bidders of any change in the bidding format via telephone, fax transmission or e-mail.

2. Eligibility to Bid. A financial institution shall become eligible to bid on the designated amount of state funds to be competitively bid online through BidLouisiana if it meets all of the following:

a. is qualified as a fiscal agent/ depository of state funds of the state of Louisiana;



b. meets Federal Deposit Insurance Corporation (FDIC), Savings Association Insurance Fund (SAIF), Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund and National Credit Union Association (NCUA) capital adequacy requirements;

c. is solvent under generally accepted accounting principles and/or regulatory accounting requirements;

d. is profitable in one of the last three years as indicated in the audited financial statements or fiscal year end financial statements certified by the board of directors of the financial institution. Should the overall financial condition of a financial institution substantially decline from a previous eligibility period, in the sole determination of the state treasurer, and regardless of whether the financial institution appears to meet the other above requirements, the state treasurer reserves the right to and may remove the financial institution from the list of eligible bid institutions until, in the treasurer's sole determination, the institution's financial condition has returned to the minimum eligibility criteria stated herein.

3. Required Financial Information. The financial institutions participating in the Internet online auction bid process for time certificates of deposit shall provide the state treasurer's office with publicly disclosable quarterly call reports as filed with the appropriate regulatory authorities. The complete quarterly call report shall be sent to the state treasurer within 90 days of the end of the reported quarter. Annual audited financial statements or financial statements certified by the board of directors, if annual audited statements are not available, shall be provided to the state treasurer within 30 days of issuance.

4. Registration and Entry to Competitive Online Auction Bidding. All eligible financial institutions must register with BidLouisiana at least three days prior to an auction bid date at which it wishes to enter bids. To register, bidders shall go to the BidLouisiana website to receive a BidLouisiana password for the online auction, and shall be responsible for protecting the confidentiality of its password. The auction administrator, to be determined by the state treasurer, must confirm proper registration by 4:30 p.m., the day before the online auction. Confirmation of registration will be sent to bidders via e-mail or, if not available, via fax transmission. On the auction day, registered bidders must request and receive admission to the online auction in order to submit bids. The state treasurer reserves the right to deny admission and access to any BidLouisiana online auction to any bidder, at any time and for any reason whatsoever, in his sole and absolute discretion.

5. Availability of Online Auction Funds. The state treasurer shall determine the amount of state funds, if any, to be competitively bid by online auction through BidLouisiana and shall post the amount or amounts and the maturity or maturities thereof to be bid online on the BidLouisiana Internet website home page at least three business days before each online auction bid date provided for hereinabove.

6. Minimum Interest Rates. For maturities of one year or less, the minimum interest rate for an online auction of certificates shall be the discount rate on U.S. Treasury bills with a similar length of maturity. For maturities of greater than one year for an online auction of certificates, if any, the minimum interest rate shall be the yield of maturity on U.S.

Treasury obligations with similar length maturities as provided for in §103.A.2.b and §103.A.3.b hereof. The minimum interest rate or rates will be posted on the BidLouisiana auction home page prior to an auction. Bids below the minimum rate will not be accepted.

7. Online Auction Guidelines and Bid Procedures. The state treasurer shall select the Auction Administrator and establish the BidLouisiana website for the competitive online auction of certificates through or in conjunction with the auction administrator. The treasurer and/or the auction administrator shall establish Guidelines for each auction pursuant to and in accordance with these Rules, and shall post the Guidelines and any amendments thereto on the BidLouisiana website prior to each auction. In the event of any conflict between these Rules and the Guidelines, these Rules shall prevail and govern.

a. The minimum bid shall be \$100,000 during each online auction. Bids may be increased only in increments of \$100,000 to a maximum of \$5,000,000 per bidding financial institution, including all branches and other offices or locations, per auction. Multiple bids from the same bidder are permitted during an auction. Each bidder may enter up to five bid categories during an auction, the total amounts of which may not exceed the bidding maximum for each financial institution bidder. There shall be no limit as to the number of times a bid may be updated or changed during an auction subject to the other provisions hereof.

b. If qualified bids submitted in the same auction by the same or different bidders result in a tie for the highest bid, the first bid submitted shall prevail and be accepted. Any change to a bid during an auction shall constitute a new level of that bid.

c. Winning bidders must confirm their award of a certificate or certificates in accordance with the confirmation instructions on the BidLouisiana website immediately after the auction ends. Failure to do so may result in the loss of the winning bid and the award of the certificate or certificates to the next highest qualified bidder.

8. Other Auction Bid Conditions and Procedures. The state treasurer reserves the right to reject any BidLouisiana bid for any reason at his sole and absolute discretion. The treasurer also reserves the right to award a portion of an institution's bid subject to the minimum and maximum amounts provided for hereinabove.

a. Each bidder must acknowledge that it has read the posted Guidelines and any amendments thereto prior to each auction and indicate agreement to same electronically on the BidLouisiana website in order to enter the auction. Submitted bids must also be electronically verified through the website during and after the auction. In submitting and so verifying a bid or bids, each bidder understands and agrees that it has made a formal offer subject to acceptance and being irrevocably bound thereby under these Rules and procedures and other applicable law.

b. Bids that generate error messages during the auction shall not be accepted until the error is corrected and the bid is resubmitted without error. Error messages will indicate the reason for the error such as in the instance where the bidder has submitted a bid that is lower than the minimum bid.

c. In submitting and/or verifying a bid or bids during an auction, the bidder understands and agrees that the

submitted and/or verified bid or bids may initially be a leading bid, but further may be replaced by other more competitive bids throughout the duration of the auction. Each bidder will know immediately if its bid or bids continue to be a winning bid or bids by updating their bids during the auction. Any bid's status when leading or "in the money" may change at any given time during the auction due to new bids by other bidders. It shall be the bidder's responsibility to update his or her bid status. There shall be no limit to the number of times a bid or bids may be updated during an auction.

d. A financial institution submitting a winning bid shall be irrevocably obligated to provide the certificate of deposit at the specified rate, amount and maturity date, if acceptable to the state treasurer, as further provided for herein. In submitting and/or verifying a bid or bids during an auction, each bidder understands and agrees that an award shall not have been made or finally accepted until posted on the BidLouisiana website. All discrepancies relating to final acceptances and results shall be reported to the Investment Division at the Department of the Treasury within 15 minutes of the posting on the website at the number or address provided thereon. Failure to do so within this period may result in the loss of the right to have any such discrepancies corrected at the sole determination of the state treasurer.

e. Each winning bidder shall be assessed a fee in a percentage amount of the principal amount of the certificate or certificates awarded to the bidder which shall be set by the state treasurer and posted on the BidLouisiana website prior to each online auction. The fee will be payable to the Auction Administrator or as otherwise directed by the state treasurer by automated clearing house (ACH) debit within two days following the conclusion of the auction pursuant to instructions set forth in the Guidelines. Completion of the ACH Debit Authorization on the website by a winning bidder is required and shall constitute a binding authorization for the debit of the bidder's account for the fee incurred. Failure to permit or to make timely payments of the incurred fee shall result in exclusion from subsequent online auctions.

9. Certificate of Deposit Requirements. Certificates of deposit awarded as the result of BidLouisiana online bidding auctions shall be in book entry form in the name of the state of Louisiana, state treasurer, and the exempt Tax ID number shall be 72-6000839. Certificate of deposit transactions shall be completed by wire transfer pursuant to instructions of the state treasurer.

10. Calculation and Interest Payment. The interest on all competitively bid certificates of deposit maturing in one year or less shall be calculated on a 360-day basis with interest paid at maturity. The interest on all such certificates maturing greater than one year shall be calculated on a 360-day basis with interest paid semi-annually from date of

inception. Notwithstanding the foregoing, the state treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as but not limited to a financial emergency of the state or if a financial institution's financial condition is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the state treasurer to protect state funds.

11. Collateralization Requirements for Competitively Bid Certificates of Deposit. Certificates of deposit to be awarded through a BidLouisiana online auction shall be collateralized pursuant to R.S. 49:321 by 4 p.m. the day before the scheduled auction by a bidding financial institution. Bidding financial institutions shall have sufficient collateral in place and acceptable to the state treasurer by such time to secure its bid or bids. Insufficient or unacceptable collateral shall be cause to prevent a financial institution's admission to an auction or for the rejection or nonacceptance of a bid or bids. Collateral for online competitively bid certificates of deposit shall be in a form acceptable to the state treasurer as indicated on the most recent list of acceptable collateral prepared by the treasurer's office.

C. Total Amount of Certificates of Deposit with each Financial Institution. The maximum total amount of certificates of deposit with each eligible financial institution of competitively bid and of non-bid certificates shall not exceed at any one time, the total of its capital, surplus and undivided profits, exclusive of loan loss reserves. Should a financial institution have losses indicated, the losses shall be deducted from the total capital and surplus to determine the total amount of certificates of deposit limit at any one time. Notwithstanding the foregoing, the state treasurer reserves the right to maintain less than the maximum amount of certificates of deposits with any financial institution should the treasurer deem it in the best interest of the state.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327B(1)(b).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 15:751 (September 1989), amended LR 16:137 (February 1990), LR 27:

Interested persons may submit written comments on the proposed revision until 4:30 p.m. December 1, 2000 to: Cooper Harrell, Investment Division, Department of the Treasury, P.O. Box 44154, Capitol Station, Baton Rouge, Louisiana 70804-4154.

J. Cooper Harrell  
Investment Manager

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Time Certificates of Deposit**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no known or anticipated additional implementation costs or savings of any significance expected as a result of the proposed Rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Treasury expects some increases in investment revenue through implementation of the proposed Rule change, but they may be minimal because competitive bidding of Certificates of Deposit is a very small segment of the overall General Fund's investment administration.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be a minimal additional cost to the financial institutions user group which should be offset by the benefit of

the ease, access and administration of participation in the proposed investment procedure change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no known or anticipated negative effects on competition or employment expected.

J. Cooper Harrel  
Investment Manager  
0011#056

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Horticulture Commission

#### Retail Floristry Examination

The next retail floristry examinations will be given January 22-26, 2001, 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is December 8, 2000. No applications will be accepted after December 8, 2000.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to December 8, 2000. Questions may be directed to (225) 925-7772.

Bob Odom  
Commissioner

0011#024

## POTPOURRI

### Department of Environmental Quality Office of Environmental Assessment

#### Solicitation of Comments on Fugitive Emission Reductions of Volatile Organic Compounds for Ozone Control (LAC 33:III.2122)

Louisiana has experienced many days of elevated ozone levels this summer throughout the state and especially in the Baton Rouge area as a number of the monitored readings have exceeded the one-hour standard. In addition, the 5 parish Baton Rouge ozone non-attainment area, which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Therefore, identification and promulgation of regulations to implement emission reduction controls is necessary by August 15, 2001.

The LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the NAAQS standard. Rules to implement emission reduction controls for inclusion in the SIP must be promulgated. In accordance with R.S. 49:953 of the Administrative Procedure Act, any proposed rule must include a Fiscal and Economic Impact Statement. Further, the LDEQ is required, by R.S. 30:2019(D) and R.S. 49:953(G) to perform a cost/benefit and risk analysis if a

rule has a fiscal impact of \$1 million or more and is not required for compliance with a federal law or regulation.

The LDEQ is considering lowering the leak limitations for fugitive emissions of volatile organic compounds from 1,000 ppmv to 500 ppmv. The LDEQ is also considering statewide applicability of this requirement.

The LDEQ requests all interested parties submit information to the Department for consideration prior to rulemaking. The LDEQ specifically requests responders to address the following questions.

1. What are the expected environmental benefits and/or disbenefits of the rule options under consideration? Respondent should address the potential environmental impact on all media (air, water, etc.), if air emissions controls would result in adverse impacts on other media.

2. What is the potential manufacturing/retrofit/new control equipment costs for the rules under consideration?

3. What should be the geographic applicability areas for the options under consideration if not statewide?

4. Any other information the responder desires to be in the record.

Should the LDEQ propose a rule to implement new or revised existing VOC controls, the public will have an additional opportunity to comment during the rulemaking process.

Comments are due no later than 4:30 p.m. CST on Friday, December 15, 2000, and should be submitted to Ms. Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or hand-delivered to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810 or faxed to (225) 765-5095. Persons commenting should reference this document as "Fugitive Emission Reductions of Volatile Organic Compounds for Ozone Control."

James H. Brent, Ph.D.  
Assistant Secretary

0011#038

## POTPOURRI

### Department of Environmental Quality Office of Environmental Assessment

#### Solicitation of Comments on Revision of the Major Source Definition for Ozone Control

Louisiana has experienced many days of elevated ozone levels this summer throughout the state and especially in the Baton Rouge area as a number of the monitored readings have exceeded the one-hour standard. In addition, the 5 parish Baton Rouge ozone non-attainment area, which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS).

Therefore, identification and promulgation of regulations to implement emission reduction controls is necessary by August 15, 2001.

The LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the NAAQS standard. Rules to implement emission reduction controls for inclusion in the SIP must be promulgated. In accordance with R.S. 49:953 of the Administrative Procedure Act, any proposed rule must include a Fiscal and Economic Impact Statement. Further, the LDEQ is required, by R.S. 30:2019(D) and R.S. 49:953(G) to perform a cost/benefit and risk analysis if a rule has a fiscal impact of \$1 million or more and is not required for compliance with a federal law or regulation.

The LDEQ is considering a revision of the definition of *Major Stationary Source* found at LAC 33:III.504.Table 1. LAC 33:III.504.Table 1 would be revised to show Major Stationary Source Threshold Values (tons per year) for VOCs as 25 tpy for the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge.

The LDEQ requests all interested parties submit information to the Department for consideration prior to rulemaking. The LDEQ specifically requests responders to address the following questions.

1. What are the expected environmental benefits and/or disbenefits of the rule under consideration?
2. What is the potential compliance costs for the rule under consideration?
3. Any other information the responder desires to be in the record.

Should the LDEQ propose a rule revision for the major source definition, the public will have an additional opportunity to comment during the rulemaking process.

Comments are due no later than 4:30 p.m. CST on Monday, January 8, 2001, and should be submitted to Ms. Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or hand-delivered to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810 or faxed to (225) 765-5095. Persons commenting should reference this document as "Revision of the Major Source Definition for Ozone Control."

James H. Brent, Ph.D.  
Assistant Secretary

0011#040

### **POTPOURRI**

#### **Department of Environmental Quality Office of Environmental Assessment**

##### **Solicitation of Comments on Louisiana's Triennial Visibility Protection Report**

The Louisiana Department of Environmental Quality (LDEQ), Office of Environmental Assessment, Environmental Planning Division, has completed the triennial review of the State Implementation Plan (SIP) for Visibility Protection of the Breton Wilderness Area, a chain of barrier islands approximately 30 miles off the southeast coast of Louisiana. The Wilderness Area is classified as a

Class I Federal Area, and is afforded visibility protection under the Clean Air Act, Part C, Section 169, and 40 CFR Part 51.

The information used in the review included: air emission inventories of sources within 100 km distance of the Class I area; Prevention of Significant Deterioration permit reviews which require an analysis of the impact of Class I areas from proposed projects; and consultation with the Federal Land Manager (FLM), U.S. Department of Fish and Wildlife Service, requesting attributable source certifications. Further consultation with the FLM on the proposed draft report is in progress. The results of the consultation will be included in the final report.

Based on the triennial review, the LDEQ has determined that the SIP is adequate for preventing impairment of visibility as required by applicable 40 CFR Part 51 requirements. At this time, no additional measures beyond the current program are necessary.

The proposed (draft) report, "Louisiana's Progress Toward Visibility Protection of the Breton Wilderness Area" is available for public review beginning November 20, 2000, at the LDEQ Headquarters, 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA; and at the LDEQ Southeast Regional Office, 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA. The final report will be submitted to EPA on December 19, 2000, and will then be available for public review at the same locations listed above.

Comments are due no later than 4:30 p.m. CST on Friday, December 8, 2000, and should be submitted to Ms. Vivian Aucoin, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178 or hand-delivered to 7290 Bluebonnet Boulevard, Fifth Floor, Baton Rouge, LA 70810 or faxed to (225) 765-0617. Questions regarding this announcement may be directed to Ms. Aucoin by telephone at (225) 763-3506.

James H. Brent, Ph.D.  
Assistant Secretary

0011#041

### **POTPOURRI**

#### **Department of Environmental Quality Office of Environmental Assessment**

##### **Solicitation of Comments on Volatile Organic Compound Emission Reductions as Contingency Measures to Support Ozone Control**

Louisiana has experienced many days of elevated ozone levels this summer throughout the state and especially in the Baton Rouge area as a number of the monitored readings have exceeded the one-hour standard. In addition, the 5 parish Baton Rouge ozone non-attainment area, which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Therefore, identification and promulgation of regulations to implement emission reduction controls and contingency measures is necessary by August 15, 2001.

The LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies in addition to contingency measures so that Louisiana can comply with the NAAQS standard. Rules to implement emission reduction controls for inclusion in the SIP as contingency measures must be promulgated. In accordance with R.S. 49:953 of the Administrative Procedure Act, any proposed rule must include a Fiscal and Economic Impact Statement. Further, the LDEQ is required, by R.S. 30:2019(D) and R.S. 49:953(G) to perform a cost/benefit and risk analysis if a rule has a fiscal impact of \$1 million or more and is not required for compliance with a federal law or regulation.

The LDEQ is considering several volatile organic compound emission reductions as contingency measures. Specifically, the LDEQ is considering lowering the pounds per square inch absolute (psia) of volatile organic compound (VOC) storage tanks, reservoirs or other containers from 1.5 psia to .75 psia for applicability in LAC 33:III.2103; lowering the psia of marine vapor recovery from 1.5 psia to .75 psia for applicability in LAC 33:III.2108; lowering the potential to emit from 50 tons per year to 25 tons per year for applicability in LAC 33:III.2115 as well as lowering the number of pounds in any continuous 24-hour period from 100 pounds to 50 pounds in LAC 33:III.2115.H.1.c; and adding a degassing or cleaning of stationary marine and transport vessels rule. The degassing rule would potentially impact all stationary VOC storage tanks with a nominal storage capacity of 1,000,000 gallons or more and would prohibit VOC emissions with a vapor space partial pressure greater than or equal to 0.5 psia (3.4 Kpa) under actual storage conditions unless the vapors are processed by a vapor control system with a control efficiency of at least 90%.

The LDEQ will also consider expanding the applicability thresholds either on a regional or statewide basis for the rules listed above.

The LDEQ requests all interested parties submit information to the Department for consideration prior to rulemaking. The LDEQ specifically requests responders to address the following questions.

1. What are the expected environmental benefits and/or disbenefits of the rule options under consideration? Respondent should address the potential environmental impact on all media (air, water, etc.), if air emissions controls would result in adverse impacts on other media.

2. What is the potential manufacturing/retrofit/new control equipment costs for the rules under consideration? Please specify costs attributed to each revised section of Chapter 21.

3. What should be the geographic applicability areas for the options under consideration if not statewide?

4. Are there any other VOC rule specifications the LDEQ should consider? Please answer the above questions by referencing the specific section of Chapter 21.

5. Any other information the responder desires to be in the record.

6. Please comment on any plans for VOC reductions through 2005.

Should the LDEQ propose a rule to implement new or revised existing VOC controls, the public will have an

additional opportunity to comment during the rulemaking process.

Comments are due no later than 4:30 p.m. CST on Monday, January 8, 2001, and should be submitted to Ms. Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or hand-delivered to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810 or faxed to (225) 765-5095. Persons commenting should reference this document as "VOC Emission Reductions as Contingency Measures to Support Ozone Control."

James H. Brent, Ph.D.  
Assistant Secretary

0011#039

## POTPOURRI

### Department of Health and Hospitals Board of Embalmers and Funeral Directors

#### Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, January 13, 2000, at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino  
Executive Director

0011#013

## POTPOURRI

### Department of Health and Hospitals Board of Veterinary Medicine

#### Board Meeting Dates

The Louisiana Board of Veterinary Medicine is scheduled to meet on the following dates in year 2001.

Thursday, February 1, 2001  
Thursday, April 5, 2001  
Thursday, June 7, 2001 (Annual Meeting)  
Thursday, August 2, 2001  
Thursday, October 4, 2001  
Thursday, December 6, 2001

These dates are subject to change, so please contact the board office at (225) 342-2176 to verify actual meeting dates.

Kimberly B. Barbier  
Administrative Director

0011#014

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

Hearing Notice C Docket No. Imd 2001-01

Pursuant to the provisions of the laws of the state of Louisiana and particularly Title 30 of the Revised Statutes of 1950 as amended, and the provisions of the Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 p.m., Wednesday, January 10, 2001, in the Thibodaux City Courtroom, located on the second floor of the Starks Municipal Complex, 1309 Canal Blvd., Thibodaux, Louisiana.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Global Envirotec Inc., 4918 South Lewis St., New Iberia, Louisiana 70560. The applicant requests authorization to operate a commercial exploration and production (E&P) waste treatment facility in Lafourche Parish, Louisiana. Applicant requests authorization to receive, store, recycle, and reclaim RCRA-exempt exploration and production wastes generated from the drilling and production of oil and gas wells. Applicant intends to store, treat and reclaim RCRA-exempt exploration and production wastes by means of mechanical, chemical and recycling reclamation treatment methods. The proposed facility will be located in Section 3, Township 22 South, Range 22 East, Latitude 29° 13' 21", Longitude 90° 13' 00" in the community of Leeville, Lafourche Parish, Louisiana.

The application is available for inspection by contacting Mr. Gary Snellgrove, Office of Conservation, Injection & Mining Division, Room 279B of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana, or by visiting the Lafourche Parish Council Office in Thibodaux, Louisiana, or the Lafourche Parish Library in Golden Meadow, Louisiana. Verbal information may be received by calling Mr. Snellgrove at (225) 219-4548.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Wednesday, January 17, 2000, at the Baton Rouge office. Comments should be directed to the Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, LA 70804, Re: Docket No. IMD 2001-01 Commercial Facility Lafourche Parish.

Philip N. Asprodites  
Commissioner

0011#073

**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 |
|------------------------------|-------------------|----------|-------------------------------|-------------|---------------|
| R. Chisum, Jr. & L. Shepherd | Caddo Pine Island | S        | Humble                        | D-1         | 113147        |
| R. Chisum, Jr. & L. Shepherd | Caddo Pine Island | S        | Humble                        | D-2         | 114873        |
| Cryer Drilling Company       | Alden Bridge      | S        | Crystal Oil & Land Co         | 002         | 062527        |
| Depot Fuels, L.L.C.          | South Bell City   | L        | St Romain SWD                 | 002         | 195128        |
| Depot Fuels, L.L.C.          | South Bell City   | L        | CAM 2 RB SUA:Edwards          | 002         | 209618        |
| Diversa, Inc.                | East Bayou Pigeon | L        | Cocke Goodrich                | 001         | 62731         |
| Frank J. Hall                | Caddo Pine Island | S        | The Land Company              | 001         | 090591        |
| K T & M Co. - A Texas Corp.  | Leeville          | L        | L Bernard                     | 001         | 217368        |
| Stephen Paul                 | Cedar Grove       | S        | Stephen Paul                  | 001         | 990435        |
| S & T Operating              | East Moss Lake    | L        | Louisiana Farm & Livestock Co | 002         | 185604        |
| S & T Operating              | East Moss Lake    | L        | Louisiana Farm & Livestock Co | 002-D       | 186259        |
| S & T Operating              | East Moss Lake    | L        | LA Farm & Livestock SWD       | 001         | 185708        |
| S & T Operating              | East Moss Lake    | L        | Louisiana Farm & Livestock Co | 007         | 186263        |
| S & T Operating              | East Moss Lake    | L        | L CAM RA SUA:LF&L             | 007D        | 186655        |
| H. H. Stout                  | Caspiana          | S        | Huron Land Co                 | 001         | 000044        |
| Sullivan Oil Company         | Caddo Pine Island | S        | Gamm M                        | 001         | 110801        |

|                                   |                   |   |                                |     |        |
|-----------------------------------|-------------------|---|--------------------------------|-----|--------|
| Sullivan Oil Company              | Caddo Pine Island | S | Gamm A                         | 001 | 139124 |
| Sullivan Oil Company              | Caddo Pine Island | S | Gamm A                         | 002 | 139125 |
| Sullivan Oil Company              | Caddo Pine Island | S | Gamm A                         | 003 | 139126 |
| Sullivan Oil Company              | Caddo Pine Island | S | Gamm A                         | 004 | 139127 |
| Geo. W. Wetherbee                 | Bellevue          | S | Fee                            | F-1 | 008086 |
| Wheless Drlg. Co. - Lyons & Logan | East Bayou Pigeon | L | Bayou Pigeon Oil & Min St Un 1 | 001 | 067925 |

Philip N. Asprodites  
Commissioner

0011#049

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary**

**Fishermen's Gear Compensation Fund**

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that eight claims in the amount of \$22,997.34 were received for payment during the period October 1, 2000 through October 31, 2000. There were six claims paid and two claims denied.

Loran Coordinates of reported underwater obstructions are:

|       |       |             |
|-------|-------|-------------|
| 27837 | 46865 | Terrebonne  |
| 28569 | 46893 | Jefferson   |
| 29023 | 46912 | Plaquemines |
| 29037 | 46914 | Plaquemines |

Latitude/Longitude Coordinates of reported underwater obstructions are:

|          |          |            |
|----------|----------|------------|
| 2937.058 | 8933.624 | St Bernard |
| 2938.512 | 9010.036 | Jefferson  |
| 2938.867 | 9005.358 | Jefferson  |

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 94396, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Jack C. Caldwell  
Secretary

0011#051

**POTPOURRI**

**Department of Public Safety and Corrections  
Office of State Police**

**Vehicle Safety Equipment Hearing Date and  
Family Impact Statement**

The date on the hearing on the Vehicle Safety Equipment rules was incorrectly stated in the October 20, 2000 *Louisiana Register*. The notice should have stated: AA tentative public meeting on these rules is currently scheduled for 9 a.m. Wednesday, November 29, 2000, at the Louisiana State Police Operational Development Conference Room located at 265 South Foster, Baton Rouge, Louisiana 70806. Please call to confirm the date, time and location if you plan to attend.

**Family Impact Statement**

1. The effect of these rules on the stability of the family. These rules will have no effect on the stability of the family.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. These rules will have a positive effect on the authority and rights of parents regarding the education and supervision of their children as parents who allow their children to drive or ride on motorcycles will be able to determine what vehicle safety equipment is acceptable for use from these rules.

3. The effect of these rules on the functioning of the family. These rules will have no effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget. These rules will have no effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children. These rules will have a positive effect on the behavior and personal responsibility of children as children who are allowed to drive or ride on motorcycles will be able to determine what vehicle safety equipment is acceptable from these rules.

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. The rules will have no effect on the ability of the family or local governments to perform the function as contained in the proposed rules as families nor local governments regulate vehicle safety equipment.

Jerry W. Jones  
Undersecretary

0011#027



**CUMULATIVE INDEX**  
(Volume 26, Number 11)

| 2000           |           |
|----------------|-----------|
| Pages          | Issue     |
| 1-177.....     | January   |
| 180-440.....   | February  |
| 441-615.....   | March     |
| 616-966.....   | April     |
| 967-1199.....  | May       |
| 1200-1388..... | June      |
| 1389-1551..... | July      |
| 1552-1933..... | August    |
| 1934-2213..... | September |
| 2214-2409..... | October   |
| 2410-2686..... | November  |

  

|                                    |
|------------------------------------|
| EOExecutive Order                  |
| PPMCPolicy and Procedure Memoranda |
| ERCEmergency Rule                  |
| RCRule                             |
| NCNotice of Intent                 |
| CCCommittee Report                 |
| LCLegislation                      |
| PCPotpourri                        |

Fees, 235R  
Seed commission, 1428R

**CAMERON PARISH**

**Sheriff's Office**  
Inmate grievances, 2015N

**CIVIL SERVICE**

**Civil Service Commission**  
Layoff, 2023N  
Performance planning, 1348N  
Reporting actions, 1345N  
Rule amendments, 101N  
**Ethics, Board of**  
Contribution limit, 800N, 1429R  
Records, 99N, 927R  
Reports, 99N, 927R

**CULTURE, RECREATION AND TOURISM**

**Office of State Parks**  
Regulations, 25R

**ADMINISTRATIVE CODE UPDATE**

**Cumulative**  
January 1999 - December 1999, 171  
January 2000 - March 2000, 954  
January 2000 - July 2000, 1546

**AGRICULTURE AND FORESTRY**

**Agricultural and Environmental Sciences, Office of**  
Aircraft, 1081N, 1964R  
Aerial pesticide, 1081N, 1964R  
Boll weevil, 174P, 2639N  
Pesticide restrictions, 359N, 443ER, 1083N, 1200ER, 1393ER, 1428R, 1508N, 1966R, 2638N, 2437R  
**Animal Health Services, Office of**  
Pet turtles, 1192P  
**Commissioner, Office of**  
Pet turtles, 794N, 1567R  
Animal diseases, 2013N  
**Forestry Commission**  
Timber stumpage, 25R, 174P  
Timber harvest, 2013  
**Forestry, Office of**  
Seedling prices, 1395ER, 1508N, 2437R  
**Horticulture Commission**  
Definitions, 627R  
Examination, 1080N, 2240R  
Landscape architect exam, 174P, 428P  
Licenses, 627R, 1080N, 2240R  
Permits, 627R, 1080N, 2240R  
Quarantine, 955P  
Retail floristry exam, 428P, 1192P, 2674P  
**Livestock Sanitary Board**  
Animal diseases, 1938ER  
**Seed Commission**  
Bulk certification, 235R

**ECONOMIC DEVELOPMENT**

**Architectural Examiners, Board of**  
Architects Selection Board, 988R  
Limited liability companies, 2640N  
**Certified Public Accountants, Board of**  
Certified public accountants, 1084N, 1966R, 2240R  
**Certified Shorthand Reporters, Board of**  
Examinations, 2024N  
**Commerce and Industry, Office of**  
Commerce and Industry Board, 1511N, 2241R  
Gaming ineligibility, 104N, 630R  
University research, 632R  
Regional economic alliance program, 1429R  
**Economic Development Corporation**  
BIDCO, 2243R  
Capital access,  
Seed capital, 2251R  
Small business, 629R, 2255R  
**Financial Institutions, Office of**  
Additional fees and charges, 1119N, 1991R, 2258R  
Continuing Education, 2335N  
Credit card solicitation, 236R  
NSF collection fees, 106N, 990R  
Residential mortgage lending, 2641N  
**Home Inspectors, Board of**  
Inspectors, 2026N  
**Interior Examiners, Board of**  
General operations, 1110N  
**Racing Commission**  
Account wagering, 2420ER  
Carbon dioxide testing, 972ER, 1120N, 1992R  
Parlay wagering, 990R  
Substance abuse, 33R  
Wagering, 2337N  
**Real Estate Commission**  
Real estate, 37R

**Secretary, Office of the**

Economic development award (EDAP), 236R  
Highway 988 relocation, 1192P  
Port development, 239R  
Workforce development, 241R

**Small and Emerging Business Development Program, Division of**

Business development, 360N, 1572R  
Mississippi River bridge relocation, 1429R  
Sales and use tax exemption, 1430R

Tuition opportunity program for students (TOPS), 3ER, 4ER, 64R, 65R, 69R, 132N, 133N, 184ER, 365N, 444ER, 445ER, 446ER, 620ER, 620ER, 621ER, 688R, 689R, 829N, 972ER, 977ER, 978ER, 1015R, 1121N, 1200ER, 1261R, 1262R, 1262R, 1354N, 1360N, 1404ER, 1513N, 1555ER, 1601R, 1602R, 1603R, 1993R, 1998R, 1999R, 2043N, 2220ER, 2349N, 2268R

Tuition payment program, 1557ER, 2046N, 2269R

**EDUCATION**

**Elementary and Secondary Education, Board of**

Awards, 1352N  
Bulletin 741  
Accountability, 246R, 364N, 1260R, 1677N  
Appeal/waiver, 246R  
Business education, 1430R  
Carnegie credit, 1352N, 2259R  
Character education, 363N, 1260R  
Computer/technology, 635R, 2040N  
Distance education, 1430R  
Elementary students, 2041N  
Electives, 247R  
Growth targets, 1431R  
High school credit, 2041N  
Home school programs, 1432R, 2341N  
LEAP, 244R, 2341N  
Nonpublic schools, 1432R, 2341N  
Regulations, 2042N  
School performance scores, 800N, 1575R  
Standards, 2042N  
Superintendents, 62R  
Transfer policy, 1432R  
Bulletin 746  
Board committees, 2646N  
GPA, 638R  
Language teachers, 2645  
Post-baccalaureate certification, 635R  
Reinstatement, 62R  
Revocation, 62R  
School Psychologists, 2643N  
Superintendents, 62R  
Suspension, 62R  
Bulletin 921  
Support fund, 248R  
Bulletin 1213  
School buses, 639R, 2342N  
Bulletin 1566  
Pupil progression, 64R, 801N, 1432R, 1575R, 2343N  
Bulletin 1706  
Exceptional children, 639R, 802N, 1554ER, 1683N, 1576R, 2346N  
Bulletin 1794  
Textbook policy, 107N, 991R  
Bulletin 1903  
Dyslexic students, 249R  
Child nutrition program, 826N, 1599R  
**Student Financial Assistance Commission**  
Commission Bylaws, 1353N, 1514N, 1993R, 2347N, 2647N  
Disciplinary proceeding alternatives, 2648N  
Medical school students, 1557ER, 2046N  
START saving program, 444ER, 1263R, 1395ER, 1513N, 2348N, 2219ER, 2260R

**ENVIRONMENTAL QUALITY**

**Environmental Assessment, Office of**

Agenda, 958P,  
Air quality offset ratios, 2204P  
Beauregard redesignation, 429P  
Commercial hazardous waste, 2046N  
Emissions, 832N, 1605R  
Environmental projects, 1603R  
Exemption, 2350N  
Fluoroscopic x-ray, 1849N, 2270R  
Grant redesignation, 429P  
Hazardous waste manifest, 2051N  
I/M, 175P  
Lafayette redesignation, 429P  
LPDES, 1854N,  
Orleans redesignation, 430P  
Ozone, 957P, 2674P, 2674P, 2675P  
Prohibited waste, 2003R  
Pollutants, 1867N  
RACT,  
Reporting, 2003R  
Response action contractors, 174P  
Sewage treatment facilities, 2068N, 2221ER  
State beautification program, 1515N  
Storm water regulations, 1852N  
Solid waste, 1515N  
St. Mary redesignation, 430P  
SIP, 175P, 1192P  
Visibility protection, 2675P  
Volatile organic compounds, 2675P  
Waste tire, 1866N  
X-ray, 1849N  
AQ102 40 CFR part 60, 1360N, 1607R  
AQ195 Air fee, 263R  
AQ196 Chemical accident prevention, 69R  
AQ198 40 CFR part 63, 690R  
AQ201 Fugitive emission control, 1433R  
AQ202 Reporting requirements, 840N  
AQ203 Volatile compounds, 848N, 1442R  
AQ205\* 40 CFR part 68, 1851N, 2272R  
AQ207\* 40 CFR part 63, 1850N, 2203P, 2270R  
AQ209 Gasoline storage vessels,  
AQ210 40 CFR part 60, 2055N, 2608R  
HW062 Waste by deep well injection, 1608R  
HW071P Commercial hazardous waste, 2046N  
HW072 RCRA, 267R  
HW073 Remedial action plans, 1441R  
HW074 Hazardous waste manifest, 2051N  
NE021 Radioactive material, 842N, 1264R  
NE022 Recordkeeping, 365N, 1017R  
NE023 NRC, 2073N  
NE024 Radiation protection, 1440R  
NE025 Radiographer trainee requirements, 1864N  
NE026\* Fluoroscopic X-Ray Systems, 2270R  
OS034 RECAP, 428P, 1263R

OS035E Program requirements, 4ER, 622ER  
 OS035 Laboratory accreditation, 833N, 1434R  
 OS036 Organization Citations, 1684N, 2439R  
 OS038 Reportable quantity for pollutants, 1865N  
 SW027 Waste tire, 1123N, 1382P  
 SW028 Solid waste and statewide beautification, 2609R  
 SW029 Waste tire regulations, 1866N  
 WP035 Privately owned sewage treatment facilities, 2068N  
 WP035E2 Private sewage, 447ER  
 WP035E3 Sewage treatments, 1405ER  
 WP037 LPDES, 2056N  
 WP038 Water quality, 1270R  
 WP039\* LPDES stormwater regulations, 1852N, 2272R  
 WP040 LPDES, 1122N, 1609R

**Secretary, Office of**  
 BEPs, 451ER, 830N, 1409ER  
 OS037E1 BEPs, 1409ER

### EXECUTIVE ORDERS

MJF 99-54CJustice System Funding Commission, 1EO  
 MJF 99-55CCarry -Forward Bond Allocation Louisiana  
 Louisiana Housing Finance Authority, 1EO  
 MJF 00-01CBond AllocationCIndustrial Development Board  
 of the City of New Orleans, Louisiana, Inc.,  
 180EO  
 MJF 00-02CTobacco Settlement Payment Options Task  
 Force, 180EO  
 MJF 00-03CState of Emergency CSuspension and  
 Rescheduling of Qualifying in the Parishes of  
 Bossier, Caddo, Claiborne, Lincoln, Union,  
 Webster, and West Carroll, 182EO  
 MJF 00-04CBond AllocationCIndustrial Development Board  
 of the City of New Orleans, Louisiana, Inc.,  
 182EO  
 MJF 00-05CBond AllocationCLouisiana Local Government  
 Environmental Facilities and Community  
 Development Authority, 183EO  
 MJF 00-06CLouisiana Women's Policy and Research  
 Commission, 441EO  
 MJF 00-07CLouisiana Highway 1 Project Task Force,  
 442EO  
 MJF 00-08CLouisiana Women's Policy and Research  
 Commission, 967EO  
 MJF 00-09CBond AllocationCDenham Springs/Livingston  
 Housing and Mortgage Finance Authority,  
 616EO  
 MJF 00-10CBond AllocationCEast Baton Rouge Parish  
 Mortgage Finance Authority, 616EO  
 MJF 00-11CBond AllocationCCalcasieu Parish Public  
 Trust Authority, 617EO  
 MJF 00-12CBond AllocationCLouisiana Housing Finance  
 Agency, 617EO  
 MJF 00-13CBond AllocationCParish of Jefferson Home  
 Mortgage Authority, 618EO  
 MJF 00-14CBond AllocationCExecutive Department  
 Spending Freeze, 619EO  
 MJF 00-15CBond Allocation Procedures, EO967  
 MJF 00-16CBond AllocationCThe Finance Authority of  
 New Orleans, 968EO  
 MJF 00-17CBond AllocationCCalcasieu Public Trust  
 Authority, 968EO  
 MJF 00-18CHiring and Spending Freeze, 969EO  
 MJF 00-19CBond AllocationCDenham Springs/Livingston  
 Housing & Mortgage Finance, 1389EO  
 MJF 00-20CBond AllocationCParish Jefferson Home  
 Mortgage Authority, 1389EO

MJF 00-21CContinuation of Hiring Freeze, 1390EO  
 MJF 00-22CBond AllocationCLouisiana Local Government  
 Environmental Facilities and Community  
 Development Authority, 1390 EO  
 MJF 00-23CBond AllocationCLouisiana Local Government  
 Environmental Facilities and Community  
 Development Authority, 1391EO  
 MJF 00-24CFormosan Termite Task Force, 1391EO  
 MJF 00-25CSpecial Farm Product Permit Transportation of  
 Corn Product Permit Transportation of Corn in  
 its Natural State, 1552EO  
 MJF 00-26CPost-Conviction DNA Testing Advisory  
 Commission, 1552EO  
 MJF 00-27CBond AllocationCLouisiana Local  
 Government Environmental Facilities and  
 Community Development Authority, 1934EO  
 MJF 00-28CState Employees Cafeteria Plan Study  
 Commission, 1934EO  
 MJF 00-29CSmall Purchase Procedures, 1935EO  
 MJF 00-30CGovernor's Board on Military Issues,  
 1936EO  
 MJF 00-31CTobacco Settlement Payment Options  
 Task Force, 2214EO  
 MJF 00-32CElectronic Transactions, Records and Signatures  
 In or Affecting Interstate or Foreign  
 Commerce, 2214EO  
 MJF 00-33CStatewide Intermodal Transportation and  
 Economic Development Policy Commission,  
 2215EO  
 MJF 00-34CBond AllocationCLouisiana Local Government  
 Environmental Facilities and Community  
 Development Authority, 2216EO  
 MJF 00-35CContinuation of Hiring Freeze, 2217EO  
 MJF 00-36CAdvisory Council on Disability Affairs, 2410EO  
 MJF 00-37CInterstate 49 Extension Feasibility and Funding  
 Task Force, 2411EO  
 MJF 00-38CCooperative Endeavor Agreements, 2412EO  
 MJF 00-39CState Partnership with the Baton Rouge Clean  
 Air Coalition in the Ozone Action Program, 2413EO  
 MJF 00-40CGovernor's Military Advisory Board, 2414EO  
 MJF 00-41CSaltwater Marsh Die-Off Action Plan, 2415EO  
 MJF 00-42CContinuation of Hiring Freeze, 2416EO  
 MJF 00-43CBond AllocationCJefferson Parish Economic  
 Development and Port District, 2417EO  
 MJF 00-44CState Water Policy Advisory Task Force, 2417EO

### FIREFIGHTERS' PENSION AND RELIEF FUND

**City of New Orleans and Vicinity**  
 Definitions, 290R  
 Eligibility, 290R  
 DROP, 291R  
 DROP accounts, 294R  
 Leave, 294R  
 Participation, 291R  
 Payments, 1609R  
 Post-DROP, 294R  
 Retirement, 2195N

### GOVERNOR'S OFFICE

**Administration, Division of**  
**Commissioner, Office of**  
 Digital signatures, 2225ER  
 General travel, 1252PPM

**Community Development, Office of**  
Action plan, 958P

**Data Base Commission, Office of**  
Data base, 134N, 2611R

**Facility Planning and Control, Office of**  
Rental/lease, 137N, 1019R

**Property Assistance Agency**  
Inventoried property, 1361N, 1540P, 2005R, 2284R

**State Employees Group Benefits Program, Board of Trustees of the**  
EPO, 186ER, 623ER, 1204ER, 1208ER, 1209ER, 1411ER, 2424ER  
Fee schedule, 453ER  
Late payment, 981ER, 1939ER, 2078N  
PPO, 187ER, 623ER, 1209ER, 1213ER, 1324ER, 1411ER, 2428ER

**State Land Office**  
Wax Lake waterfowl, 2229ER

**State Uniform Payroll, Office of the**  
Payroll deduction, 187ER, 367N, 1024R

**Telecommunications Management, Office of**  
Rule clarification, 2006R

**Crime Victims Reparation Board**  
Award limits, 366N, 1019R

**Elderly Affairs, Office of**  
Area agencies on aging, 70R  
GOEA-policy revision, 79R, 2349N  
State plan, 1135N, 1610R

**Law Enforcement and Administration of Criminal Justice, Commission on**  
Crime victim assistance, 2351N  
Drug abuse education/treatment, 1882N  
Federal grant funds, 133N, 1018R  
Standards, 1214ER, 2352N  
Training, 1214ER, 1882N, 2352N  
Victims fund, 1882N

**Oil Spill Coordinator's Office**  
Four Bayou Pass, 959P  
Restoration planning, 959P  
Vessel response plans, 1193P

**Veterans Affairs**  
Bonus payments, 849N, 1442R

**Women's Services, Office of**  
Family violence, 849N

## HEALTH AND HOSPITALS

**Addictive Disorders, Office of**  
Resource allocation formula, 1367N

**Certified Social Work Examiners, Board of**  
Standards, 295R

**Dentistry, Board of**  
Advertising, 138N, 690R  
Air abrasions units, 1137N  
Communicable disease, 141N  
Curriculum, 1137N  
Expanded duty, 139N, 691R  
Exemptions, 1137N  
Hygienists fees, 140N  
Licenses, 1137N, 1612R  
Licensure-dental hygienists, 140N, 691R  
Licensure-dentist, 140N, 691R  
Licensure requirements, 141N, 142N, 692R, 692R, 1612R  
Meeting dates-2000, 176P  
Violations, 1136N

**Embalmers and Funeral Directors, Board of**  
Examinations, 961P, 1540P, 2676P

**Examiners in Dietetics and Nutrition, Board of**  
License, 1517N, 2613R

**Examiners of Electrolysis, Board of**  
Definition, 1362N  
Exceptions and rights, 1362N  
License renewal, 1362N  
Licensure, 1362N  
Sanitary requirements, 1362N

**Examiners of Nursing Facility Administrators, Board of**  
Board member, 142N, 692R  
Certificates, 82R, 316R  
Licenses, 82R, 316R

**Management and Finance, Office of**  
Services provider fees, 1478R  
State 20 Program, 2354N  
MRHF, 1480R

**Medical Examiners, Board of**  
Chronic pain, 693R  
Education requirements, 695R

**Nursing, Board of**  
Continuing education, 83R  
Education programs, 1882N  
Education services fees, 83R  
Licensure fee, 83R  
Registration fee, 83R  
Submission fees, 83R  
Criminal history, 864N, 1614R  
Disciplinary proceedings, 865N, 1614R  
Licensure and change of status, 1443R, 2353N  
Official Office of the Board, 866N, 1615R  
Reinstatement, 2353N

**Pharmacy, Board of**  
Automated medication, 1271R  
Drug returns, 453ER, 867N, 1615R  
Pharmacy technicians, 868N, 1518N, 2286R  
Pharmacy education, 2284R

**Physical Therapy, Board of**  
Disciplinary Process and Procedures, 2085N  
Licensure, 870N, 1443R  
Pharmacy education, 1365N  
Supervision, 870N  
Unauthorized practice, 870N, 1443R

**Practical Nurse Examiners, Board of**  
Education, 1140N, 2614R  
Fees, 1140N, 2614R  
Licensure, 1140N, 2614R  
Practice, 1140N, 2614R

**Public Health, Office of**  
Child health block grant, 1382P  
Hearing, 433P  
Lead poisoning prevention, 85R, 2356N  
Maternal health block grant, 1382P  
Neonatal screening, 2650N  
Sanitary Code  
Body art, 1616R  
Plumbing, 1481R  
Seafood, 143N, 1033R  
Sewage disposal, 1520N, 2289R, 2302R, 2618R  
Water supplies, 368N, 1036R, 1145N, 1274R, 1624R, 2204P, 2288R  
Shellfish, 430P  
Vital records, 1298R

**Secretary, Office of the**  
Breast cancer, 697R  
Case management, 909N  
Drug Testing Policy, 1058R  
Health Services Financing, Bureau of  
AAC devices, 1412ER, 1625R

Addiction treatment, 879N  
 Adult denture program, 196ER  
 Care facilities Cretarded, 222ER  
 Children's health, 2093N  
 Chiropractic services, 197ER, 1215ER, 1885N, 1940ER  
 Community based services waiver, 2090N  
 Dental services, 2652N  
 Durable medical equipment  
   Customized wheelchairs, 198ER, 1215ER, 1940ER, 2358N  
   E and K procedure codes, 198ER, 1216ER, 1941ER, 2359N  
   Enteral formulas, 199ER, 1217ER, 1942ER, 2360N  
   Enteral supplies, 204ER, 1947ER, 2365N  
   Equipment delivery, 200ER, 1217ER, 1886N, 1942ER  
   Family planning, 875N, 1418ER  
   Flat fee, 200ER, 1218ER, 1943ER, 2361N  
   Glucometers, 204ER, 1946ER, 2364N  
   Health care sanctions, 876N, 1448R  
   Hemodialysis, 1153N  
   Medicare Part B claims, 201ER, 1147N, 1219ER, 1944ER, 2300R  
   Nurse home visits, 982ER, 2653N, 2654N  
   Orthotics, 202ER, 1220ER, 1945ER, 2362N  
   Ostomy, 203ER, 1220ER, 1946ER, 2363N  
   Oxygen concentrators, 204ER, 1221ER, 1946ER, 2364N  
   Parenteral supplies, 204ER, 1221ER, 1947ER, 2365N  
   Physician services, 908N  
   Prosthetics, 202ER, 1945ER, 2362N  
   Rehabilitation services, 909N  
   Substance abuse/addictions, 1450R  
   Supplies delivery, 200ER, 1886N, 1942ER  
   Urological supplies, 203ER, 1946ER, 2363N  
   X-ray services, 907N, 1419ER  
   Z and E procedure codes, 205ER, 1222ER, 1948ER, 2367N  
 Emergency ambulance services, 207ER, 208ER, 1224ER, 1225ER, 1418ER, 1949ER, 2088N, 2232ER, 2655N  
 EPSDT  
   Case management, 624ER, 1562ER, 2097N  
   Dental, 206ER, 1223ER, 1416ER, 2231ER  
   Hearing Aids, 2433ER  
   KidMed, 206ER, 1223ER, 1417ER  
   Rehabilitation, 207ER, 1224ER, 1417ER  
 Family planning clinics, 209ER, 1226ER  
 Hemodialysis centers, 209ER, 1148N, 1227ER, 1950ER,  
 Home based services waiver, 2090N  
 Home health nursing, 210ER, 211ER, 1227ER, 1228ER, 1419ER, 2231ER  
 Home health, 1950ER, 1951ER  
 Inpatient services, 212ER, 213ER, 214ER, 1150N, 1151N, 1229ER, 1230ER, 1231ER, 1299R, 1558ER, 1952ER, 1953ER, 2094N, 2621R  
 Laboratory x-ray services, 214ER, 215ER, 1153N, 1231ER, 1232ER, 1954ER, 2622R  
 LACHIP, 2093N  
 Long term hospital, 216ER, 1233ER, 1541P, 1558ER  
 Mental health services, 216ER, 1233ER, 1239ER, 1239ER, 1420ER  
 Mentally retarded/developmentally disabled waiver Cwaiting list, 2433ER  
 Mentally retarded reimbursement, 1542P, 1560ER, 1958ER, 2368N

Native American fishing rights, 323R  
 Nonemergency ambulance services, 208ER, 1226ER, 1420ER, 2232ER, 2656N  
 Nurse home visits, 2096N  
 Nursing facilities-reimbursement, 5ER, 1421ER, 1524N, 1561ER, 2300R  
 Out-of-state hospitals, 217ER, 1234ER, 1955ER, 2094N  
 Outpatient hospital Claboratory, 218ER, 1156N, 1235ER, 1541P, 1559ER  
 Outpatient hospital Crehabilitation, 218ER, 1235ER, 1542P, 1559ER  
 Outpatient hospital Cservices, 219ER, 1151N, 1228ER, 1236ER, 1952ER, 2622R  
 Outpatient services, 211ER, 1956ER, 2090N  
 Outpatient surgery, 220ER, 1237ER, 1957ER  
 Pharmacy program, 220ER, 1237ER, 1299R, 1629R  
 Private nursing facilities, 223ER, 1240ER, 1240ER, 1543P, 1561ER, 1958ER, 2369N  
 Private hospital services, 221ER, 1238ER, 1542P, 1560ER  
 Professional services  
   Adenoidectomy services, 226ER, 1961ER  
   Medicare part B, 224ER, 1241ER, 1959ER, 2302R  
   Neonatal care, 225ER, 1242ER, 1960ER  
   Physician services, 225ER, 1242ER, 1422ER, 2095N, 2233ER  
   Tonsillectomy services, 226ER, 1243ER, 1961ER  
 Protective Services Agency, 2370N  
 Public non-state hospitals, 2230ER  
 Public nursing facilities, 2434ER  
 Psychiatric services, 1540P, 1558ER  
 Rehabilitation services, 227ER, 1157N, 1243ER, 1244ER, 1423ER, 2622R  
 Reimbursement reduction, 2091N, 2094N, 2095N  
 Substance abuse clinics, 228ER, 229ER, 1158N, 1245ER, 1246ER, 1961ER, 1962ER, 2369N, 2289R  
 Targeted management services, 229ER, 624ER, 625ER, 1246ER, 1423ER, 1561ER, 1562ER, 2096N, 2097N

**Speech Language Pathology and Audiology, Board of Examiners for**

Speech-language pathology and audiology, 2080N

**Veterinary Medicine, Board of**

Board meeting dates, 2676P  
 Certificate renewal, 84R  
 Consent forms, 2086N  
 Dispensing drugs, 12987N  
 Euthanasia, 317R  
 Fees, 84R  
 Fee schedule, 176P  
 Late charge, 84R  
 Prescribing drugs, 2087N  
 Renewals, 322R

**INSURANCE**

**Commissioner, Office of the**

Fraud assessment, 7ER, 323R  
 Reg 68C Patient rights, 324R  
 Reg 69C Year 2000 exclusions, 86R  
 Reg 70C Life insurance, 433P, 1300R, 1482R  
 Reg 74C Health coverage claims, 1368N, 2006R

## LABOR

### Plumbing Board

Fees, 327R  
Integrity of examination, 328R  
Medical gas verifiers, 328R

### Secretary, Office of the

Drug testing, 392N

### Worker's Compensation, Office of

Medical reimbursement, 2099N

### Workforce Development, Office of

Training fund, 1629R

## LEGISLATURE

### State Legislature

#### 1999 Regular Session

Administrative Procedure Act, 412L

## LOUISIANA LOTTERY CORPORATION

### Louisiana Lottery Corporation

Instant lottery, 699R  
On-line lottery, 703R, 1159R, 1631R  
Policies, 705R  
Prize payment, 703R  
Retailer regulations, 709R

## NATURAL RESOURCES

### Conservation, Office of

Fees, 1526N, 2302R  
Hearing notice, 2677P  
LaFourche Parish, 1382P  
Newpark's waste facilities, 177P  
Orphaned oilfield sites, 176P, 433P, 961P, 1193P, 1382P,  
1543P, 2205P, 2677P  
Pollution control, 2233ER  
Statewide Order No. 29-B, 230ER, 394N, 1247ER, 1306R,  
2233ER

### Mineral Recourses, Office of

Surveys, 1060R

### Secretary, Office of

Fishermen's gear compensation fund, 962P, 1194P, 1383P,  
1544P, 2206P, 2678P  
Loran coordinates, 962P  
Oyster lease, 1483R, 1565ER

## NEW ORLEANS AND BATON ROUGE

### STEAMSHIP PILOT COMMISSION

#### New Orleans and Baton Rouge Steamship Pilot

##### Commission, Board of

Steamship pilots, 396N, 1064R

## PORT COMMISSIONS

### River Port Pilot Commissioners, Board of

Continuing Education, 2373N

## PUBLIC SAFETY AND CORRECTIONS

### Board of Pardons

Clemency, 88R

## Corrections Services

Adult offenders, 1529N, 2623R  
Drug-free workplace, 1308R  
Equal employment, 1308R  
Medical reimbursement, 331R, 2623R  
Sex offender, 332R  
Visitation-attorney, 1313R

### Gaming Control Board

Accounting regulations, 334R, 1371N, 2305R  
Application/license, 339R  
Application/reporting form, 339R  
Check cashing, 335R  
Compulsive gambler, 2194N  
Conduct of licensees/permittees, 1888N  
Definitions, 1314R  
Electronic devices, 8ER, 716R  
Establishments, 1320R, 1373N  
Hearing, 177  
Impositions-sanctions, 1324R, 1321R  
Internal control, 1371N, 2305R  
Land-based, 160N, 2306R  
Licensing requirements, 1373N, 1892N, 2322R  
Louisiana Business, 2374N  
Non-gaming suppliers, 1314R  
Pari-mutuel racing, 728R  
Reciprocity, 339R  
Riverboat, 1893N  
Slots, 1371N, 2305R  
Violations, 1887N

### Liquefied Petroleum Gas Commission

Fueling, 911N, 1487R  
Inspections, 911N, 1487R  
Installation, 911N, 1487R  
Mass transit vehicles, 911N  
Requirements, 911N, 1487R  
School bus applications, 911N, 1487R

### Motor Vehicles, Office of

Compulsory insurance, 88R  
Driver's license handling fee, 1530N  
Identification cards, 1177N, 1633R  
License plates, 89R  
Requirements, 1175N, 1632R

### Private Investigator Examiners, Board of

Disciplinary information, 574N  
Disciplinary information, 1307R

### Private Securities Examiners, Board of

Administrative penalties, 1067R  
Board members, 1067R  
Company licensure, 1067R  
Criminal background checks, 1067R  
Disciplinary action, 1067R  
Insignias, 1067R  
Investigations, 1067R  
Licensee suitability, 1067R  
Markings, 1067R  
Records, 1067R  
Registrant violations, 1067R  
Registration, 1067R  
Restrictions, 1067R  
Training, 1067R

### State Fire Marshal, Office of the

Fire alarms, 150N, 1324R  
Fire codes, 2657N  
Fire extinguishers, 150N, 1324R  
Manufactured housing, 1250ER, 1374N, 2009R

### State Police, Office of

Analysis of blood and urine, 21ER, 146N, 2623R  
DNA samples, 2659N

Explosive code, 90R  
Litter enforcement, 2658N  
Mobile police, 1895N  
Towing recovery, 347R  
Underground utilities, 92R  
User fees, 95R, 1894N, 2626R  
Vehicle Safety Equipment, 2375N, 2678P  
Weights and standards, 1895N, 2627R

## REVENUE AND TAXATION

### Alcohol and Tobacco Control, Office of

Caterer's permits, 1424ER, 1907N, 2630R  
Liquor, 1908N, 2631R

### Corporation Income and Franchise Taxes

Income tax withholding, 1899N

### Secretary, Office of

Policy statements, 2661N  
Refund claims, 95R

### Severance Tax Division

Natural gas tax, 962P

### Tax Commission

Timber stumpage, 25R, 174P

## SOCIAL SERVICES

### Community Services, Office of

Children's trust fund, 1531N, 2632R  
Child abuse, 790R  
Emergency shelter, 435P  
LIHEAP, 2206P  
Maintenance, 96R  
Neglect, 790R  
Reimbursement rates-residential, 23ER, 1341R  
Relinquishment of newborns, 2196N  
Residential facilities, 985ER, 2665N, 2632R  
Trust fund, 1531N, 2632R  
Weatherization assistance, 436P

### Family Support, Office of

Child care assistance program, 1909N  
Child support enforcement, 2197N  
Crime victim compensation, 2198N  
Delinquent payments, 2197N  
FITAP, 349R, 399N, 962P, 1342R, 1563ER, 2197N, 2198N,  
2199N, 2435ER  
FIND work, 1342R  
Flat grant amount, 2199N  
Food stamps, 349R, 912N, 1545P, 1633R  
KCSP, 2201N, 2202N  
Kinship care, 350R, 351R, 1564ER, 2201N, 2202N, 2436ER  
Support enforcement, 356R, 401N, 1343R,  
TANF caseload, 962P  
Tax refund, 2394N  
Wrap-around child care, 983ER, 2236ER

### Rehabilitation Services, Office of

Appeal rights, 914N, 1425ER, 1634R  
Cued speech transliterator, 916N, 1488R  
Eligibility, 2666N  
Independent services, 1178N, 2322R  
Sign language interpreter, 916N, 1488R

### Secretary, Office of the

Adult care, 1914N  
Child care, 402N, 1194P, 1635R, 2010R

## TRANSPORTATION AND DEVELOPMENT

### General Counsel, Office of the

Fiber optic permits,  
Outdoor advertisement, 1375N,  
Traffic generators, 2330R

### Highways/Engineering

Contracting, 790R  
Fiber optic permit, 1915N  
Roadside vegetation, 920N, 1644R

### Sabine River Compact Administration

Fall meeting notice,  
Spring meeting notice, 1194P

### Secretary, Office of

#### Crescent City Connection Division

Bridge toll, 97R

### Weights and Measures, Office of

Equipment permit, 1375N, 2330R  
Heavy equipment, 2330R  
Reflective sign sheeting, 357R

## TREASURY

### Treasurer, Office of the

Time certificates of deposit, 2670N

### State Bond Commission

Electronic bidding, 1187N, 1675R  
Surety bond, 1187N, 1675R

### State Employees' Retirement System, Board of Trustees of the

Disability eligibility, 1490R  
Election, 1916N, 2632R  
Excess benefit plan, 1490R  
Optional retirement plan, 1490R  
Purchase of military service, 1490R  
Retiree election, 1490R  
Spousal consent, 1490R

### State Employees' Retirement, Board of Trustees

Disability eligibility, 917N  
Excess benefit, 917N  
Military service purchase, 917N  
Optional retirement, 917N  
Retiree election, 917N  
Spousal consent, 917N

## WILDLIFE AND FISHERIES

### Wildlife and Fisheries Commission

Alligator, 1427ER, 1492R  
Billfishes, 952N, 1676R  
Birds, 1564ER  
Black bass, 97R  
Black drum size, 1377N, 2331R  
Cobia, 1917N  
Commercial king mackerel, 1250ER, 1426ER, 1505R,  
1532N, 2010R, 2011R,  
Crawfish, 168N, 1077R  
Deer, 1188N, 1189N, 2010R  
Electronic licensing, 168N, 1077R  
Flotation devices, 1493R  
Harvest, 98R, 1919N, 1963ER,  
Hunting, 24ER, 233ER, 1494R, 1506R, 1564ER, 2395N  
Inshore shrimping, 1565ER, 1566ER  
License fee, 2395N, 2396N  
Mackerel, 1505R, 1532N, 1917N, 2238ER, 2633R

Migratory birds, 1564ER  
Mullet, 1379N, 2332R  
Oyster, 1565ER  
Pompano permits, 1378N, 2332R  
Possession limits, 2331R, 2633R  
Prohibited fish, 953N, 1505R, 1676R  
Quotas, 1377N, 1505R, 2331R  
Red snapper, 986ER  
Reef fish, 792R, 1505R

Shrimp, 233ER, 626ER, 986ER, 1426ER, 1427ER, 1564ER,  
1565ER, 1566ER  
Spotted seatrout, 1380N, 2333R  
Three day fishing, 2396N  
Traversing permit, 1381N, 2333R  
Tuna, 1919N  
Turkey, 1533N, 2634R  
Waterfowl, 1963ER