

Rules

RULE

Department of Economic Development Board of Home Inspectors

Home Inspectors (LAC 46:XL.Chapters 1-11)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the Louisiana Home Inspector Licensing Law (R.S. 37:1471-1489), the Louisiana State Board of Home Inspectors hereby adopts the initial Rules of the Louisiana State Board of Home Inspectors ("LSBHI" or "board"). The board was established by Act 1999, No. 61, Section 2, enacting the Louisiana Home Inspectors Licensing Law ("law") contained in R.S. 37:1471-1489. The board is situated in the Department of Economic Development and domiciled in Baton Rouge. These proposed Rules implement the law by advising all those engaged in the business of inspecting existing residential homes for compensation, persons utilizing such services, and the general public of the legal obligations and responsibilities of residential home inspectors. The Rules promote the public interest through the creation of Standards of Practice and a Code of Ethics for licensed home inspectors. They further elaborate upon board powers and duties and afford citizens the right to request the board to determine the applicability of the law and these Rules to certain situations. The Rules further set forth how the board will administer its affairs and exercise the authority bestowed by the law. The board proposes the Rules in this part of the Louisiana Administrative Code be contained in six Chapters: Chapter 1C General Rules, including the requirements for licensure, applicable fees, and attendant agency enforcement actions; Chapter 3C Standards of Conduct; Chapter 5C Code of Ethics; Chapter 7C Disciplinary Action; Chapter 9C Declaratory Orders; and Chapter 11C Judicial Review. Where these Rules are silent regarding rule making, adjudications, or other board proceedings, the corresponding provisions of the Administrative Procedure Act shall apply. The board will conduct its meetings according to the Open Meetings Law. The books, documents, filings and other materials in possession of the board shall be available according to the Public Records Law and subject to any exceptions in that law.

These initial proposed Rules are the product of multiple board meetings. The board solicited and received input and suggestions from such groups as the Mortgage Lenders Association, the Realtors Association, the Home Builders Association, the Louisiana Chapter of the American Society of Home Inspectors, the American Institute of Architects, the Legal Division of the Department of Economic Development, the Association of Professional Engineering and Land Surveying, the Louisiana Pest Control Association, the Attorney General's Office, as well as several attorneys, individual home inspectors and other interested professionals. The board conducted several public meeting

to receive comments from interested parties and undertook many major revisions.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XL. Home Inspectors

Chapter 1. General Rules

§101. Administrative Procedure Act

This administrative code (Rules of the board) and all revisions and additions to these Rules shall be adopted in accordance with R.S. 49:950 et seq., the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1474.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2738 (December 2000).

§103. Board Appointment; Qualifications; Domicile; Meetings; Quorum; Service of Process; Publication

A. The board shall be composed of one member from each congressional district and appointed by the governor. Future board members will be appointed for a six-year term. Board members may serve only one full six-year term. Each member of the board shall be a United States citizen and a resident of the state, and shall have been actively engaged in the home inspection business on a full-time basis for one year preceding the appointment. The initial board members are required to obtain a license in accordance with the provisions of this Chapter. Thereafter, each member of the board shall be a licensed home inspector. Board members are to be confirmed by the Senate. The board shall be domiciled in Baton Rouge, but may meet in other locations as determined by the board. A majority of the board members shall constitute a quorum of the board for all purposes, including the issuance of licenses and the rulemaking and adjudicative functions of the board.

B. The board chairman shall be the initial agent for service of process. The board shall register the name and address of its agent for service of process as required by law.

C. The board shall publish quarterly a bulletin which shall be the official journal of the board. This bulletin shall contain notice of all applications filed, board agendas, minutes of open meetings, request for declaratory relief, and generally serve as the board's form notice to licensees and the public. All licensees shall receive the bulletin free of charge. Others may subscribe to the bulleting. Until such time as the board begins bulletin publication, notice of board meetings shall be published in the official state journal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1474-1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2738 (December 2000).

§105. Officers; Election; Secretary-Treasurer; Chief Operating Officer; Board Staff; Duties

A. Officers shall be elected by the board at the last meeting of the preceding year, shall serve a term of one year

and may be reelected for additional terms. Officers may be reelected for additional terms. The board shall elect a chairman and a vice chairman.

B. The board shall employ a secretary-treasurer who shall serve as the chief operating officer (COO) of the board and is not to be a member of the board. The COO shall employ other staff as reasonably necessary with approval of the board, and subject to budgetary limitations. In the absence of a contrary board pronouncement, the COO shall serve as the board's appointing authority.

1. The COO shall be the custodian of all documents, filings and records of the board, and may issue process in the board's name.

2. The COO shall be responsible for the day to day operations of the board office and shall prepare and submit a budget for the board's consideration and approval.

3. The COO may have other duties and responsibilities as conferred by the board.

4. The board shall fix the COO's compensation.

C. Until such time as the board employs a secretary-treasurer who serves as the COO, the chairman shall be responsible for the competent discharge of all administrative and related board functions. The chairman shall preside at all meetings, approve the agenda and shall be the official custodian of all records, until such time as a COO is employed.

D. The board shall be represented by the attorney general's office. In lieu of available representation from the attorney general, the board may retain qualified counsel of its choice as according to law and at fees no higher than the schedule provided by the attorney general for special assistant attorneys general. An attorney is qualified if a reasonable portion of their practice and experience is obtained from or devoted to administrative agency practice and procedure or civil litigation. In the event the board needs counsel on a specific area of expertise, an attorney may be retained for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2738 (December 2000).

§107. Meetings

A. All meetings shall be held in accordance with the Louisiana Open Meetings Law. Unless otherwise designated, all meetings shall be held at the board's domicile in Baton Rouge.

B. The place, date and time of quarterly meetings are to be published in the official state journal at the beginning of each calendar year.

C. Special meetings shall be held at least two weeks after notification is given to each board member and after 24-hours notice is given to the public. Special meeting agendas are to be posted at the meeting site at least 24 hours prior to the meeting.

D. Notices of all meetings and agendas shall be provided to all persons requesting notice in the same manner as provided to board members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1474-1475, and R.S. 42:7.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2739 (December 2000).

§109. Definitions

Applicant Ca person who seeks to be examined for licensure by the board.

Board Cthe Louisiana State Board of Home Inspectors.

Code Cthe Louisiana Home Inspectors Licensing Administrative Code, promulgated in LAC 46:XL, Home Inspectors.

Component Ca readily accessible and observable aspect of a system, such as a floor or wall, but not individual pieces such as boards or nails or where many similar pieces make up a component.

Credit Hour Cone continuing education course classroom hour, comprising at least 50 minutes of instruction.

Home Inspection Ca written evaluation of two or more of the following components of a resale residential building:

1. electrical system;
2. exterior and interior components;
3. foundation;
4. heating and cooling systems;
5. plumbing system;
6. roof;
7. structural and foundation system;
8. any other related residential housing system as defined in the standards of practice prescribed by the board.

Home Inspector Cany person who, in accordance with the provisions of these Rules, holds himself out to the general public and engages in the business of performing home inspections on resale residential buildings for compensation and who examines any component of a building, through visual means and through normal user controls, without the use of mathematical sciences.

Inspection Cto examine readily accessible systems and components of a building in accordance with the board's Standards of Practice, using normal operating controls and opening readily accessible panels.

Law Cthe Louisiana Home Inspector Licensing Law, R.S. 37:1471-1489.

License Period Cone year, expiring on the last day of the month of issuance of the preceding year.

Licensee Cany person who has been issued a license by the board in accordance with the provisions of the law and these Rules.

LSBHC Can acronym for Louisiana State Board of Home Inspectors.

Residential Resale Building Ca structure intended to be or that is used as a residence and consists of four or less living units, excluding commercial use space or units, and is not for sale for the first time.

Rules Cthe body of regulations governing the board's discharge of its duties and responsibilities and prescribing the privileges and obligations of persons desiring to engage in the home inspection business in Louisiana under the Louisiana State Home Inspectors Licensing Law. It may also be referred to as the Louisiana Home Inspectors Licensing Administrative Code.

System Ca combination of interactive or interdependent components assembled to carry out one or more functions.

Timely Filing Ca letter or written communication bearing a United States Post Office mark inscribed with the date a filing or report is due at the board. Any report or materials for filing bearing the canceled Postal Mark received on the next business day following the due date are presumed

timely filed. Any report or materials for filing received after that time may be deemed timely filed only if evidenced by a return receipt or proof of mailing bearing the due date.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1473 and R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2739 (December 2000).

§111. Licensing

A. Beginning January 1, 2001, no person shall engage in or conduct, or advertise or hold himself out as engaging in or conducting the business of, or acting in the capacity of, a home inspector within the state without first obtaining a license from the board.

B. No license to conduct business as a home inspector shall be issued to a corporation, limited liability company, partnership, firm, or group. The individually licensed inspectors, whether operating a business as a sole proprietorship or working for a company or corporation, shall be ultimately responsible for compliance with these Rules, including, but not limited to: payment of all applicable fees, proper retention of records, and all other obligations as prescribed by these Rules.

C. Licensing shall be governed by §§113 and 115.

D. All legal persons, business associations or related endeavors whose owners, shareholders, members, or other persons holding a proprietary interest in the endeavor who currently or formerly employ a licensed home inspector or an individual whose activities may be subject to the Law or the Rules shall permit the inspector or individual to retain copies of all related records of these activities. They shall be provided to the board upon its request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1477 and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000).

§113. Qualifications for Licensure and Application

A. Applicants must have:

1. attained the age of 18 years;
2. successfully completed high school or its equivalent/GED;
3. passed the required training and licensing examinations, unless exempt under §119.C;
4. paid the appropriate fees;
5. submitted an application for licensure on board prescribed forms which shall conform to these Rules;
6. proof of insurance as required by these Rules; and
7. not had a license revoked or suspended by the home inspector licensing authority of another state.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1475-1477 and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000).

§115. Licensing Applications; Forms; Terms; Renewals; Inactive Status

A. Initial home inspector license applications are to be made on approved forms supplied by the board. Each applicant shall complete all Chapters of the application. The application shall also be notarized and accompanied by two current passport sized photographs of the applicant. The application shall contain the applicant's Social Security

number, however, the number shall be deleted or blackened out from any public record.

B. All requirements for issuance of a home inspection license, including passing the board approved licensing examination, must be met within one year of the date of application. Applications over one year old will be discarded and a new application and fee will be required.

C. Upon application for licensure of inspectors actively engaged in home inspections prior to January 1, 2001 and upon license renewal of all inspectors, the applicant shall submit a copy of a completed inspection report form. All client information, including name and address, shall be deleted from the form. Reports must comply with §123.

D. Licenses shall be renewed on an annual basis. Licenses shall expire one year after the last day of the month of issuance of the preceding year. Renewal requests shall be made on approved renewal application forms supplied by the board and must be received at least two weeks prior to the expiration date of the current license. Each applicant shall complete all Chapters of the renewal application.

E. Any licensee who fails to timely renew his license may thereafter obtain renewal upon by filing a renewal application and upon paying the appropriate renewal and delinquent fees. The period for delinquent renewal of an expired license shall be limited to the six-month period immediately following the expiration date of the active license. Failure to renew an expired license during such six-month period shall result in the forfeiture of renewal rights and shall require the former licensee to apply as an initial applicant and meet all requirements of an initial applicant. Any inspection during an expiration period is considered a violation and subject to disciplinary action by the board.

F. A licensee may hold inactive status by maintaining license renewals and continuing education requirements, but all insurance requirements are waived provided no home inspections are performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477, and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000).

§117. Fees; Submission of Report Fees; Timeliness of Filings

A. Fees charged by LSBHI are as follows:

1. Application for license	\$200
2. License renewal	\$100
3. Delinquent renewal (for home inspectors only)	\$100
4. Initial qualifying/continuing education provider	\$200
5. Annual renewal for education provider	\$200
6. Filing for additional course offerings	\$50
7. Inspection report	\$5

B. Each home inspection performed by an inspector under this law shall be subject to a \$5 state inspection fee per home inspection. This fee is to be made payable to the LSBHI and is to be remitted monthly in the following manner.

1. A reporting form, approved by the board, must be filed by the fifteenth day of the month following the inspection. The form shall list the inspections performed and total fees due.

2. Payment must be made by the fifteenth day of each month following the inspection. Payment is considered current if post marked by the fifteenth day. When the fifteenth day of any month falls on a legal holiday, reports are due on the next business day. Reports are timely if they bear a United States Post Office mark or cancellation. Reports bearing the postal mark received on the next business day after that time may be deemed timely filed only if evidenced by a return receipt or proof of mailing bearing the due date.

3. Failure to report and/or pay inspection report fees, if fees are due, can result in suspension of license, fine, or both.

4. The board may inspect any licensee's records to insure compliance with the licensee's obligation to submit reports and remit fees. The failure of a licensee to cooperate with the board's reasonable request for said inspection shall constitute a violation of these Rules.

C. The board may charge any additional fee or any additional charge not listed in this schedule as may be provided for under other law or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477, and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000).

§119. Education /Training and Testing; Initial Licensure; Waiver

A. Beginning January 1, 2000 initial applicants for licensure must pass an LSBHI approved licensing examination, regarding home inspection information, techniques, standards of practice, and code of ethics, except as provided under §119.C.

B. Beginning July 1, 2001 any person filing an initial application for licensure shall present evidence to the board that they have satisfactorily completed at least 120 hours of required home inspection training course(s) by a training provider approved by the board.

1. At least 30, but not more than 40 hours, of the required instruction, shall be actual practical home inspections supervised by a licensed home inspector who is a certified training provider approved by the board. The remainder of the instruction must be classroom hours of home inspection class work approved by the board.

2. Satisfactory completion of course work includes attendance of specified hours and passage of an examination on course contents.

C. For initial licensure only, the above training and licensing examination requirements for initial licensure may be waived by the board through accumulated home inspection field experience as follows:

1. if an applicant demonstrates that he has been actively engaged in the business of conducting home inspections after January 1, 1995 for any consecutive 12 month period before January 1, 2000, a license can be issued without meeting the education/training and testing requirements. To be considered actively engaged, the applicant must provide proof of performing an average of five inspections per month during this 12 month period, which inspections meet or exceed the standards established in the Law and in these Rules. To be eligible, the following requirements must be met:

a. application must be received before July 1, 2001;

b. a copy of a completed inspection report form for an inspection performed after January 1, 1995 and prior to January 1, 2000, bearing the signature of the applicant as the inspector of the home, to serve as proof that the applicant is entitled to the examination waiver, must be submitted with the application;

c. upon request by the board, a list of inspections referred to in Subsection C.1 and/or a list of the clients served, which lists must be certified under oath as performed by the applicant, must be submitted for examination by the Board. The list(s) shall be considered confidential and not subject to disclosure;

d. all other requirements including continuing education for license renewal listed in §119 must be met;

2. for home inspectors beginning their business after January 1, 2000:

a. if initial application is received before July 1, 2001, all requirements of §119.A above will apply;

b. if initial application is received after July 1, 2001, all requirements of §119. A and B will apply;

c. all other requirements, including continuing education for license renewal listed in §119 must be met;

3. the board shall publish notice of all license waiver requests and final actions relating to the requests in its bulletin;

4. the board shall consider and approve or reject all licensure requests for waiver at its board meetings.

D. The board shall adopt, develop, and conduct a licensing examination, which may be administered by a nationally accepted testing service as determined by the board.

E. The board shall appoint an Examination Review Committee ("committee") to review examination material for evaluating and advising the board relative to the adoption and development of licensing examinations.

1. The committee's membership shall be appointed by a majority vote of the board and shall be composed of no less than five persons as follows:

a. the chairman of the board of the LSBHI or his designee;

b. a board member of the LSBHI;

c. a home inspector who is not a member of the board;

d. at least two persons from other Louisiana State Boards or associations who are knowledgeable in the area of education or training for the board or association which they represent.

2. The committee shall meet at least once annually, but may meet as often as may be necessary. The committee shall review all questions, tests or portions of any test under consideration for use by the board, and render a report to the board regarding the appropriateness of any question, test, or any portion thereof for use by the board. If, in the opinion of the committee, the material represents a fair assessment, the committee shall certify the material as suitable to the board for use in evaluating candidates for licensure. The board may then accept or reject the committee's certification at its sole discretion.

3. The board shall not evaluate any candidate on any question, test or any portion thereof or other material that has not been previously certified by the committee and ratified by the board.

4. Committee members shall serve for a term of one year from the date written acceptance of their appointment is conveyed to the board. They may serve until their successors have conveyed written acceptance to the board. Committee members may be re-appointed or removed by a majority vote of the board.

5. No committee member shall be associated with or have ownership interest in a school or training facility which provides education, testing or field training in the area of home inspection.

6. The board vests each member of the committee with complete authority to enter into confidentiality agreements which prohibit the public dissemination of information pertaining to committee review of questions or materials, including any questions or materials certified as proprietary by the person or facility submitting them for evaluation. Any person or testing facility submitting evaluation materials for review, certification, or otherwise, conveys and assigns to the board a right of limited use and license solely for use in the certification process and any related inquiry.

7. The committee may advise the board regarding the retention of experts to assist the committee in its performance of duties. The board may retain such experts at its expense.

8. The board shall hold harmless committee members for all actions and decisions made relative to the performance of their duties, except for a knowing violation of any confidentiality agreement entered into by such member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477, R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2741 (December 2000).

§121. Continuing Education

A. As a condition of license renewal, an inspector must certify completion of at least 20 hours of instruction during the previous licensing period, in courses approved by the board. Board-approved training providers may be given credit for course preparation and other activities as sanctioned by the board in lieu of the continuing education requirements. The board shall fix the amount of course credit to be received upon application by an instructor. No more than 10 hours of continuing education credit may be carried over into the following year.

B. Repetition of Courses

1. The same continuing education course may be taken only once for continuing education credit during any three year period, unless otherwise approved by the board.

2. For each license period the board may specify mandatory subject matter for one course, such course to be not less than two nor more than four credit hours. The remaining courses shall be elective courses covering subject matter to be chosen by the licensee and meeting all other criteria specified in this chapter.

3. Each course shall comprise of at least one credit hour.

C. Attendance Requirements

1. In order to receive credit for completing a continuing education course, a licensee must attend at least 90 percent of the scheduled classroom hours for the course, regardless of the length of the course.

D. Denial or Withdrawal of Credit

1. The board shall deny continuing education credit claimed by a licensee, and shall withdraw continuing education credit previously awarded by the board to a licensee if:

a. the licensee unintentionally provided incorrect or incomplete information to the board concerning continuing education or compliance with this Section; or

b. the licensee was mistakenly awarded continuing education credit because of an administrative error; or

c. the licensee failed to comply with the attendance requirement established by Paragraph C of this Section.

2. When continuing education credit is denied or withdrawn by the board under Subsection D of this Section, the licensee remains responsible for satisfying the continuing education requirement. Any license may be suspended until proof of compliance is submitted.

E. It is the duty of every licensee to provide proof of compliance with continuing education requirements on a timely basis. In order to receive credit from the board for completion of continuing education courses under this Section, proof of compliance must be submitted on forms approved by the board and prepared by board approved training providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1477, and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000).

§123. Home Inspection Reports; Consumer Protection

A. All home inspection reports shall comply with all requirements as set forth in the Standards of Practice, these Rules and the Law.

B. A copy of the Standards of Practice and Code of Ethics of Home Inspectors shall be provided to every client or his authorized agent, before services are rendered. When this is not practical, copies shall be attached to every completed home inspection report.

C. The board may review any home inspection report and require any change(s) as necessary to comply with Subsections A and B above.

D. Refusal to comply with this Section shall constitute cause for disciplinary action resulting in license revocation, suspension, fine or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477 and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000).

§125. Home Inspectors Record Keeping; Inspection; Production Retention

A. It shall be the responsibility of the licensed home inspector to maintain adequate records at all times in compliance with the provisions of the board's Rules.

B. Records shall be made available, upon reasonable request, to the board's representatives during normal business hours. The licensee shall have the right for a board production request to be made in writing on board stationery. The failure of a licensee to maintain adequate records or the failure to furnish copies of such records within 72 hours notice shall constitute a violation of this Rule.

C. Records shall be kept for three years from the day the inspection report was provided to the client. Any report

questioned by the board or any legal entity shall be retained for a period of five years from the date the inquiry was received by the licensee.

D. To facilitate compliance with record keeping requirements of this Section, copies of all home inspector's reports performed by a licensee shall be provided to the licensee upon any separation from employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000).

§127. Insurance

A. All active, practicing licensed home inspectors shall carry errors and omissions insurance as well as general liability insurance.

1. The LSBHI will establish a group insurance program for errors and omissions coverage and shall establish the terms and conditions of coverage, including but not limited to the permissible deductibles and permissible exemptions. Licensees shall have the option of obtaining errors and omissions insurance independently that complies with the coverage requirement established by the board.

2. Each licensee shall be notified of the required terms and conditions of coverage for the annual policy at least 30 days prior to the annual renewal date. If the required terms and conditions have not been modified from the previous year's policy, the terms and conditions for the previous year shall apply and the licensee shall not be so notified.

B. Each licensee who chooses not to participate in the group insurance program approved by the board shall file with the board a certificate of coverage showing compliance with the required terms and conditions of insurance coverage by the annual license renewal date. This certificate, notice of cancellation, renewal or suspension shall be provided to the board directly by the insurance company.

C. Insurance coverage requirements are as follows:

1. errors and omissions insurance:
 - a. minimum coverage C\$300,000 per year;
 - b. maximum deductible C\$2,000;
2. general liability insurance:
 - a. minimum coverage C\$300,000 per year;
 - b. maximum deductible C\$2,000.

D. Every licensee shall provide to his clients or the board's representatives proof of all insurance in force upon request.

E. Upon cancellation of any insurance where a gap in coverage may occur, the licensee shall immediately inform the board. When replacement coverage is obtained, evidence shall be immediately transmitted to the board.

F. Failure to maintain insurance is grounds for license revocation, non-renewal or other disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1477 and R.S. 37:1485.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2743 (December 2000).

§129. Reciprocity

A. If an applicant is licensed as a home inspector in another state which laws, rules and testing standards are similar to, but in no case less stringent than, those of the LSBHI, and the applicant is in good standing with that licensing authority, then that state's license may be accepted

as evidence of the applicant's experience and training. However, the applicant shall have satisfactorily completed an examination from a testing agency approved by the board, and shall pay all applicable fees as well as comply with the Louisiana Home Inspector Licensing Law and LSBHI administrative code. Applicants seeking reciprocity shall certify under oath that they are in good standing in any state where a license is held. The board may make inquiries of the licensing authority concerning the applicant and respond to similar requests from other licensing authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1484.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2743 (December 2000).

§131. Exemptions from Licensure

A. Certain individuals, when acting within the scope of their profession or license, are exempted from being required to hold a valid LSBHI license when performing inspections within their licensed profession or trade. Those individuals are:

1. persons licensed by the state as professional engineers when acting within the scope of their license;
2. persons licensed by the state as architects when acting within the scope of their license;
3. persons licensed by the state or any political subdivision as electricians when acting within the scope of their license;
4. persons licensed by the state or any political subdivision as plumbers when acting within the scope of their license;
5. persons licensed by the state or any political subdivision as heating and air conditioning technicians when acting within the scope of their license;
6. persons licensed by the state as real estate brokers or real estate sales persons when acting within the scope of their license;
7. persons licensed by the state as real estate appraisers, certified general appraisers, or residential real estate appraisers when acting within the scope of their license;
8. persons licensed by the state as pest control operators when acting within the scope of their license;
9. persons regulated by the state as insurance adjusters when acting within the scope of their profession;
10. persons who are employed as code enforcement officials by the state or any political subdivision when acting within the scope of their employment by such governmental entity;
11. persons licensed by the state or any political subdivision as contractors when acting within the scope of their license;
12. persons certified by the state or any political subdivision as certified energy raters when acting within the scope of their certification.

B. The board may consider and adopt additional exemptions by rule reasonably necessary to clarify and implement the exemptions in the Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1483.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2743 (December 2000).

§133 Report of Address Changes

A. Every licensee shall report any change in office address, residence address, office phone, or residence phone to the board, in writing, within 15 days of such change. The board shall acknowledge any change, in writing, and shall conform all records accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000).

§135 Display of License

A. Home inspectors shall be issued both a picture I.D. license and a license certificate.

B. The inspector is to have on their person the picture I.D. license when performing inspections. The picture I.D. license shall be produced upon request of interested parties when conducting an inspection.

C. A license certificate shall be displayed at the licensee's place of business. If the licensee operates from home, it is to be kept in a readily accessible file.

D. All correspondence, inspection reports and advertisements shall identify the licensee with the term "licensed home inspector" along with the license number of the inspector.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000).

§137 LSBHI Funds; Deposits and Disbursements; Board Members; Reimbursals

A. All board funds received shall be paid to LSBHI through its secretary-treasurer and deposited to the board's operating account established for that purpose. Disbursements made by LSBHI shall be signed by the chairman and the secretary-treasurer. In absence of the chairman or the secretary-treasurer, the vice chairman may sign all documents with the remaining authorized signatory.

B. All fees and moneys received by the board shall be used solely to effectuate the provisions of the law and these Rules. Such use may include, but is not limited to expenditures necessary for office fixtures, equipment and supplies and all other charges necessary to conduct the business of LSBHI.

C. No board member shall receive a per diem but shall be reimbursed for actual expenses incurred when attending a meeting of LSBHI or any of its committees and for the time spent on behalf of LSBHI on official business not to exceed ten days in any one month. Each board member shall be reimbursed upon approval of the board as evidenced by voucher for all necessary travel and incidental expenses incurred in carrying out the provisions of the rules of the board. No reimbursement, other than for lawful travel and mileage shall be allowed for attending any regular or special board meetings or for board related activities outside Louisiana. Reimbursement for time spent may be allowed if the board member is engaged in board business in Louisiana for the following, non-exclusive activities: participation as an appointed member of a special investigating entity; inspecting records of persons subject to the law and these Rules; and reviewing and processing applications for licensure unconnected with preparation for a board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1474-1475, and R.S. 37:1489.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000).

§139. Prohibited Acts: Penalties and Costs

A. The board may suspend or revoke any license, or censure, fine, or impose probationary or other restrictions on any licensee for good cause shown which shall include but not be limited to the following:

1. conviction of a felony or the entering of a plea of guilty or nolo contendere to a felony charge under the laws of the United States or any other state;
2. deceit or misrepresentation in obtaining a license;
3. providing false testimony before the board;
4. efforts to deceive or defraud the public;
5. professional incompetence or gross negligence;
6. rendering, submitting, subscribing, or verifying false, deceptive, misleading, or unfounded opinions or reports;
7. violating any rule or regulation adopted by the board or any provision of these Rules or the law;
8. aiding or abetting a person to evade the provisions of this Chapter or knowingly combining or conspiring with an unlicensed person with the intent to evade the provisions of these Rules or the law;
9. violating any Standard of Conduct adopted by the board;
10. engaging in conduct or advertising or holding oneself out as engaging in or conducting the business or acting in the capacity of a home inspector without possessing a valid license;

11. falsely representing oneself as being the holder of a valid license by using the title "licensed home inspector" or any title, designation, or abbreviation deceptively similar or likely to create the impression that such person is licensed.

B. Violators of any of the provisions of these Rules or the law may be fined by the LSBHI in an amount not to exceed \$1,000 per each separate violation.

C. Revocation of a license as a result of disciplinary action by the board may prohibit the re-issuance of a license to such licensee. No license may be granted or renewed until any and all fines have been paid. The license of an applicant whose license has been revoked may be reissued by the board upon the successful completion by the applicant of the required examination and upon competent evidence of completion of 20 hours of continuing education as prescribed by the board. Licensees under probation may have their licenses renewed so long as the board certifies that the licensee is in compliance with the probationary terms and conditions.

D. The board, as a probationary condition or as a condition of a revocation or suspension, may require a licensee to pay all costs of the board proceedings, including but not limited to those expenses related to the services of investigators, stenographers, attorney, and any court, agency or board costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1486-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000).

§141. Cease and Desist Orders; Injunctive Relief

A. In addition to or in lieu of the criminal penalties and administrative sanctions provided for in the law and these Rules, the board may issue an order to any person engaged in any activity, conduct or practice constituting a violation of any provision of these Rules an order to cease and desist from such activity, conduct or practice. Such order shall be issued in the name of the state and under the official seal of the board.

B. If the person directed by an LSBHI cease and desist order does not cease and desist the prohibited activity, conduct, or practice within two days of service of such order by certified mail, the board may seek a writ of injunction in any court of competent jurisdiction and proper venue enjoining such person from engaging in the activity, conduct or practice, and recovery of all related costs of the type described in §139.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1488.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2745 (December 2000).

Chapter 3. Standards of Practice

§301. Minimum Standards

A. This Chapter sets forth the minimum Standards of Practice required of licensed home inspectors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2745 (December 2000).

§303. Definitions

A. The definitions in §109 are incorporated into this Chapter by reference. The following definitions apply to this Chapter:

Automatic Safety ControlCdevices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, loss of ignition, fuel leaks, fire, freezing, or other unsafe conditions.

Central Air ConditioningCa system that uses ducts to distribute cooled or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet.

Cross ConnectionAny physical connection or arrangement between potable water and any source of contamination.

Dangerous or Adverse SituationsCsituations that pose a threat of injury to the inspector, or those situations that require the use of special protective clothing or safety equipment.

DescribeCreport in writing a system or component by its type, or other observed characteristics, to distinguish it from other components used for the same project.

DismantleCto take apart or remove any component, device or piece of equipment that is bolted, screwed, or fastened by other means and that would not be dismantled by a homeowner in the course of normal household maintenance.

EnterCto go into an area to observe all visible components.

Functional DrainageCa drain is functional when it empties in a reasonable amount of time and does not overflow when another fixture is drained simultaneously.

Functional FlowCa reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.

InspectCto examine readily accessible systems and components of a building in accordance with the Standards of Practice, using normal operating controls and opening readily openable access panels.

InstalledCattached or connected such that the installed item requires tools for removal.

Normal Operating ControlsC homeowner operated devices such as a thermostat, wall switch, or safety switch.

ObserveCthe act of making a visual examination.

On-Site Water Supply QualityCwater quality based on the bacterial, chemical, mineral and solids contents of the water.

On-Site Water Supply QuantityCwater quantity based on the rate of flow of water.

Operate—to cause systems or equipment to function.

Readily Openable Access PanelCa panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person; and its edges and fasteners are not painted in place. This definition is limited to those panels within normal reach or from a four-foot stepladder, and that are not blocked by stored items, furniture, or building components.

Representative NumberCfor multiple identical components such as windows and electrical outlets - one such component per room. For multiple identical exterior components Cone such component on each side of the building.

Roof Drainage SystemsCgutters, downspouts, leaders, splash blocks, scuppers, and similar components used to carry water off a roof and away from a building.

Shut DownCa piece of equipment or a system is shut down when it cannot be operated by the device or control that a homeowner should normally use to operate it. If its safety switch or circuit breaker is in the “off” position, or its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.

Solid Fuel Heating DeviceCany wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces whether masonry or factory built, fireplace inserts and stoves, wood stoves (room heaters), central furnaces, and combinations of these devices.

Structural ComponentCa component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

Technically ExhaustiveCan inspection involving the extensive use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions, and recommendations.

Under Floor Crawl SpaceCthe area within the confines of the foundation and between the ground and the underside of the lowest floor structural component.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2745 (December 2000).

§305. Purpose and Scope

A. Home inspections performed according to this Chapter shall provide the client with a better understanding of the property conditions, as observed at the time of the home inspection.

B. Home inspectors shall:

1. provide the client with a written pre-inspection contract, whenever possible, which shall:

a. state that the home inspection is to be done in accordance with the Standards of Practice of the Louisiana State Board of Home Inspectors;

b. describe what inspection services will be provided and their cost;

c. state that the inspection is limited to only those systems or components agreed upon by the client and the inspector; and

d. contain copies of the Standards of Practice and Code of Ethics;

2. observe and inspect readily visible and accessible installed systems and components listed in this Chapter, and/or as contractually agreed upon;

3. submit a written report to the client which shall:

a. describe those systems and components specified to be described in §§311 through 329, and/or as contractually agreed upon;

b. state which systems and components designated for inspection in this Section have been inspected, and state any systems or components designated for inspection that were not inspected, and the reason for not inspecting;

c. state any systems or components so inspected that do not function as intended, allowing for normal wear and tear, or adversely affect the habitability of the dwelling; and

d. state the name, license number, and contain the signature of the person conducting the inspection.

C. This Chapter does not limit home inspectors from:

1. reporting observations and conditions or rendering opinions of items in addition to those required in Subsection B of this Rule; or

2. excluding systems and components from the inspection if requested by the client, and so stated in the written contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000).

§307. General Limitations

A. Home inspections done in accordance with this Chapter are visual and are not technically exhaustive.

B. This Chapter applies to residential resale buildings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000).

§309. General Exclusions

A. Home inspectors are not required to report on:

1. life expectancy of any component or system;

2. the causes of the need for a repair;

3. the methods, materials, and costs of corrections;

4. the suitability of the property for any specialized use;

5. compliance or non-compliance with codes, ordinances, statutes, regulatory requirements, special utility, insurance or restrictions;

6. the market value of the property or its marketability;

7. the advisability or inadvisability of purchase of the property;

8. any component or system that was not inspected;

9. the presence or absence of pest such as wood damaging organisms, rodents, or insects;

10. cosmetic items, underground items, or items not permanently installed;

11. hidden or latent defects; or

12. items not visible for inspection.

B. Home inspectors are not required to:

1. offer warranties or guarantees of any kind;

2. calculate the strength, adequacy, or efficiency of any system or component;

3. enter any area or perform any procedure that may damage the property or its components or be dangerous to the home inspector or other persons;

4. operate any system or component that is shut down or otherwise inoperable;

5. operate any system or component that does not respond to normal operating controls;

6. disturb insulation, move personal items, panels, furniture, equipment, plant life, soil, snow, ice, or debris that obstructs access or visibility;

7. determine the presence or absence of any suspected adverse environmental condition or hazardous substance, including but not limited to toxins such as asbestos, radon and lead, carcinogens, noise, contaminants in the building or in soil, water, and air;

8. determine the effectiveness of any system installed to control or remove suspected hazardous substances;

9. predict future condition, including but not limited to failure of components;

10. project operating costs of components;

11. evaluate acoustical characteristics of any system or component; or

12. inspect special equipment or accessories that are not listed as components to be inspected in this Chapter.

C. Home inspectors shall not:

1. offer or perform any act or service contrary to law;

2. report on the market value of the property or its marketability;

3. report on the advisability or inadvisability of purchase of the property;

4. report on any component or system that was not inspected;

5. report on the presence or absence of pests such as wood damaging organisms, rodents or insects. However, the home inspector may advise the client of damages to the building and recommend further inspection by a licensed wood destroying insect inspector;

6. at the time of the inspection or for a reasonable time thereafter, advertise or solicit to perform repair services or any other type of service on the home upon which he has performed a home inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1478.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000).

§311. Structural Components

A. The home inspector shall inspect structural components including:

1. foundation;
2. floors;
3. walls;
4. columns or piers;
5. ceilings; and
6. roofs.

B. The home inspector shall describe the type of:

1. foundation;
2. floor structure;
3. wall structure;
4. columns or piers;
5. ceiling structure; and
6. roof structure.

C. The home inspector shall:

1. probe structural components only where deterioration is visible, except where probing would damage any surface;

2. enter under floor crawl spaces, basements, and attic spaces, except when access is obstructed, when entry could damage the property, or when dangerous or adverse situations are suspected;

3. report the methods used to inspect under floor crawl spaces and attics; and

4. report signs of abnormal or harmful water penetration into the building or signs of abnormal or harmful condensation on building components.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2747 (December 2000).

§313. Exterior

A. The home inspector shall inspect:

1. wall cladding, flashings and trim;
2. entryway doors and a representative number of windows;
3. garage door operators;
4. decks, balconies, stoops, steps, areaways, porches, and applicable railings;
5. eaves, soffits, and fascias; and
6. vegetation, grading, drainage, driveways, patios, walkways, and retaining walls with respect to their effect on the condition of the building.

B. The home inspector shall:

1. describe wall cladding materials;
2. operate all entryway doors and a representative number of windows;
3. operate garage doors manually or by using permanently installed controls for any garage door operator; and
4. report whether or not any garage door operator will automatically reverse or stop and if so equipped with said safety feature.

C. The home inspector is not required to inspect:

1. storm windows, storm doors, screening, shutters, awnings, and similar seasonal accessories;

2. fences;

3. presence of safety glazing in doors and windows;

4. garage door operator remote control transmitters;

5. geological conditions;

6. soil conditions;

7. recreational facilities (including spas, saunas, steam baths, swimming pools, tennis courts, playground equipment, and other exercise, entertainment or athletic facilities);

8. detached buildings or structures;

9. presence or condition of buried fuel storage tanks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2747 (December 2000).

§315. Roofing

A. The home inspector shall inspect:

1. roof coverings;

2. rood drainage systems;

3. flashings;

4. skylights, chimneys, and roof penetrations; and

5. signs of leaks or abnormal condensation on building components.

B. The home inspector shall:

1. describe the type of roof covering materials; and

2. report the methods used to observe the roofing.

C. The home inspector is not required to:

1. walk on the roofing; or

2. inspect attached accessories including but not limited to solar systems, antennae, and lightning arrestors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2747 (December 2000).

§317. Plumbing

A. The home inspector shall inspect:

1. interior water supply and distribution systems, including piping materials, supports, insulation; fixtures and faucets; functional flow; leaks; and cross connections;

2. interior drain, waste and vent system, including: traps, drain, waste, and vent piping; piping supports and pipe insulation; leaks, and functional drainage;

3. hot water systems including: water heating equipment; normal operating controls; automatic safety controls; and chimneys, flues and vents;

4. fuel storage and distribution systems including interior fuel storage equipment, supply piping, venting, and supports; leaks; and

5. sump pumps.

B. The home inspector shall describe:

1. water supply and distribution piping materials;

2. drain, waste and vent piping materials;

3. water heating equipment; and

4. location of main water supply shutoff device.

C. The home inspector shall operate all plumbing and plumbing fixtures, including their faucets and all exterior faucets attached to the house, except where the flow end of the faucet is connected to an appliance or winterized equipment.

- D. The home inspector is not required to:
1. state the effectiveness of anti-siphon devices;
 2. determine whether water supply and waste disposal systems are public or private;
 3. operate automatic safety controls;
 4. operate any valve except water closet flush valves, fixture faucets, and hose faucets;
 5. inspect:
 - a. water conditioning systems;
 - b. fire and lawn sprinkler systems;
 - c. on-site water supply quantity and quality;
 - d. on-site waste disposal systems;
 - e. foundation irrigation systems;
 - f. spas;
 - g. swimming pools;
 - h. solar water heating equipment; or
 - i. inspect the system for proper sizing, design, or use of proper materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2747 (December 2000).

§319. Electrical

- A. The home inspector shall inspect:
1. service entrance conductors;
 2. service equipment, ground equipment, main overcurrent device, and main and distribution panels;
 3. amperage and voltage ratings of the service;
 4. branch circuit conductors, their overcurrent devices, and the compatibility of the ampacities and voltages;
 5. the operation of a representative number of installed ceiling fans, lighting fixtures, switches and receptacles located inside the house, garage, and on the dwelling's exterior walls;
 6. the polarity and grounding of all receptacles within six feet of interior plumbing fixtures, and all receptacles in the garage or carport, and on the exterior of inspected structures;
 7. the operation of ground fault circuit interrupters; and
 8. smoke detectors.
- B. The home inspector shall describe:
1. service amperage and voltage;
 2. service entry conductor materials;
 3. service type as being overhead or underground; and
 4. location of main and distribution panels.
- C. The home inspector shall report any observed aluminum branch circuit wiring.
- D. The home inspector shall report on the presence or absence of smoke detectors, and operate their test function, if accessible, except when detectors are part of a central system.
- E. The home inspector is not required to:
1. insert any tool, probe, or testing device inside the panels;
 2. test or operate any overcurrent device except ground fault circuit interrupters;
 3. dismantle any electrical device or control other than to remove the dead front covers of the main and auxiliary distribution panels; or
 4. inspect:
 - a. low voltage systems;

- b. security system devices, heat detectors, or carbon monoxide detectors;
- c. telephone, security, cable TV, intercoms, or other ancillary wiring that is not part of the primary electrical distribution system; or
- d. built-in vacuum equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2748 (December 2000).

§321. Heating

- A. The home inspector shall inspect permanently installed heating systems including:
1. heating equipment;
 2. normal operating controls;
 3. automatic safety controls;
 4. chimneys, flues, and vents, where readily visible;
 5. solid fuel heating devices including fireplaces;
 6. heat distribution systems including fans, pumps, ducts and piping, with associated supports, insulation, air filters, registers, radiators, fan coil units, convectors; and
 7. the presence of an installed heat source in each room.
- B. The home inspector shall describe:
1. energy source; and
 2. heating equipment and distribution type.
- C. The home inspector shall operate the systems using normal operating controls.
- D. The home inspector shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.
- E. The home inspector is not required to:
1. operate heating systems when weather conditions or other circumstances may cause equipment damage;
 2. operate automatic safety controls;
 3. ignite or extinguish solid fuel fires; or
 4. inspect:
 - a. the interior of flues;
 - b. fireplace insert flue connections;
 - c. humidifiers;
 - d. electronic air filters; or
 - e. the uniformity or adequacy of heat supply to the various rooms.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.
- HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2748 (December 2000).
- ### §323. Central Air Conditioning
- A. The home inspector shall inspect:
1. central air conditioning systems including:
 2. cooling and air handling equipment;
 3. normal operating controls;
 4. fans, pumps, ducts, and piping, with associated supports, dampers, insulation, air filters, registers, fancoil units; and
 5. the presence of an installed cooling source in each room.
- B. The home inspector shall describe:
1. energy sources; and
 2. cooling equipment type.

C. The home inspector shall operate the systems using normal operating controls.

D. The home inspector shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.

E. The home inspector is not required to:

1. operate cooling systems when weather conditions or other circumstances may cause equipment damage;
2. inspect non-central air conditioners; or
3. inspect the uniformity or adequacy of cool-air supply to the various rooms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2748 (December 2000).

§325. Interiors

A. The home inspector shall inspect:

1. walls, ceiling, and floors;
2. steps, stairways, balconies, and railings;
3. countertops and a representative number of cabinets and drawers; and
4. a representative number of doors and windows.

B. The home inspector shall:

1. operate a representative number of windows and interior doors; and
2. report signs of abnormal or harmful water penetration into the building or signs of abnormal or harmful condensation on building components.

C. The home inspector is not required to inspect:

1. paint, wallpaper, and other finish treatments on the interior walls, ceilings, and floors;
2. carpeting; or
3. draperies, blinds, or other window treatments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000).

§327. Insulation and Ventilation

A. The home inspector shall inspect:

1. insulation and vapor retarders in unfinished spaces;
2. ventilation of attics and foundation areas;
3. kitchen, bathroom, and laundry venting system; and
4. the operation of any readily accessible attic ventilation fan, and, when temperature permits, the operation of any readily accessible thermostatic control.

B. The home inspector shall describe:

1. insulation in unfinished spaces; and
2. absence of insulation in unfinished space at conditioned surfaces.

C. The home inspector is not required to report on:

1. concealed insulation and vapor retarders; or
2. venting equipment that is integral with household appliances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000).

§329. Built-in Kitchen Appliances

A. The home inspector shall inspect and operate the basic functions of the following kitchen appliances:

1. permanently installed dishwasher; through its normal cycle;
2. range, cook top, and permanently installed oven;
3. trash compactor;
4. garbage disposal;
5. ventilation equipment or range hood; and
6. permanently installed microwave oven.

B. The home inspector is not required to inspect:

1. clocks, timers, self-cleaning oven function, or thermostats for calibration or automatic operation;
2. non built-in appliances such as clothes washers and dryers; or
3. refrigeration units such as freezers, refrigerators and ice makers.

C. The home inspector is not required to operate:

1. appliances in use; or
2. any appliance that is shut down or otherwise inoperable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000).

Chapter 5. Code of Ethics

§501. Code of Ethics

A. Licensees shall discharge their duties with fidelity to the public and to their clients, and with fairness and impartiality to all.

B. Opinions expressed by licensees shall only be based on their education, experience and honest convictions.

C. A licensee shall not disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's designated representative unless an unsafe condition is discovered.

D. No licensee shall accept compensation or any other consideration from more than one interested party for the same service without consent of all interested parties.

E. No licensee shall accept commissions or allowances from other parties dealing with the client in connection with the inspection report.

F. No licensee shall offer commissions, fees or payment to other parties dealing with the client for the referral of the inspector to the client for an inspection.

G. No licensee shall express, within the context of an inspection, an appraisal or opinion of the market value of the inspected property.

H. Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest in a business that may affect the client.

I. No licensee shall allow his or her interest in any business to affect the quality of results of the inspection work that the licensee may be called upon to perform.

J. Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.

K. Licensees shall bear a good reputation for honesty, trustworthiness and integrity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000).

Chapter 7. Disciplinary Actions

§701. Definitions

A. The following definitions are used in this Chapter. The definitions in the law and these Rules are incorporated into Chapter 4, Chapter 5, and Chapter 6 by reference.

File or Filing To place the document or item to be filed into the care and custody of the board. The board shall note thereon the filing date. All documents filed with the board, except exhibits, shall be filed in duplicate on letter size 8 1/2" by 11" paper.

Party The board, the licensee, and/or any other person who has an administratively cognizable interest in a particular board proceeding.

Service or Serve Personal delivery or, unless otherwise provided by law or rule, delivery by certified mail through the United States Postal Service, return receipt requested, addressed to the person to be served at his or her last known address. A Certificate of Service by the person making the service shall be appended to every document requiring service under these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000).

§703. Complaints

A. Anyone who believes that a licensee is or has been engaged in any conduct proscribed by the Law or these Rules, may file a written complaint with the board against that licensee. The board may, upon its own motion and upon passing by a vote of the majority of all board members, initiate an investigation of a licensee, person or company, based upon a complaint or its own knowledge.

B. An information memorandum approved by the board containing instructions for filing a complaint shall be mailed to anyone requesting such information from the board.

C. The complaint shall specifically identify the licensee and describe the conduct complained about.

D. Supporting information shall be included to justify the complaint. Supporting information shall refer to specific violations of the board's Rules or of the law. If the complaint involves items included in the Standards of Practice that the licensee did not observe or report, a list of those items must be submitted with the complaint. This information may be provided by the complainant, an architect, a professional engineer, a licensed contractor, another licensed home inspector, or any other interested party. A copy of any documentation supporting the allegations in the complaint, including but not limited to, the contract agreement, the inspection report, and any records made by any other consultant, shall be included with the complaint.

E. The complaint shall be in writing, signed by the complainant, and dated. The complaint shall include the complainant's mailing address, a daytime phone number at which the complainant may be reached, and the street address of the structure made the basis of the complaint.

F. The board shall not consider services that are under the jurisdiction of other regulatory agencies or licensing boards, such as, termite inspections, appraisals, or services rendered by licensed architects, engineers, or general contractors, unless the persons rendering those services are licensed home inspectors or hold themselves out as a licensed home inspector.

G. The board has no jurisdiction over persons who are exempted by the law or other provisions of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1483, R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000).

§705. Special Investigating Entity

A. The board shall appoint a committee, board member, employee, or other qualified licensee to verify whether the allegations listed in complaints may indicate violations of these Rules, the Standards of Practice, Code of Ethics or the law. This committee, board member, employee or licensee shall be referred to as the "Special Investigating Entity." Between board meetings, the chairman may appoint a special investigating entity to commence review of a complaint. This appointment shall be ratified by the board in executive session at its next meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000).

§707. Investigations; Special Investigating Entity; Board Review

A. Upon receipt of a complaint conforming to this Chapter, the board shall assign a docket number to the complaint and refer it to a special investigating entity.

B. A copy of the complaint shall be served upon the home inspector in accordance with Section .707.D. The inspector shall submit a written response to the special investigating entity within two weeks after receipt of the copy of the complaint.

C. The special investigating entity shall make an investigation of the charges. Upon evaluating the complaint and the response of the inspector, it shall prepare a report of its findings within 30 days of the completion of the investigation, and file the report with the board.

D. A copy of the Special Investigating Entity's report shall be mailed to the complainant and to the inspector.

E. The report shall state that the complaint either has or lacks sufficient evidence to support the allegations in the complaint.

F. If the report states that the allegations lack sufficient evidence, the special investigating entity shall:

1. advise the complainant in writing that the evidence was insufficient to support the allegations in the complaint;

2. advise the complainant that the complaint may be reviewed by the board to determine whether the finding of the special investigating entity is correct;

3. advise the complainant that the complainant must make a written request for the review by the board within 15 days of mailing and must set forth specific reasons why the special investigating entity's determination is incorrect;

4. if the complainant makes a written request for review by the board, the board shall review the report and the complainant's documentation. If the board finds that the allegations are unsupported by the evidence, the special investigating entity shall advise the complainant in writing that the board has concurred with the special investigating entity's conclusion that the complaint lacks sufficient evidence to support the allegations in the complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000).

§709 Disciplinary Hearing; Procedure

A. If the special investigating entity's report or the board's review finds that there is sufficient evidence to support the allegations in the complaint, the board shall fix a time and place for a disciplinary hearing and give notice to the licensee and complainant. The disciplinary hearing shall be held in accordance with the adjudication provisions of the Administrative Procedure Act.

B. In all contested case hearings before the board, the chairman of the board shall serve as presiding officer. In the absence of the chairman, the vice chairman shall serve as presiding officer, or a presiding officer shall be elected by the board.

C. No board member, committee or employee serving as part of the special investigating entity shall participate in the consideration or decision of the matter or confection of the board's decision, order or opinion. However, any member of the special investigating entity may prosecute the case against the licensee or respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2751 (December 2000).

§711. Pre-Hearing Resolution

A. The board's staff and the home inspector may attempt to resolve the complaint by means of a consensual agreement. Such consensual agreement may impose upon the licensee a penalty penalties or conditions which include, but are not limited to, requiring the licensee to take training or educational courses, placing the inspector on probation, issuing a letter of reprimand, imposing fines of up to \$1,000 per separate violation, and/or suspending or revoking the inspector's license, all as authorized in the law or these Rules.

B. The proposed consent agreement shall then be presented to the board at its next meeting. The board may either accept the consent agreement as written, modify the agreement and send it back to the licensee for acceptance, or reject the consent agreement. Accepted agreements shall be filed in the record of the docket.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2751 (December 2000).

§713. Hearing Procedure; Decision; Notice; Effective Date; Rehearing

A. If no consent agreement is reached, the matter shall be heard by the board at its next regularly scheduled board meeting or special meeting which is to be held not less than 10 days prior to giving notice to all interested parties. The board shall consider the law and the evidence presented or in the record and base its decision accordingly.

B. No attorney, board member or employee serving as the prosecuting officer for the board staff shall participate in the consideration or formulation of the board's decision, any opinion related thereto, or any procedural matter.

C. The board shall render any final decision or order by majority vote of the board in open session. The date of the decision or order shall be indicated on the decision or order.

1. All parties of record shall receive notice of the board's decision within 30 days of the vote on the matter.

2. A board decision or order may be reconsidered by the board at the next board meeting on its own motion, or on motion by a party of record, for good cause shown pursuant to a written request filed at the board's office within 10 days following the decision date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2751 (December 2000).

Chapter 9. Declaratory Orders

§901. Purpose

A. The purpose of this Chapter is to settle and afford relief from any uncertainty and insecurity with respect to the Rules of the board or the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1471-1489.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2751 (December 2000).

§903. Declaratory Relief

A. The board may declare rights, status, and other legal relations of any interested person whose rights may be affected by the Rules of the board or by the law. Any person whose rights, status, or other legal relations are affected by these Rules may have determined any question of construction or validity arising under these Rules or the law and obtain a declaration of rights, status or other legal relations thereunder from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1471-1489.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2751 (December 2000).

§905. Applications; Petitions; Parties

A. An application for declaratory order shall be made on a form provided by the board. The application for declaratory order must include the name, address and telephone number, both business and home, of the person bringing the application for declaratory order, the specific Rule or Rules at issue, and the specific question directed to the board. The application for declaratory order shall also advise the board of the name, address and telephone numbers of all persons who have or may claim any interest which may be affected by any decision or determination of the board. The board shall docket the application for declaratory order. The board shall provide notice of the application, along with a copy of the application for declaratory order to the person(s) identified who have or may claim an interest affected by any decision or determination of the board. Those persons who have or claim an interest shall confirm same in writing to the board within 15 days from the date of the board's notice containing the application for declaratory order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1471-1489.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2751 (December 2000).

§907. Governing Law

A. When an action is initiated under this Chapter, all proceedings shall be in accordance with the Rules of the board, the Administrative Procedure Act, and other applicable Louisiana law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1471-1489.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2752 (December 2000).

§909. Hearings; Decisions; Rehearing; Time

A. All hearings on applications for declaratory orders filed at least 10 days prior to a scheduled board meeting shall be set for hearing at that meeting unless the board desires the matter be set prior thereto, in which case the parties will be notified of the earlier hearing date, time and place.

B. The board shall render its decision in open session and transmit written confirmation to parties of record within 30 days of its decision.

C. The board may decline to address the question presented and dismiss the application for declaratory order.

D. board decisions may be reconsidered by the board at the next board meeting on its own motion or on the motion of a party of record for good cause shown pursuant to a written request filed at the board office within 10 days following the decision date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1471-1489.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2752 (December 2000).

Chapter 11. Judicial Review

§1101. Judicial Review; Venue; Time

A. Any party of record aggrieved by a final board order or decision in an adjudication, rulemaking or declaratory order shall be entitled to judicial review whether or not application has been made to the board for rehearing. Such judicial review shall be initiated by the filing of a petition setting forth the objections to the board's decision or order with the Nineteenth Judicial District Court within 30 days of the date of mailing of the final board order or decision as provided for in the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1471-1489 and R.S. 49:964-966.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2752 (December 2000).

§1103. Appeals

A. Any party of record may obtain a review of final judgment of the Nineteenth Judicial District Court by the First Circuit Court of Appeal as provided for in the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1471-1489 and R.S. 49:964-966.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2752 (December 2000).

Sidney J. Chaisson, Jr.
Chairman

0012#089

RULE

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

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

The Louisiana Student Financial Assistance Commission (LASFAC) hereby revises the provisions of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

**Title 28
EDUCATION**

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

Chapter 3. Definitions

§301. Definitions

* * *

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

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

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:2752 (December 2000).

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

§703. Establishing Eligibility

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

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

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

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language (one unit or credit for three or more hours of college foreign language for students graduating from high school during the 1996-1997 and 1997-1998 school years)
½	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the ½ unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (½ credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I(1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (½ credit) Digital Graphics and Animation (½ credit) Multimedia Productions (1 credit) Web Mastering (½ credit) Independent Study in Technology applications (1 credit)

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

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

* Applied Mathematics III was formerly referred to as Applied Geometry

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

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

Biology II	BI 210L Advanced Placement Biology (1 unit), or BI 231L Microbiology (2 unit), and BI 241 Molecular and Cellular Biology (2 unit)
Civics (½ unit) and Free Enterprise (½ unit)	AH 243 American Government and Politics (2 unit), and SS 113 Economics (2 unit)
Western Civilization	EH 121 Ancient and Medieval History (2 unit) and EH 122 Modern History (2 unit)

or

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

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:2753 (December 2000).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.3. ...

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

A.5.-11. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:67 (January 2000), LR 26:2754 (December 2000).

Mark S. Riley
Assistant Executive Director

0012#005

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

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

The Louisiana Student Financial Assistance Commission (LASFAC) hereby revises provisions of the Tuition Payment Program for Medical School Students (R.S. 17:3041.10-15).

Title 28

EDUCATION

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

Chapter 23. Tuition Payment Program for Medical School Students

§2303. Establishing Eligibility

A. - A.3. ...

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

A.5. - 9. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), amended LR 25:2177 (November 1999), LR 26:2754 (December 2000).

§2307. Award Amount

A. ...

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

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), amended LR 26:2754 (December 2000).

§2309. Maintaining Eligibility

A. - A.1. ...

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

A.3. - C. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), amended LR 26:2754 (December 2000).

Mark S. Riley
Assistant Executive Director

0012#004

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Louisiana Pollutant Discharge Elimination
System (LPDES) Program
(LAC 33:IX.2313, 2331, 2361 and 2413)(WP037*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.2313, 2331, 2361, 2413, and Appendices N and O (Log #WP037*).

This Rule is identical to federal regulations found in 64 FR 42434-432527, Number 149, August 4, 1999, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

EPA promulgated a Final Rule regarding revisions to National Pollutant Discharge Elimination System Permit Application Requirements for Publicly Owned Treatment Works and Other Treatment Works Treating Domestic Sewage on August 4, 1999. A requirement of the Louisiana Pollutant Discharge Elimination System program is to have requirements and regulations which meet at least the minimum EPA requirements. Therefore, revisions to the Louisiana regulations are necessary to meet the EPA minimum requirements. The rule will amend permit application requirements and application forms for publicly owned treatment works (POTWs), treatment works treating domestic sewage (TWTDS), and other dischargers designated by the state administrative authority. The Rule consolidates application requirements, including information regarding toxics monitoring, whole effluent toxicity (WET) testing, industrial user and hazardous waste contributions, and sewer collection system overflows. The most significant revisions require toxic monitoring for facilities designated as majors and other pretreatment POTWs and limited pollutant monitoring by facilities designated as minors. The regulations are being revised to ensure that permitting authorities obtain the information necessary to issue permits which protect the environment in the most efficient manner. The updated forms make it easier for permit applicants to provide the necessary information with their applications and minimize the need for additional follow-up requests from the permitting authority. The basis and rationale for this rule are to meet the minimum requirements of the EPA promulgated rule of August 4, 1999, regarding permit application requirements for POTWs and other treatment works treating domestic sewage.

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

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Subchapter A. Definitions and General Program Requirements

§2313. Definitions

A. The following definitions apply to LAC 33:IX.Chapter 23.Subchapters A -G. Terms not defined in this Section have the meaning given by the CWA. When a defined term appears in a definition, the defined term is sometimes placed in quotation marks as an aid to readers.

* * *

[See Prior Text]

*Indian Country*C

a. all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

b. all dependent Indian communities within the borders of the United States, whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and

c. all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

* * *

[See Prior Text]

*Treatment Works Treating Domestic Sewage (TWTDS)*Ca
POTW or any other sewage sludge or wastewater treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, domestic sewage includes waste and wastewater from humans or household operations that are discharged to or otherwise enter a treatment works. In states where there is no approved state sludge management program under section 405(f) of the CWA, the EPA regional administrator may designate any person subject to the standards for sewage sludge use and disposal in 40 CFR part 503 as a treatment works treating domestic sewage, where he or she finds that there is a potential for adverse effects on public health and the environment from poor sludge quality or poor sludge handling, use or disposal practices, or where he or she finds that such designation is necessary to ensure that such person is in compliance with 40 CFR part 503.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:722 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2755 (December 2000).

Subchapter B. Permit Application and Special LPDES Program Requirements

§2331. Application for a Permit

A. Duty to Apply

1. Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR part 503, and who does not have an effective permit, except persons covered by general permits under LAC 33:IX.2345, excluded under LAC 33:IX.2315, or a user of a privately owned treatment works unless the state administrative authority requires otherwise under LAC 33:IX.2361.M, must submit a complete application (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

2. Application Forms

a. All applicants for LPDES permits must submit applications on either state- or EPA-approved permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there. Application forms may be obtained by contacting the Office of Environmental Services, Permits Division or may be obtained electronically at www.deq.state.la.us.

b. Applications for LPDES permits may be submitted on EPA application forms as follows:

i. all applicants for permits, other than permits for POTWs and TWTDS, must submit Form 1;

ii. applicants for permits for new and existing POTWs must submit the information contained in Subsection J of this Section using Form 2A or other form provided by the state administrative authority;

iii. applicants for permits for concentrated animal feeding operations or aquatic animal production facilities must submit Form 2B;

iv. applicants for permits for existing industrial facilities (including manufacturing facilities, commercial facilities, mining activities, and silvicultural activities) must submit Form 2C;

v. applicants for permits for new industrial facilities that discharge process wastewater must submit Form 2D;

vi. applicants for permits for new and existing industrial facilities that discharge only nonprocess wastewater must submit Form 2E;

vii. applicants for permits for new and existing facilities whose discharge is composed entirely of storm water associated with industrial activity must submit Form 2F, unless exempted by LAC:33.IX:2341.C.1.b. If the discharge is composed of storm water and non-storm water, the applicant must submit Forms 2C, 2D, and/or 2E, as appropriate (in addition to Form 2F); and

viii. applicants for permits for new and existing TWTDS, subject to Subsection C.1.b of this Section, must submit the application information required by Subsection Q of this Section, using Form 2S or other form provided by the state administrative authority.

* * *

[See Prior Text in B-C.1]

a. All TWTDS whose sewage sludge use or disposal practices are regulated by 40 CFR part 503 must

submit permit applications according to the applicable schedule in Subsection C.1.b of this Section.

b. A TWTDS with a currently effective LPDES permit must submit a permit application at the time of its next LPDES permit renewal application. Such information must be submitted in accordance with Subsection D of this Section.

c. Any other TWTDS not addressed under Subsection C.1.a or b of this Section must submit the information listed in Subsection C.1.c.i -v of this Section, 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), using Form 2S or another form provided by the department. The Office of Environmental Services, Permits Division will determine when such TWTDS must submit a full permit application. The following information must be submitted:

i. the name, mailing address, and location of the TWTDS, and status as federal, state, private, public, or other entity;

ii. the applicant's name, address, telephone number, and ownership status;

iii. a description of the sewage sludge use or disposal practices. Unless the sewage sludge meets the requirements of Subsection Q.8.d of this Section, the description must include the name and address of any facility where sewage sludge is sent for treatment or disposal and the location of any land application sites;

iv. the annual amount of sewage sludge generated, treated, used, or disposed (dry weight basis); and

v. the most recent data the TWTDS may have on the quality of the sewage sludge.

d. Notwithstanding Subsection C.1.a, b, or c of this Section, the state administrative authority may require permit applications for any TWTDS at any time if the state administrative authority determines that a permit is necessary to protect public health and the environment from any potential adverse effects that may occur from toxic pollutants in sewage sludge.

e. Any owner or operator of a TWTDS 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-D.1]

2. All other permittees with currently effective permits shall submit a new application 180 days before the existing permit expires, except that the state administrative authority may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date.

E. Completeness

1. The state administrative authority shall not issue a permit before receiving a complete application for a permit except for LPDES general permits. An application for a permit is complete when the state administrative authority receives an application form and any supplemental information that are completed to his or her satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or

permit for the same facility or activity. For the department administered LPDES program, an application that is reviewed under LAC 33:IX.2405 is complete when the state administrative authority receives either a complete application or the information listed in a notice of deficiency.

2. A permit application shall not be considered complete if a permitting authority has waived application requirements under Subsections J and Q of this Section and EPA has disapproved the waiver application. If a waiver request has been submitted to EPA more than 210 days prior to permit expiration and EPA has not disapproved the waiver application 181 days prior to permit expiration, the permit application lacking the information subject to the waiver application shall be considered complete.

F. Information Requirements. All applicants for LPDES permits, other than permits for POTWs and other TWTDS, must provide the following information to the Office of Environmental Services, Permits Division, using the application form provided by the state administrative authority (additional information required of applicants is set forth in Subsections G-K of this Section and LAC 33:I.1701):

* * *

[See Prior Text in F.1-I.2.e]

J. Application Requirements for New and Existing POTWs. Unless otherwise indicated, all owners/operators of POTWs and other dischargers designated by the state administrative authority must provide, at a minimum, the information in this Subsection to the Office of Environmental Services, Permits Division. Permit applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the state administrative authority. The state administrative authority may waive any requirement of this Subsection if he or she has access to substantially identical information. The state administrative authority may also waive any requirement of this Subsection that is not of material concern for a specific permit, if approved by the regional administrator. The waiver request to the regional administrator must include the state's justification for the waiver. A regional administrator's disapproval of a state's proposed waiver does not constitute final agency action, but does provide notice to the state and permit applicant(s) that EPA may object to any state-issued permit issued in the absence of the required information.

1. Basic Application Information. All applicants must provide the following information:

a. Facility Information. Name, mailing address, and location of the facility for which the application is submitted;

b. Applicant Information. Name, mailing address, and telephone number of the applicant, and indication as to whether the applicant is the facility's owner, operator, or both;

c. Existing Environmental Permits. Identification of all environmental permits or construction approvals received or applied for (including dates) under any of the following programs:

i. Hazardous Waste Management program under the Resource Conservation and Recovery Act (RCRA), subpart C;

ii. Underground Injection Control program under the Safe Drinking Water Act (SDWA);

iii. LPDES or NPDES program under the Clean Water Act (CWA);

iv. Prevention of Significant Deterioration (PSD) program under the CWA;

v. nonattainment program under the Clean Air Act;

vi. National Emission Standards for Hazardous Air Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

vii. ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

viii. dredge or fill permits under section 404 of the CWA; and

ix. other relevant environmental permits, including state permits;

d. Population. The name and population of each municipal entity served by the facility, including unincorporated connector districts. Indicate whether each municipal entity owns or maintains the collection system and whether the collection system is separate sanitary or combined storm and sanitary, if known;

e. Indian Country. Information concerning whether the facility is located in Indian country and whether the facility discharges to a receiving stream that flows through Indian country;

f. Flow Rate. The facility's design flow rate (the wastewater flow rate the plant was built to handle), annual average daily flow rate, and maximum daily flow rate for each of the previous three years;

g. Collection System. Identification of type(s) of collection system(s) used by the treatment works (e.g., separate sanitary sewers or combined storm and sanitary sewers) and an estimate of the percent of sewer line that each type comprises; and

h. Outfalls and Other Discharge or Disposal Methods. The following information for outfalls to waters of the United States and other discharge or disposal methods:

i. for effluent discharges to waters of the state, the total number and types of outfalls (e.g., treated effluent, bypasses, constructed emergency overflows);

ii. for wastewater discharged to surface impoundments:

(a) the location of each surface impoundment;

(b) the average daily volume discharged to each surface impoundment; and

(c) whether the discharge is continuous or intermittent;

iii. for wastewater applied to the land:

(a) the location of each land application site;

(b) the size of each land application site, in acres;

(c) the average daily volume applied to each land application site, in gallons per day; and

(d) whether land application is continuous or intermittent;

iv. for effluent sent to another facility for treatment prior to discharge:

(a) the means by which the effluent is transported;

(b). the name, mailing address, contact person, and phone number of the organization transporting the discharge, if the transport is provided by a party other than the applicant;

(c). the name, mailing address, contact person, phone number, and LPDES permit number (if any) of the receiving facility; and

(d). the average daily flow rate from this facility into the receiving facility, in millions of gallons per day; and

v. for wastewater disposed of in a manner not included in Subsection J.1.h.i-iv of this Section (e.g., underground percolation, underground injection):

(a). a description of the disposal method, including the location and size of each disposal site, if applicable;

(b). the annual average daily volume disposed of by this method, in gallons per day; and

(c). whether disposal through this method is continuous or intermittent.

2. Additional Information. All applicants with a design flow greater than or equal to 0.1 mgd must provide the following information:

a. Inflow and Infiltration. The current average daily volume of inflow and infiltration, in gallons per day, and steps the applicant is taking to minimize inflow and infiltration;

b. Topographic Map. A topographic map (or other map if a topographic map is unavailable) extending at least one mile beyond property boundaries of the treatment plant, including all process units, and showing:

i. the treatment plant area and process units;

ii. the major pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant. This includes outfalls from bypass piping, if applicable;

iii. each well where fluids from the treatment plant are injected underground;

iv. wells, springs, and other surface water bodies listed in public records or otherwise known to the applicant within one-fourth mile of the treatment works' property boundaries;

v. sewage sludge management facilities (including on-site treatment, storage, and disposal sites); and

vi. location at which waste classified as hazardous under RCRA enters the treatment plant by truck, rail, or dedicated pipe;

c. Process Flow Diagram or Schematic. The following information regarding the diagram:

i. a diagram showing the processes of the treatment plant, including all bypass piping and all backup power sources or redundancy in the system. This includes a water balance showing all treatment units, including disinfection, and showing daily average flow rates at influent and discharge points and approximate daily flow rates between treatment units; and

ii. a narrative description of the diagram; and

d. Scheduled Improvements, Schedules of Implementation. The following information regarding scheduled improvements:

i. the outfall number of each outfall affected;

ii. a narrative description of each required improvement;

iii. scheduled or actual dates of completion for the following:

(a). commencement of construction;

(b). completion of construction;

(c). commencement of discharge; and

(d). attainment of operational level; and

iv. a description of permits and clearances concerning other federal and/or state requirements.

3. Information on Effluent Discharges. Each applicant must provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable:

a. Description of Outfall. The following information:

i. the outfall number;

ii. the state, parish, and city or town in which outfall is located;

iii. the latitude and longitude, to the nearest second;

iv. the distance from shore and depth below surface;

v. the average daily flow rate, in million gallons per day;

vi. the following information for each outfall with a seasonal or periodic discharge:

(a). the number of times per year the discharge occurs;

(b). the duration of each discharge;

(c). the flow of each discharge; and

(d). the months in which discharge occurs; and

vii. whether the outfall is equipped with a diffuser and the type (e.g., high-rate) of diffuser used;

b. Description of Receiving Waters. The following information (if known) for each outfall through which effluent is discharged to waters of the state:

i. the name of receiving water;

ii. the name of watershed/river/stream system and United States Natural Resource Conservation Service 14-digit watershed code;

iii. the name of state management/river basin and United States Geological Survey 8-digit hydrologic cataloging unit code; and

iv. the critical flow of receiving stream and total hardness of receiving stream at critical low flow (if applicable);

c. Description of Treatment. The following information describing the treatment provided for discharges from each outfall to waters of the state:

i. the highest level of treatment (e.g., primary, equivalent to secondary, secondary, advanced, other) that is provided for the discharge for each outfall and:

(a). design biochemical oxygen demand (BOD₅ or CBOD₅) removal (percent);

(b). design suspended solids (SS) removal (percent);

(c). design phosphorus (P) removal (percent), where applicable;

(d). design nitrogen (N) removal (percent), where applicable; and

(e). any other removals that an advanced treatment system is designed to achieve; and

ii. a description of the type of disinfection used, and whether the treatment plant dechlorinates (if disinfection is accomplished through chlorination).

4. Effluent Monitoring for Specific Parameters

a. As provided in Subsection J.4.b-j of this Section, all applicants must submit to the Office of Environmental Services, Permits Division effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the state. The state administrative authority may allow applicants to submit sampling data for only one outfall on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The state administrative authority may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone.

b. All applicants must sample and analyze for the pollutants listed in Appendix O, Table 1A of this Chapter.

c. All applicants whose facility has a design flow greater than or equal to 0.1 mgd must sample and analyze for the pollutants listed in Appendix O, Table 1 of this Chapter. Applicants whose facilities do not use chlorine for disinfection, do not use chlorine elsewhere in the treatment process, and have no reasonable potential to discharge chlorine in their effluent may delete chlorine from Appendix O, Table 1 of this Chapter.

d. Applicants for the following facilities must sample and analyze for the pollutants listed in Appendix O, Table 2 of this Chapter and for any other pollutants for which the state has established water quality standards applicable to the receiving waters:

i. all POTWs with a design flow rate equal to or greater than one million gallons per day;

ii. all POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program; and

iii. other POTWs, as required by the state administrative authority.

e. The state administrative authority may require sampling for additional pollutants, as appropriate, on a case-by-case basis.

f. Applicants must provide data from a minimum of three samples taken within four and one-half years prior to the date of the permit application. Samples must be representative of the seasonal variation in the discharge from each outfall. Existing data may be used, if available, in lieu of sampling done solely for the purpose of this application. The state administrative authority may require additional samples, as appropriate, on a case-by-case basis.

g. All existing data for pollutants specified in Subsection J.4.b-e of this Section that are collected within four and one-half years of the application must be included in the pollutant data summary submitted by the applicant. If, however, the applicant samples for a specific pollutant on a monthly or more frequent basis, it is only necessary, for such pollutant, to summarize all data collected within one year of the application.

h. Applicants must collect samples of effluent and analyze such samples for pollutants in accordance with analytical methods approved under LAC 33:IX.2531 unless an alternative is specified in the existing LPDES permit.

Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. For a composite sample only one analysis of the composite of aliquots is required.

i. The effluent monitoring data provided must include at least the following information for each parameter:

i. the maximum daily discharge, expressed as concentration or mass, based upon actual sample values;

ii. the average daily discharge for all samples, expressed as concentration or mass, and the number of samples used to obtain this value;

iii. the analytical method used; and

iv. the threshold level (e.g., method detection limit, minimum level, or other designated method endpoints) for the analytical method used.

j. Unless otherwise required by the state administrative authority, metals must be reported as total recoverable.

5. Effluent Monitoring for Whole Effluent Toxicity

a. All applicants must provide an identification of any whole effluent toxicity tests conducted during the four and one-half years prior to the date of the application on any of the applicant's discharge or on any receiving water near the discharge.

b. As provided in Subsection J.5.c-i of this Section, applicants for the following facilities must submit to the Office of Environmental Services, Permits Division the results of valid whole effluent toxicity tests for acute or chronic toxicity for samples taken from each outfall through which effluent is discharged to surface waters:

i. all POTWs with design flow rates greater than or equal to one million gallons per day;

ii. all POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program; and

iii. other POTWs, as required by the state administrative authority, based on consideration of the following factors:

(a). the variability of the pollutants or pollutant parameters in the POTW effluent (based on chemical-specific information, the type of treatment plant, and types of industrial contributors);

(b). the ratio of effluent flow to receiving stream flow;

(c). the existing controls on point or non-point sources, including total maximum daily load calculations for the receiving stream segment and the relative contribution of the POTW;

(d). receiving stream characteristics, including possible or known water quality impairment, and whether the POTW discharges to a coastal water or a water designated as an outstanding natural resource water; and

(e). other considerations (including, but not limited to, the history of toxic impacts and compliance problems at the POTW) that the state administrative authority determines could cause or contribute to adverse water quality impacts.

c. Where the POTW has two or more outfalls with substantially identical effluent discharging to the same receiving stream segment, the state administrative authority

may allow applicants to submit whole effluent toxicity data for only one outfall on a case-by-case basis. The state administrative authority may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone.

d. Each applicant required to perform whole effluent toxicity testing in accordance with Subsection J.5.b of this Section must provide:

i. results of a minimum of four quarterly tests for a year from the year preceding the permit application; or

ii. results from four tests performed at least annually in the four and one-half year period prior to the application, provided the results show no appreciable toxicity using a safety factor determined by the permitting authority.

e. Applicants must conduct tests with multiple species (no fewer than two taxonomic groups listed in LAC 33:IX.1121.B; e.g., fish, invertebrate, plant), and test for acute or chronic toxicity, depending on the range of receiving water dilution. The department recommends, but does not require, that applicants conduct acute or chronic testing based on the latest recommended protocol for biomonitoring, which uses the following dilutions:

i. acute toxicity testing if the dilution of the effluent is greater than 1000:1 at the edge of the mixing zone;

ii. acute or chronic toxicity testing if the dilution of the effluent is between 100:1 and 1000:1 at the edge of the mixing zone. Acute testing may be more appropriate at the higher end of this range (1000:1), and chronic testing may be more appropriate at the lower end of this range (100:1); and

iii. chronic testing if the dilution of the effluent is less than 100:1 at the edge of the mixing zone.

f. Each applicant required to perform whole effluent toxicity testing in accordance with Subsection J.5.b of this Section must provide the number of chronic or acute whole effluent toxicity tests that have been conducted since the last permit reissuance.

g. Applicants must provide the results using the form provided by the state administrative authority, or test summaries, if available and comprehensive, for each whole effluent toxicity test conducted in accordance with Subsection J.5.b of this Section for which such information has not been reported previously to the state administrative authority.

h. Whole effluent toxicity testing conducted in accordance with Subsection J.5.b of this Section must be conducted using methods approved under LAC 33:IX.2531.

i. For whole effluent toxicity data submitted to the state administrative authority within four and one-half years prior to the date of the application, applicants must provide the dates on which the data were submitted and a summary of the results.

j. Each applicant required to perform whole effluent toxicity testing in accordance with Subsection J.5.b of this Section must provide any information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if any whole effluent toxicity test conducted within the past four and one-half years revealed toxicity.

6. Industrial Discharges. Applicants must submit the following information about industrial discharges to the POTW:

a. number of significant industrial users (SIUs) and categorical industrial users (CIUs) discharging to the POTW;

b. POTWs with one or more SIUs shall provide the following information for each SIU, as defined in LAC:33:IX.2705, that discharges to the POTW:

i. name and mailing address;

ii. description of all industrial processes that affect or contribute to the SIU's discharge;

iii. principal products and raw materials of the SIU that affect or contribute to the SIU's discharge;

iv. average daily volume of wastewater discharged, indicating the amount attributable to process flow and nonprocess flow;

v. whether the SIU is subject to local limits;

vi. whether the SIU is subject to categorical standards, and if so, under which category(ies) and subcategory(ies); and

vii. whether any problems at the POTW (e.g., upsets, pass through, interference) have been attributed to the SIU in the past four and one-half years; and

c. the information required in Subsection J.6.a and b of this Section may be waived by the state administrative authority for POTWs with pretreatment programs if the applicant has submitted either of the following that contain information substantially identical to that required in Subsection J.6.a and b of this Section:

i. an annual report submitted within one year of the application; or

ii. a pretreatment program.

7. Discharges From Hazardous Waste Generators and From Waste Cleanup or Remediation Sites. POTWs receiving Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or RCRA Corrective Action wastes or wastes generated at another type of cleanup or remediation site must provide the following information:

a. if the POTW receives, or has been notified that it will receive, by truck, rail, or dedicated pipe any wastes that are regulated as RCRA hazardous wastes pursuant to 40 CFR part 261, the applicant must report the following:

i. the receipt of such notice; and

ii. the hazardous waste number and amount received annually of each hazardous waste; and

b. if the POTW receives, or has been notified that it will receive, wastewaters that originate from remedial activities, including those undertaken pursuant to CERCLA and sections 3004(u) or 3008(h) of RCRA, the applicant must report the following:

i. the identity and description of the site(s) or facility(ies) at which the wastewater originates;

ii. the identities of the wastewater's hazardous constituents, as listed in Appendix VIII of 40 CFR part 261, if known; and

iii. the extent of treatment, if any, the wastewater receives or will receive before entering the POTW.

[Note: applicants are exempt from the requirements of Subsection J.7.b of this Section if they receive no more than fifteen kilograms per month of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e).]

8. Reserved.

9. Contractors. All applicants must provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility.

10. Signature. All applications must be signed by a certifying official in compliance with LAC 33:IX.2333.

* * *

[See Prior Text in K-O.Note 3.e.Footnote 1]

P. Reserved.

Q. Sewage Sludge Management. All applicants with TWTDS subject to Subsection C.1.b of this Section must provide the information in this Subsection to the state administrative authority, using Form 2S or another application form approved by the state administrative authority. New applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the state administrative authority. The state administrative authority may waive any requirement of this Subsection if he or she has access to substantially identical information. The state administrative authority may also waive any requirement of this Subsection that is not of material concern for a specific permit, if approved by the regional administrator. The waiver request to the regional administrator must include the state's justification for the waiver. A regional administrator's disapproval of a state's proposed waiver does not constitute final agency action, but does provide notice to the state and permit applicant(s) that EPA may object to any state-issued permit issued in the absence of the required information.

1. Facility Information. All applicants must submit the following information:

- a. the name, mailing address, and location of the TWTDS for which the application is submitted;
- b. whether the facility is a Class I sludge management facility;
- c. the design flow rate (in million gallons per day);
- d. the total population served; and
- e. the applicant's status as federal, state, private, public, or other entity.

2. Applicant Information. All applicants must submit the following information:

- a. the name, mailing address, and telephone number of the applicant; and
- b. indication whether the applicant is the owner, operator, or both.

3. Permit Information. All applicants must submit the facility's LPDES permit number, if applicable, and a listing of all other federal, state, and local permits or construction approvals received or applied for under any of the following programs:

- a. Hazardous Waste Management program under RCRA;
- b. UIC program under the Safe Drinking Water Act (SDWA);
- c. LPDES program under the CWA;

d. Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

e. nonattainment program under the Clean Air Act;

f. National Emission Standards for Hazardous Air Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

g. dredge or fill permits under section 404 of the CWA; and

h. other relevant environmental permits, including state or local permits.

4. Indian Country. All applicants must identify any generation, treatment, storage, land application, or disposal of sewage sludge that occurs in Indian country.

5. Topographic Map. All applicants must submit a topographic map (or other map if a topographic map is unavailable) extending one mile beyond property boundaries of the facility and showing the following information:

a. all sewage sludge management facilities, including on-site treatment, storage, and disposal sites; and

b. wells, springs, and other surface water bodies that are within one-fourth mile of the property boundaries and listed in public records or otherwise known to the applicant.

6. Sewage Sludge Handling. All applicants must submit a line drawing and/or a narrative description that identifies all sewage sludge management practices employed during the term of the permit, including all units used for collecting, dewatering, storing, or treating sewage sludge, the destination(s) of all liquids and solids leaving each such unit, and all processes used for pathogen reduction and vector attraction reduction.

7. Sewage Sludge Quality. The applicant must submit sewage sludge monitoring data for the pollutants for which limits in sewage sludge have been established in 40 CFR part 503 for the applicant's use or disposal practices on the date of permit application.

a. The state administrative authority may require sampling for additional pollutants, as appropriate, on a case-by-case basis.

b. Applicants must provide data from a minimum of three samples taken within four and one-half years prior to the date of the permit application. Samples must be representative of the sewage sludge and should be taken at least one month apart. Existing data may be used in lieu of sampling done solely for the purpose of this application.

c. Applicants must collect and analyze samples in accordance with analytical methods approved under "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, unless an alternative has been specified in an existing sewage sludge permit.

d. The monitoring data provided must include at least the following information for each parameter:

- i. average monthly concentration for all samples (mg/kg dry weight), based upon actual sample values;
- ii. the analytical method used; and
- iii. the method detection level.

8. Preparation of Sewage Sludge. If the applicant is a person who prepares sewage sludge, as defined at 40 CFR 503.9(r), the applicant must provide the following information:

a. if the applicant's facility generates sewage sludge, the total dry metric tons per 365-day period generated at the facility;

b. if the applicant's facility receives sewage sludge from another facility, the following information for each facility from which sewage sludge is received:

i. the name, mailing address, and location of the other facility;

ii. the total dry metric tons per 365-day period received from the other facility; and

iii. a description of any treatment processes occurring at the other facility, including blending activities and treatment to reduce pathogens or vector attraction characteristics;

c. if the applicant's facility changes the quality of sewage sludge through blending, treatment, or other activities, the following information:

i. whether the Class A pathogen reduction requirements in 40 CFR 503.32(a) or the Class B pathogen reduction requirements in 40 CFR 503.32(b) are met, and a description of any treatment processes used to reduce pathogens in sewage sludge;

ii. whether any of the vector attraction reduction options of 40 CFR 503.33(b)(1)-(b)(8) are met, and a description of any treatment processes used to reduce vector attraction properties in sewage sludge; and

iii. a description of any other blending, treatment, or other activities that change the quality of sewage sludge;

d. if the sewage sludge from the applicant's facility meets the ceiling concentration in 40 CFR 503.13(b)(1), the pollutant concentrations in 40 CFR part 503.13(b)(3), the Class A pathogen requirements in 40 CFR part 503.32(a), and one of the vector attraction reduction requirements in 40 CFR part 503.33(b)(1)-(b)(8), and if the sewage sludge is applied to the land, the applicant must provide the total dry metric tons per 365-day period of sewage sludge subject to this Subparagraph that is applied to the land;

e. if sewage sludge from the applicant's facility is sold or given away in a bag or other container for application to the land, and the sewage sludge is not subject to Subsection Q.8.d of this Section, the applicant must provide the following information:

i. the total dry metric tons per 365-day period of sewage sludge subject to this Clause that is sold or given away in a bag or other container for application to the land; and

ii. a copy of all labels or notices that accompany the sewage sludge being sold or given away;

f. if sewage sludge from the applicant's facility is provided to another person who prepares, as defined at 40 CFR 503.9(r), and the sewage sludge is not subject to Subsection Q.8.d of this Section, the applicant must provide the following information for each facility receiving the sewage sludge:

i. the name and mailing address of the receiving facility;

ii. the total dry metric tons per 365-day period of sewage sludge subject to this Clause that the applicant provides to the receiving facility;

iii. a description of any treatment processes occurring at the receiving facility, including blending

activities and treatment to reduce pathogens or vector attraction characteristic;

iv. a copy of the notice and necessary information that the applicant is required to provide the receiving facility under 40 CFR 503.12(g); and

v. if the receiving facility places sewage sludge in bags or containers for sale or give-away to application to the land, a copy of any labels or notices that accompany the sewage sludge.

9. Land Application of Bulk Sewage Sludge. If sewage sludge from the applicant's facility is applied to the land in bulk form, and is not subject to Subsection Q.8.d, e, or f of this Section, the applicant must provide the following information:

a. the total dry metric tons per 365-day period of sewage sludge subject to this Subparagraph that is applied to the land;

b. if any land application sites are located in states other than the state where the sewage sludge is prepared, a description of how the applicant will notify the permitting authority for the state(s) where the land application sites are located;

c. the following information for each land application site that has been identified at the time of permit application:

i. the name (if any) and location for the land application site;

ii. the site's latitude and longitude to the nearest second, and the method of determination;

iii. a topographic map (or other map if a topographic map is unavailable) that shows the site's location;

iv. the name, mailing address, and telephone number of the site owner, if different from the applicant;

v. the name, mailing address, and telephone number of the person who applies sewage sludge to the site, if different from the applicant;

vi. whether the site is agricultural land, forest, a public contact site, or a reclamation site, as such site types are defined under 40 CFR 503.11;

vii. the type of vegetation grown on the site, if known, and the nitrogen requirement for this vegetation;

viii. whether either of the vector attraction reduction options of 40 CFR 503.33(b)(9) or (b)(10) is met at the site, and a description of any procedures employed at the time of use to reduce vector attraction properties in sewage sludge; and

ix. other information that describes how the site will be managed, as specified by the permitting authority;

d. the following information for each land application site that has been identified at the time of permit application, if the applicant intends to apply bulk sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site:

i. whether the applicant has contacted the permitting authority in the state where the bulk sewage sludge subject to 40 CFR part 503.13(b)(2) will be applied, to ascertain whether bulk sewage sludge subject to 40 CFR part 503.13(b)(2) has been applied to the site on or since July 20, 1993, and if so, the name of the permitting authority and the name and phone number of a contact person at the permitting authority; and

ii. identification of facilities other than the applicant's facility that have sent, or are sending, sewage sludge subject to the cumulative pollutant loading rates in 40 CFR part 503.13(b)(2) to the site since July 20, 1993, if, based on the inquiry in Subsection Q.9.d.i of this Section, bulk sewage sludge subject to cumulative pollutant loading rates in 40 CFR part 503.13(b)(2) has been applied to the site since July 20, 1993; and

e. if not all land application sites have been identified at the time of permit application, the applicant must submit a land application plan that, at a minimum:

- i. describes the geographical area covered by the plan;
- ii. identifies the site selection criteria;
- iii. describes how the site(s) will be managed; and
- iv. provides for advance public notice of land application sites in the manner prescribed by state or local law. When state or local law does not require advance public notice, it must be provided in a manner reasonably calculated to apprise the general public of the planned land application.

10. Surface Disposal. If sewage sludge from the applicant's facility is placed on a surface disposal site, the applicant must provide the following information:

a. the total dry metric tons of sewage sludge from the applicant's facility that is placed on surface disposal sites per 365-day period;

b. the following information for each surface disposal site receiving sewage sludge from the applicant's facility that the applicant does not own or operate:

i. the site name or number, contact person, mailing address, and telephone number for the surface disposal site; and

ii. the total dry metric tons from the applicant's facility per 365-day period placed on the surface disposal site; and

c. the following information for each active sewage sludge unit at each surface disposal site that the applicant owns or operates:

i. the name or number and the location of the active sewage sludge unit;

ii. the unit's latitude and longitude to the nearest second, and the method of determination;

iii. if not already provided, a topographic map (or other map if a topographic map is unavailable) that shows the unit's location;

iv. the total dry metric tons placed on the active sewage sludge unit per 365-day period;

v. the total dry metric tons placed on the active sewage sludge unit over the life of the unit;

vi. a description of any liner for the active sewage sludge unit, including whether it has a maximum permeability of 1×10^{-7} cm/sec;

vii. a description of any leachate collection system for the active sewage sludge unit, including the method used for leachate disposal and any federal, state, and local permit number(s) for leachate disposal;

viii. if the active sewage sludge unit is less than 150 meters from the property line of the surface disposal site, the actual distance from the unit boundary to the site property line;

ix. the remaining capacity (dry metric tons) for the active sewage sludge unit;

x. the date on which the active sewage sludge unit is expected to close, if such a date has been identified;

xi. the following information for any other facility that sends sewage sludge to the active sewage sludge unit:

(a). the name, contact person, and mailing address of the facility; and

(b). available information regarding the quality of the sewage sludge received from the facility, including any treatment at the facility to reduce pathogens or vector attraction characteristics;

xii. whether any of the vector attraction reduction options of 40 CFR 503.33(b)(9)-(b)(11) is met at the active sewage sludge unit, and a description of any procedures employed at the time of disposal to reduce vector attraction properties in sewage sludge;

xiii. the following information, as applicable, to any groundwater monitoring occurring at the active sewage sludge unit:

(a). a description of any groundwater monitoring occurring at the active sewage sludge unit;

(b). any available groundwater monitoring data, with a description of the well locations and approximate depth to groundwater;

(c). a copy of any groundwater monitoring plan that has been prepared for the active sewage sludge unit; and

(d). a copy of any certification that has been obtained from a qualified groundwater scientist that the aquifer has not been contaminated; and

xiv. if site-specific pollutant limits are being sought for the sewage sludge placed on this active sewage sludge unit, information to support such a request.

11. Incineration. If sewage sludge from the applicant's facility is fired in a sewage sludge incinerator, the applicant must provide the following information:

a. the total dry metric tons of sewage sludge from the applicant's facility that is fired in sewage sludge incinerators per 365-day period;

b. the following information for each sewage sludge incinerator firing the applicant's sewage sludge that the applicant does not own or operate:

i. the name and/or number, contact person, mailing address, and telephone number of the sewage sludge incinerator; and

ii. the total dry metric tons from the applicant's facility per 365-day period fired in the sewage sludge incinerator; and

c. the following information for each sewage sludge incinerator that the applicant owns or operates:

i. the name and/or number and the location of the sewage sludge incinerator;

ii. the incinerator's latitude and longitude to the nearest second, and the method of determination;

iii. the total dry metric tons per 365-day period fired in the sewage sludge incinerator;

iv. information, test data, and documentation of ongoing operating parameters indicating that compliance with the national emission standard for beryllium in 40 CFR part 61 will be achieved;

v. information, test data, and documentation of ongoing operating parameters indicating that compliance with the national emission standard for mercury in 40 CFR part 61 will be achieved;

vi. the dispersion factor for the sewage sludge incinerator, as well as modeling results and supporting documentation;

vii. the control efficiency for parameters regulated in 40 CFR 503.43, as well as performance test results and supporting documentation;

viii. information used to calculate the risk specific concentration (RSC) for chromium, including the results of incinerator stack tests for hexavalent and total chromium concentrations, if the applicant is requesting a chromium limit based on a site-specific RSC value;

ix. whether the applicant monitors total hydrocarbons (THC) or carbon monoxide (CO) in the exit gas for the sewage sludge incinerator;

x. the type of sewage sludge incinerator;

xi. the maximum performance test combustion temperature, as obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies;

xii. the following information on the sewage sludge feed rate used during the performance test:

(a). sewage sludge feed rate in dry metric tons per day;

(b). identification of whether the feed rate submitted is average use or maximum design; and

(c). a description of how the feed rate was calculated;

xiii. the incinerator stack height in meters for each stack, including identification of whether actual or creditable stack height was used;

xiv. the operating parameters for the sewage sludge incinerator air pollution control device(s), as obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies;

xv. identification of the monitoring equipment in place, including, but not limited to, equipment to monitor the following:

(a). total hydrocarbons or carbon monoxide;

(b). percent oxygen;

(c). percent moisture; and

(d). combustion temperature; and

xvi. a list of all air pollution control equipment used with this sewage sludge incinerator.

12. Disposal in a Municipal Solid Waste Landfill. If sewage sludge from the applicant's facility is sent to a municipal solid waste landfill (MSWLF), the applicant must provide the following information for each MSWLF to which sewage sludge is sent:

a. the name, contact person, mailing address, location, and all applicable permit numbers of the MSWLF;

b. the total dry metric tons per 365-day period sent from this facility to the MSWLF;

c. a determination of whether the sewage sludge meets applicable requirements for disposal of sewage sludge in a MSWLF, including the results of the paint filter liquids test and any additional requirements that apply on a site-specific basis; and

d. information, if known, indicating whether the MSWLF complies with criteria set forth in 40 CFR part 258.

13. Contractors. All applicants must provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility related to sewage sludge generation, treatment, use, or disposal.

14. Other Information. At the request of the permitting authority, the applicant must provide any other information necessary to determine the appropriate standards for permitting under 40 CFR part 503 and must provide any other information necessary to assess the sewage sludge use and disposal practices, determine whether to issue a permit, or identify appropriate permit requirements.

15. Signature. All applications must be signed by a certifying official in compliance with LAC 33:IX:2333.

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

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

Subchapter C. Permit Conditions

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

In addition to the conditions established under LAC 33:IX.2359.A, each LPDES permit shall include conditions meeting the following requirements when applicable.

* * *

[See Prior Text in A-J.1]

2.a. Submit a local program when required by and in accordance with LAC 33:IX.Chapter 23.Subchapter T to assure compliance with pretreatment standards to the extent applicable under section 307(b) of the CWA. The local program shall be incorporated into the permit as described in LAC 33:IX.Chapter 23.Subchapter T. The program must require all indirect dischargers to the POTW to comply with the reporting requirements of LAC 33:IX.Chapter 23.Subchapter T.

b. Provide a written technical evaluation of the need to revise local limits under LAC 33:IX.2709.C.1, following permit issuance or reissuance.

* * *

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

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

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

§2413. Fact Sheet

* * *

[See Prior Text in A-B.7]

8. provisions satisfying the requirements of LAC 33:IX.2445;

9. additional requirements found in LAC 33:IX.2779; and

10. justification for waiver of any application requirements under LAC 33:IX:2331.J or Q.

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:

Appendix N

Pollutants Eligible for a Removal Credit

[See Prior Text in I - Note 1]

II. Additional Pollutants Eligible for a Removal Credit (milligrams per kilogram--dry weight basis)

Pollutant	Use or Disposal Practice			
	LA	SD		
		Unlined ¹	Lined ²	I

[See Prior Test in Arsenic CChlordane]				
Chromium (total)	³ 100		³ 100	
Copper		³ 46	100	1400

[See Prior Text in DDD, DDE, DDT CZinc]				

Key:

LA = land application

SD = surface disposal

I = incineration.

¹ Active sewage sludge unit without a liner and leachate collection system.

² Active sewage sludge unit with a liner and leachate collection system.

³ Value expressed in grams per kilogram--dry weight basis.

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), LR 23:959 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2764 (December 2000).

Appendix O

LPDES Permit Testing Requirements for Publicly Owned Treatment Works (LAC 33:IX.2331.J)

Table 1A – Effluent Parameters for All POTWS	
Biochemical oxygen demand (BOD-5 or CBOD-5)	
Fecal coliform	
Design flow rate	
PH	
Solids, total suspended	
Temperature	

Table 1 – Effluent Parameters for all POTWS With a Flow Equal to or Greater Than 0.1 MGD	
Name	CAS #
Ammonia (as N)	7664-41-7
Chlorine (total residual, TRC)	7782-50-5
Dissolved oxygen	
Nitrate/Nitrite	
Kjeldahl nitrogen	
Oil and grease	
Phosphorus	7723-14-0
Solids, total dissolved	

Table 2 – Effluent Parameters for Selected POTWS		
Common Name	Universal Name	CAS #
Hardness		
<i>Metals (total recoverable), Cyanide and Total Phenols</i>		
Antimony		7440-36-0
Arsenic		7440-38-2
Beryllium		7440-41-7
Cadmium		7440-43-9
Chromium		7440-47-3
Copper		7440-50-8
Lead		7439-92-1
Mercury		7439-97-6
Nickel		7440-02-0
Selenium		7782-49-2
Silver		7440-22-4
Thallium		7440-28-0
Zinc		7440-66-6
Cyanide		57-12-5
Total phenolic compounds		
<i>Volatile Organic Compounds</i>		
Acrolein		107-02-8
Acrylonitrile		107-13-1
Benzene		71-43-2
Bromoform		75-25-2
Carbon tetrachloride		56-23-5
Chlorobenzene	Phenyl chloride	108-90-7
Chlorodibromomethane		124-48-1
Chloroethane	Ethyl chloride	75-00-3
2-chloroethylvinyl ether	2-chloroethyl vinyl ether	110-75-8
Chloroform	Trichloromethane	67-66-3
Dichlorobromomethane		75-27-4
1,1-dichloroethane		75-34-3
1,2-dichloroethane		107-06-2
Trans-1,2-dichloroethylene	Trans-1,2-dichloroethene	156-60-5
1,1-dichloroethylene	Vinylidene chloride	75-35-4
1,2-dichloropropane	Propylene dichloride	78-87-5
1,3-dichloropropylene	1,3-dichloropropene	542-75-6
Ethylbenzene	Ethyl benzene	100-41-4
Methyl bromide		74-83-9
Methyl chloride		74-87-3
Methylene chloride	Dichloromethane	75-09-2
1,1,2,2-tetrachloroethane		79-34-5
Tetrachloroethylene		127-18-4
Toluene		108-88-3
1,1,1-trichloroethane		71-55-6
1,1,2-trichloroethane		79-00-5
Trichloroethylene		79-01-6
Vinyl chloride		75-01-4
<i>Acid-Extractable Compounds</i>		
P-chloro-m-cresol	4-chloro-3-methylphenol	59-50-7
2-chlorophenol		95-57-8
2,4-dichlorophenol		120-83-2
2,4-dimethylphenol		105-67-9
4,6-dinitro-o-cresol	Dinitro-o-cresol	534-52-1
2,4-dinitrophenol		51-28-5
2-nitrophenol		88-75-5
4-nitrophenol		100-02-7
Pentachlorophenol	pentachloro-Phenol	87-86-5
Phenol		108-95-2
2,4,6-trichlorophenol		88-06-2
<i>Base-Neutral Compounds</i>		
Acenaphthene		83-32-9
Acenaphthylene		208-96-8
Anthracene		120-12-7
Benzidine		92-87-5
Benzo(a)anthracene	Benzo[a]anthracene	56-55-3
Benzo(a)pyrene	Benzo[a]pyrene	50-32-8
3,4-benzofluoranthene	Benzo[b]fluoranthene	205-99-2

Benzo(ghi)perylene	Benzo[g,h,i]perylene	191-24-2
Benzo(k)fluoranthene	Benzo[k]fluoranthene	207-08-9
Bis (2-chloroethoxy) methane		111-91-1
Bis (2-chloroethyl) ether	2,2'-dichlorodiethylether	111-44-4
Bis (2-chloroisopropyl) ether	bis-chloroisopropyl ether	108-60-1
Bis (2-ethylhexyl) phthalate	di-sec-octyl phthalate	117-81-7
4-bromophenyl phenyl ether		101-55-3
Butyl benzyl phthalate		85-68-7
2-chloronaphthalene		91-58-7
4-chlorophenyl phenyl ether	1-chloro-4-phenoxybenzene	7005-72-3
Chrysene		218-01-9
Di-n-butyl phthalate	Dibutyl phthalate	84-74-2
Di-n-octyl phthalate	Bis(n-octyl) phthalate	117-84-0
Dibenzo(a,h)anthracene	Dibenz[a,h]anthracene	53-70-3
1,2-dichlorobenzene	o-dichlorobenzene	95-50-1
1,3-dichlorobenzene	m-dichlorobenzene	541-73-1
1,4-dichlorobenzene	para-Dichlorobenzene	106-46-7
3,3'-dichlorobenzidine		91-94-1
Diethyl phthalate		84-66-2
Dimethyl phthalate		131-11-3
2,4-dinitrotoluene		121-14-2
2,6-dinitrotoluene		606-20-2
1,2-diphenylhydrazine		122-66-7
Fluoranthene		206-44-0
Fluorene		86-73-7
Hexachlorobenzene		118-74-1
Hexachlorobutadiene		87-68-3
Hexachlorocyclopentadiene	Hexachlorocyclopentadiene	77-47-4
Indeno(1,2,3-cd)pyrene	Indeno[1,2,3-cd]pyrene	193-39-5
Isophorone		78-59-1
Naphthalene		91-20-3
Nitrobenzene	nitro-Benzene	98-95-3
N-nitrosodi-n-propylamine	N-nitrosodipropylamine	621-64-7
N-nitrosodimethylamine		62-75-9
N-nitrosodiphenylamine		86-30-6
Phenanthrene		85-01-8
Pyrene		129-00-0
1,2,4-trichlorobenzene		120-82-1

Note: If no universal name is listed, the common name and the universal name are the same.

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 Environmental Assessment, Environmental Planning Division, LR 26:2765 (December 2000).

James H. Brent, Ph.D.
Assistant Secretary

0012#020

RULE

Department of Environmental Quality Office of Environmental Assessment

Radiation Protection
(LAC 33:XV.Chapters 1, 3, 4, 15 and 20) (NE023*)

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 Radiation Protection regulations, LAC 33:XV.Chapters 1, 3, 4, 15, and 20 (Log #NE023*).

This Rule is identical to federal regulations found in 61 FR 65120, December 10, 1996; 62 FR 1662, January 13, 1997; 62 FR 39057, July 21, 1997; 63 FR 39477, July 23, 1998; 63 FR 45393, August 26, 1998, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule consists of amendments to the radiation protection regulations addressing several different subjects. Those subjects, as described by the Nuclear Regulatory Commission (NRC) in the pertinent articles of the Federal Register, are: resolution of dual regulation of airborne effluents of radioactive materials Clean Air Act; recognition of agreement state licenses in areas under exclusive federal jurisdiction within an agreement state; radiological criteria for license termination; and minor corrections, clarifying changes, and a minor policy change. Included are changes in the definitions of background radiation, decommission, declared pregnant woman, very high radiation area, high radiation area, individual monitoring devices, and eye dose equivalent. The definitions of constraint, critical group, distinguishable from background, and residual radioactivity are added. The main impact of this rule is the determination of criteria under which a site will be considered acceptable for unrestricted use so that a license can be terminated. The principal criterion is that the residual radioactivity that is distinguishable from background radiation results in a total effective dose equivalent (TEDE) to an average member of the critical group does not exceed 25 mrem per year. As a Nuclear Regulatory Commission Agreement State, in accordance with the NRC agreement signed on May 1, 1967, Louisiana has accepted the responsibility for promulgating regulations that satisfy the compatibility requirement of Section 274 of the Atomic Energy Act of 1954, as amended.

In certain areas defined by the NRC, state regulations must be the same as the NRC regulations. The extent to which the regulation must be identical, whether in content or in effect, is determined by the NRC. All amendments in this package are consequently mandated by the NRC, to comply with recent NRC regulation changes. The basis and rationale for this Rule are to achieve compatibility with the regulations of the Nuclear Regulatory Commission in accordance with Section 274 of the Atomic Energy Act of 1954, as amended.

This 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 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]

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 or from past nuclear accidents, such as Chernobyl, that contribute to background radiation and are not under the control of the licensee. Background radiation does not include radiation from source, byproduct, or special nuclear materials regulated by the department.

* * *

[See Prior Text]

Decommission—to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits:

1. release of the property for unrestricted use and termination of license; or
2. release of the property under restricted conditions and termination of the license.

* * *

[See Prior Text]

Distinguishable From Background—the detectable concentration of a radionuclide that is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

* * *

[See Prior Text]

Extremity—hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) Licensed Facilities—nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

* * *

[See Prior Text]

High-Radiation Area—an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 100 millirem (one millisievert) in one hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

* * *

[See Prior Text]

Individual Monitoring Devices—devices designed to be worn by a single individual for the assessment of dose equivalent. For purposes of these regulations, "personnel dosimeter" and "dosimeter" are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, and personal air sampling devices.

* * *

[See Prior Text]

Lens Dose Equivalent (LDE)—the external exposure of the lens of the eye, which is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm²).

* * *

[See Prior Text]

Residual Radioactivity—radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site, even if those burials were made in accordance with the provisions of LAC 33:XV.Chapter 4.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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), 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), LR 26:2767 (December 2000).

Chapter 3. Licensing of Radioactive Material
§302. Deliberate Misconduct

A. Any licensee, certificate of registration holder, applicant for a license or certificate of registration, employee of a licensee, certificate of registration holder, or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or certificate of registration holder or applicant for a license or certificate of registration, who knowingly provides to any licensee, applicant, certificate holder, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's, certificate holder's, or applicant's activities in this Section, may not:

1. engage in deliberate misconduct that causes or would have caused, if not detected, a licensee, certificate of registration holder, or applicant to be in violation of any rule,

regulation, or order; or any term, condition, or limitation of any license issued by the department; or

2. deliberately submit to the department, a licensee, a certificate of registration holder, an applicant, or a licensee's, certificate holder's, or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect.

B. A person who violates Subsection A of this Section may be subject to enforcement action in accordance with the procedures in LAC 33:XV.108.

C. For the purposes of Subsection A.1 of this Section, deliberate misconduct by a person means an intentional act or omission that the person knows:

1. would cause a licensee, certificate of registration holder, or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation, of any license issued by the department; or

2. constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, certificate of registration holder, applicant, contractor, or subcontractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2767 (December 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-H.1.c.i]

ii. displaying the radiation symbol described in LAC 33:XV.450.A and the words, "CAUTION, RADIOACTIVE MATERIAL," and "Not for Internal or External Use in Humans or Animals."

* * *

[See Prior Text in H.1.d-M.4.g]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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 26:2571 (November 2000), LR 26:2768 (December 2000).

§332. Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas

* * *

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

i. report levels of radiation in units of milliroentgens per hour of beta and gamma radiation at 1 centimeter and gamma radiation at 1 meter from surfaces and report levels of radioactivity, including alpha, in units of transformations per minute (or microcuries) per 100 square centimeters removable and fixed on surfaces, microcuries per milliliter in water, and picocuries per gram in contaminated solids such as soils or concrete;

ii. specify the instrumentation used and certify that each instrument was properly calibrated and tested; and

iii. consider a site to be acceptable for unrestricted use if the residual radioactivity that is distinguishable from background radiation results in a TEDE to an average member of the critical group that does not exceed 25 mrem (0.25 mSv) per year, including that from groundwater sources of drinking water, and the residual radioactivity has been reduced to levels that are as low as reasonably achievable (ALARA). Determination of the levels that are ALARA must take into account consideration of any detriments, such as deaths from transportation accidents, expected to potentially result from decontamination and waste disposal.

* * *

[See Prior Text in D.2-E.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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), LR 26:2768 (December 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, except in areas of exclusive federal jurisdiction, for any period of time deemed appropriate by the department provided that the following conditions are met:

* * *

[See Prior Text in A.1-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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), LR 26:2768 (December 2000).

Chapter 4. Standards for Protection Against Radiation

Subchapter A. General Provisions

§403. Definitions

A. As used in this Chapter, the following definitions apply:

* * *

[See Prior Text]

*Constraint (Dose Constraint)*Ca value above which specified licensee actions are required.

*Critical Group*the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

*Declared Pregnant Woman*Ca woman who has voluntarily informed the licensee, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant

woman withdraws the declaration in writing or is no longer pregnant.

* * *

[See Prior Text]

Very High Radiation Area Can area, accessible to individuals, in which radiation levels external to the body could result in an individual receiving an absorbed dose in excess of 5 Gy (500 rad) in one hour at 1 meter from a source of radiation or from any surface that the radiation penetrates.¹

* * *

[See Prior Text]

¹At very high doses received at high dose rates, units of absorbed dose (e.g., gray and rad) are appropriate, rather than units of dose equivalent (e.g., sievert and rem).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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 22:969 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2768 (December 2000).

Subchapter B. Radiation Protection Programs

§406. Radiation Protection Programs

* * *

[See Prior Text in A-C]

D. To implement the ALARA requirements of Subsection B of this Section, and notwithstanding the requirements in LAC 33:XV.421, a constraint on air emissions of radioactive material to the environment, excluding radon-222 and its daughters, shall be established by licensees such that the individual member of the public likely to receive the highest dose will not be expected to receive a total effective dose equivalent in excess of 10 mrem (0.1 mSv) per year from these emissions. If a licensee subject to this requirement exceeds this dose constraint, the licensee shall report the exceedance as provided in LAC 33:XV.487 and promptly take appropriate corrective action to ensure against recurrence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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 26:2769 (December 2000).

§410. Occupational Dose Limits for Adults

* * *

[See Prior Text in A-A.2]

a. a lens dose equivalent of 0.15 Sv (15 rem); and

* * *

[See Prior Text in A.2.b-C]

1. the deep dose equivalent, lens dose equivalent, and shallow dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits if the individual's monitoring device was not in the region of highest potential exposure or the results of individual monitoring are unavailable;

* * *

[See Prior Text in C.2-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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 22:969 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2769 (December 2000).

§412. Determination of External Dose from Airborne Radioactive Material

A. Licensees or registrants shall, when determining the dose from airborne radioactive material, include the contribution to the deep dose equivalent, lens dose equivalent, and shallow dose equivalent from external exposure to the radioactive cloud. See Appendix B of this Chapter, endnotes 1 and 2.

* * *

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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 26:2769 (December 2000).

§417. Dose to an Embryo/Fetus

A. The licensee or registrant shall ensure that the dose equivalent to the embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed 5 mSv (0.5 rem). See LAC 33:XV.476 for recordkeeping requirements.

* * *

[See Prior Text in B]

C. The dose equivalent to the embryo/fetus shall be taken as the sum of:

1. the dose equivalent to the embryo/fetus from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman; and

2. the dose that is most representative of the dose equivalent to the embryo/fetus from external radiation, that is, in the mother's lower torso region, determined as follows:

a. if multiple measurements have not been made, assignment of the highest deep dose equivalent for the declared pregnant woman shall be the dose equivalent to the embryo/fetus, in accordance with LAC 33:XV.414.C; or

b. if multiple measurements have been made, the dose equivalent to the embryo/fetus shall be the assignment of the deep dose equivalent for the declared pregnant woman from the individual monitoring device which is most representative of the dose equivalent to the embryo/fetus. Assignment of the highest deep dose equivalent for the declared pregnant woman to the embryo/fetus is not required unless that dose is also the most representative deep dose equivalent for the region of the embryo/fetus.

D. If by the time the woman declares pregnancy to the licensee or registrant, the dose equivalent to the embryo/fetus has exceeded 4.5 mSv (0.45 rem), the licensee or registrant shall be deemed to be in compliance with Subsection A of this Section if the additional dose equivalent to the embryo/fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.²

²The National Council on Radiation Protection and Measurements recommended in NCRP Report No. 91, "Recommendations on Limits for Exposure to Ionizing Radiation" (June 1, 1987), that no more than 0.5 mSv (0.05 rem) to the embryo/fetus be received in any one month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2769 (December 2000).

Subchapter C. Surveys and Monitoring

§431. Conditions Requiring Individual Monitoring of External and Internal Occupational Dose

Each licensee or registrant shall monitor exposures from sources of radiation at levels sufficient to demonstrate compliance with the occupational dose limits of this Chapter.

* * *

[See Prior Text in A-A.4]

a. an individual monitoring device used to determine the dose equivalent to the embryo/fetus of a declared pregnant woman, in accordance with LAC 33:XV.417, shall be located under the protective apron at the waist;

b. an individual monitoring device used to determine lens dose equivalent shall be located at the neck, or an unshielded location closer to the eye, outside the protective apron; and

* * *

[See Prior Text in A.4.c-B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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 26:2770 (December 2000).

§432. Location of Individual Monitoring Devices

A. Each licensee or registrant shall ensure that individuals who are required to monitor occupational doses in accordance with LAC 33:XV.431.A wear individual monitoring devices as follows:

* * *

[See Prior Text in A.1]

2. an individual monitoring device used for monitoring the dose equivalent to the embryo/fetus of a declared pregnant woman, in accordance with LAC 33:XV.417.A, shall be located at the waist under any protective apron being worn by the woman;

3. an individual monitoring device used for monitoring the lens dose equivalent, to demonstrate compliance with LAC 33:XV.410.A.2.a, shall be located at the neck (collar), outside any protective apron being worn by the monitored individual, or at an unshielded location closer to the eye; and

* * *

[See Prior Text in A.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 22:972 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2770 (December 2000).

Subchapter I. Records

§470. General Provisions

A. Each licensee or registrant shall use the special units curie, rad, and rem, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this Chapter. In the records required by this Chapter, the licensee may record quantities in the International System of Units (SI) in parentheses following each of the special units specified above. However, all quantities must be recorded as stated in this Subsection. Notwithstanding these allowances, when recording information on shipment manifests, as required in LAC 33:XV.465, information shall be recorded in SI or in both SI and special units.

B. The licensee or registrant shall make a clear distinction among the quantities entered on the records required by this Chapter, such as total effective dose equivalent, total organ dose equivalent, shallow dose equivalent, lens dose equivalent, deep dose equivalent, or committed effective dose equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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 24:2096 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2770 (December 2000).

§476. Records of Individual Monitoring Results

* * *

[See Prior Text in A]

1. the deep dose equivalent to the whole body, lens dose equivalent, shallow dose equivalent to the skin, and shallow dose equivalent to the extremities;

* * *

[See Prior Text in A.2-3]

4. the specific information used to calculate the committed effective dose equivalent in accordance with LAC 33:XV.413.A;

* * *

[See Prior Text in A.5-C]

D. The licensee or registrant shall maintain the records of dose equivalent to the embryo/fetus with the records of dose to the declared pregnant woman. The declaration of pregnancy, including the estimated date of conception, shall also be kept on file, but may be maintained separately from the dose records.

* * *

[See Prior Text in E-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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 Department of Environmental Assessment, Environmental Planning Division, LR 26:2578 (November 2000), LR 26:2770 (December 2000).

Subchapter J. Reports

§486. Notification of Incidents

* * *

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

b. a lens dose equivalent of 0.75 Sv (75 rem) or more; or

* * *

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

b. a lens dose equivalent exceeding 0.15 Sv (15 rem); or

* * *

[See Prior Text in B.1.c-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. 30:2104 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), LR 26:2770 (December 2000).

§487. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Constraints or Limits

* * *

[See Prior Text in A-A.2.c]

d. the limits for an individual member of the public in LAC 33:XV.421;

e. any applicable limit in the license or registration; or

f. the ALARA constraints for air emissions established under LAC 33:XV.406.D;

* * *

[See Prior Text in A.3-B.1.c]

d. corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, ALARA constraints, generally applicable environmental standards, and associated license or registration conditions.

2. Each report filed in accordance with LAC 33:XV.487.A shall include for each occupationally overexposed individual the name, Social Security account number, and date of birth. With respect to the limit for the embryo/fetus in LAC 33:XV.417, the identifiers should be those of the declared pregnant woman. The report shall be prepared so that this information is stated in a separate and detachable portion of the report.

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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), LR 26:2771 (December 2000).

Chapter 15. Transportation of Radioactive Material §1502. Scope

* * *

[See Prior Text in A-C.4]

D. If U.S. DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the U.S. DOT specified in Subsection A of this Section to the same extent as if the shipment or transportation were subject to U.S. DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made 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, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1265 (June 2000), LR 26:2771 (December 2000).

Chapter 20. Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies

§2013. Radiation Survey Instruments

A. The licensee or registrant shall maintain sufficient calibrated operable radiation survey instruments at each field station to make physical radiation surveys as required by this Chapter and by LAC 33:XV.426 and 430. Instrumentation shall be capable of measuring 0.001 mSv (0.1 mrem) per hour through at least 0.5 mSv (50 mrem) per hour.

* * *

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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), LR 26:2771 (December 2000).

Subchapter B. Precautionary Procedures in Logging and Subsurface Tracer Operations

§2031. Security

A. A logging supervisor must be physically present at a temporary job site whenever licensed materials are being handled or are not stored and locked in a vehicle or storage place. The logging supervisor may leave the job site in order to obtain assistance if a source becomes lodged in a well.

B. During each logging or tracer application, the logging supervisor or other designated employee shall maintain direct surveillance of the operation to protect against unauthorized and/or unnecessary entry into a restricted area, as defined in Chapter 1 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 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 26:2771 (December 2000).

James H. Brent, Ph.D.
Assistant Secretary

0012#019

RULE

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

**Radiographer Trainee Requirements and Records
(LAC 33:XV.503 and 588)(NE025)**

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 Radiation Protection regulations, LAC 33:XV.503 and 588 (Log #NE025).

This Rule will change the definition of "radiographer trainee" to allow the individual to be a trainee for 24 consecutive months, provided the industrial radiography exam is taken during the first 12-month period. Previously the trainee status was only good for 12 consecutive months. The 12-month period for trainee status was putting a burden on some industrial radiography companies. This action will allow them to maintain trained personnel for a longer period of time and will give the trained personnel more time to prepare themselves to pass the industrial radiography exam. If an individual is granted trainee status and is working as part of a two-man radiography crew, the licensee must have the written confirmation letter from the department at the temporary job site where the individual is working. The basis and rationale for this Rule are to ensure that the individual working has been given written authorization as a trainee and time to get the proper experience needed for the trainee status.

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

**Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection**

**Chapter 5. Radiation Safety Requirements for
Industrial Radiographic Operations**

§503. Definitions

A. As used in this Chapter, the following definitions apply:

* * *

[See Prior Text]

Radiographer Trainee—any individual who satisfied the following conditions:

a. has been instructed for at least 40 hours in the subjects outlined in Appendix A.I - III of this Chapter;

b. has successfully completed a company-specific written examination and field test covering the applicable Louisiana radiation protection regulations (LAC 33:XV) and the company's operating and emergency procedures;

c. has completed and documented at least 40 hours of on-the-job training, in industrial radiography operations, as part of a three-person crew composed of an instructor, a radiographer, and the radiographer trainee applicant; and

d. has filed a completed Form DRC-20 with the department requesting radiographer trainee status and has received written confirmation from the department granting radiographer trainee status. Radiographer trainee status shall be granted only once for each individual and is valid for only 12 consecutive months. Radiography trainee status may be extended for an additional 12 consecutive months provided that the radiographer trainee has taken the industrial radiography radiation safety examination administered by the department or its agent during the first 12 months of granting radiographer trainee status.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000), LR 26:2772 (December 2000).

**§588. Documents and Records Required at Temporary
Job Sites**

A. Each licensee or registrant conducting industrial radiography at a temporary job site shall have the following documents and records available at that job site for inspection by the department:

* * *

[See Prior Text In A.1-4]

5. daily pocket dosimeter records for the period of operation at the site;

6. the latest instrument calibration and leak test records for specific devices and sealed sources in use at the site. Acceptable records include tags or labels which are affixed to the device or survey meter; and

7. a copy of the written confirmation letter issued by the department granting radiographer trainee status to any radiographer trainee performing industrial radiography at the temporary job site.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2772 (December 2000).

James H. Brent, Ph.D.
Assistant Secretary

0012#069

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Waste Tire Regulations (LAC 33:VII.Chapter 105)(SW029)

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.Chapter 105 (Log #SW029).

The Rule clarifies definitions, simplifies the exemption process, simplifies the standards for waste tire generators, transporters, and recyclers, and implements the fee for off-road tires and tires weighing more than 100 pounds. The Rule also implements a raise in payments to waste tire processors from \$1 per 20 pounds of waste tire material processed and marketed to \$1.50 per 20 pounds. Waste tire processors have not received an increase since program inception in 1992. The revisions are necessary to meet the standards required by Act 1015 of the 1999 Regular Session of the Louisiana Legislature, which places a fee on off-road tires for their disposal and/or recycling. In addition, many of the sections in the Waste Tire Program regulations have not been updated since inception in 1994. These revisions will make the regulations current. The basis and rationale for this Rule are to incorporate the aspects of Act 1015 into the regulations and to make the standard current.

The department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the Budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the Rule. This report is published in the Potpourri Section of the December 20, 2000, issue of the *Louisiana Register*. 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 2. Recycling

Chapter 105. Waste Tires

§10503. Administration

A. This program shall be administered by the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000).

§10505. Definitions

The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

* * *

[See Prior Text]

Agreement Ca written contract or other written arrangement between recipient persons and the administrative authority that outlines specific goals or responsibilities.

Authorization Certificate Cwritten authorization issued by the administrative authority.

Clean Closure Cthe act of closing a facility whereby all waste tires and waste tire material are removed, including any resulting on-site or off-site contamination.

Collection Center Ca permitted or authorized location denoted on an authorization certificate where waste tires and waste tire material can be stored and/or collected.

Collector Ca person who operates a collection center.

* * *

[See Prior Text]

Destination Facility Ca facility where waste tires and/or waste tire material is processed, recycled, collected, stored and/or disposed after transportation.

* * *

[See Prior Text]

Disposal Cthe depositing, dumping, or placing of waste tires or waste tire material on or into any land or water so that such waste tires, waste tire material, or a constituent thereof, may have the potential for entering the environment, or being emitted into the air, or discharged into any waters of Louisiana.

Facility Cany land and appurtenances thereto used for storage, processing, recycling, and/or disposal of solid waste or tire material, but possibly consisting of one or more units. (Any earthen ditches leading to or from a facility that receive waste are considered part of the facility to which they connect; except ditches which are lined with materials which are capable of preventing groundwater contamination.)

Generator Ca facility that generates waste tires as a part of its business operations.

Government Agencies Clocal, parish, state, municipal, and federal governing authorities having jurisdiction over a defined geographic area.

* * *

[See Prior Text]

Manifest Cthe form, provided by the department, used for identifying the quantity, composition, origin, routing, and destination of waste tires and/or waste tire material during transportation from the point of generation to the authorized destination.

* * *

[See Prior Text]

Mobile Processor Ca standard permitted processor who has processing equipment capable of being moved from one location to another.

Modification Cany change in a site, facility, unit, process or disposal method, or operation that deviates from the specification in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specification of the permit is not considered a modification.

Motor Vehicle Can automobile, motorcycle, truck, trailer, semi-trailer, truck-tractor and semi-trailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power.

Off-Road VehicleCa vehicle used for construction, farming, industrial uses, or mining, not normally operated on the roads of the state. This term does not include vehicles propelled solely by muscular power.

Permittee/Permit HolderCa person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

* * *

[See Prior Text]

ProcessingAny method or activity that alters whole waste tires so that they are no longer whole; such as, cutting, slicing, chipping, shredding, distilling, freezing, or other processes as determined by the administrative authority. At a minimum, a tire is considered processed only if its volume has been reduced by cutting it in half along its circumference.

ProcessorCa person that collects and processes waste tires.

Qualified RecyclerAny entity who uses waste tire material in a beneficial manner as determined by the administrative authority.

RecyclingAny process by which waste tires, waste tire material, or residuals are reused or returned to beneficial use in the form of products or as a fuel source.

Standard PermitCa written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, or closure of facilities or equipment used or intended to be used to process or collect waste tires in accordance with the act, these regulations, specified terms and conditions, and the permit application.

Temporary PermitCa written authorization issued by the administrative authority for a specific amount of time to a person for the construction, installation, operation, closure, or post closure of a particular facility used or intended to be used for processing waste tires or waste tire material in accordance with the act, these regulations, and specified terms and conditions.

TireCa continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle or off-road vehicle.

Tire Dealer—any person, business, or firm that engages in the sale of new tires for use on motor vehicles.

Tire WholesalerAny wholesaler, supplier, distributor, jobber, or other entity who distributes tires to retail dealers in this state or to its own retail establishments in this state.

TransporterCa person who transports waste tires.

Unauthorized Waste Tire PileCa pile in excess of 20 waste tires whose storage and/or disposal is not authorized by the administrative authority.

Waste TireCa whole tire that is no longer suitable for its original purpose because of wear, damage, or defect.

Waste Tire MaterialCwaste tires after processing; such as, but not limited to, chipped, shredded, cut, or sliced tires, crumb rubber, steel cord, cord material, oil, or carbon black.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000).

§10507. Exemptions

A. Any persons, facilities, or other entities subject to these regulations may petition the department for exemption from these regulations or certain portions thereof in accordance with LAC 33:VII.307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000).

§10509. Prohibitions and Mandatory Provisions

A. No person may knowingly or intentionally dispose unprocessed waste tires in a landfill within the boundaries of Louisiana.

B. Upon promulgation of these regulations, no person may store more than 20 whole waste tires unless they are authorized by the administrative authority and:

1. collected and stored at a registered tire dealer, registered used tire dealer, or registered other generator of waste tires;

2. collected and stored at an authorized waste tire collection center or permitted waste tire processing facility; or

3. collected and stored at an authorized waste tire recycling facility.

C. No person may transport more than 20 waste tires without first obtaining a transporter authorization certificate.

D. No person may receive payment from the Waste Tire Management Fund for processing tires without a standard permit issued by the department.

E. No regulated generator, collector, or processor may store any waste tire for longer than 365 days.

F. All persons subject to these regulations are subject to inspection and/or enforcement action by the administrative authority, in accordance with LAC 33:VII.10537.

G. All persons subject to these regulations shall maintain all records required to demonstrate compliance with these regulations for a minimum of three years. The department may extend the record retention period in the event of an investigation. The records shall be maintained at the regulated facility or site unless an alternate storage location is approved in writing by the administrative authority. All records shall be produced upon request for inspection by the department.

H. All persons who sell new tires shall retain and make available for inspection, audit, copying, and examination, a record of all tire transactions in sufficient detail to be of value in determining the correct amount of fee due from such persons. The records retained shall include all sales invoices, purchase orders, inventory records, and shipping records pertaining to any and all sales and purchases of tires. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A).

I. Each tire wholesaler shall maintain a record of all new tire sales made to dealers in this state. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A). These records shall contain and include the name and address of each tire purchaser and the number of tires sold to that purchaser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000).

§10511. Permit System

A. Permit Requirements

1. Scope. Persons, other than generators and government agencies, operating collection facilities that collect waste tires and/or waste tire material and/or process waste tires or waste tire material for payment from the Waste Tire Management Fund must secure a permit and are subject to the requirements detailed in these regulations.

2. Types of Permits

a. Temporary Permits. A temporary permit allows continued operation of an existing collector and/or processor, in accordance with an approved interim operational plan, but does not allow the expansion or modification of the facility without approval of the administrative authority. The administrative authority may issue a temporary permit in the following situations:

* * *

[See Prior Text in A.2.a.i]

ii. Order to Close. To allow operations to continue at an existing facility while a closure plan is being processed or while a facility is being closed in accordance with a closure plan.

* * *

[See Prior Text in A.2.b]

3. Permit Provisions

* * *

[See Prior Text in A.3.a-b]

B. Modifications. Modification requests shall be tendered in accordance with LAC 33:VII.517. No modifications shall be made to the permit or facility without prior written approval from the administrative authority.

C. Suspension or Revocation of Permit. The administrative authority may review a permit at any time. After review of a permit, the administrative authority may, for cause, suspend or revoke a permit in whole or in part in accordance with procedures outlined in LAC 33:VII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000).

§10513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities

* * *

[See Prior Text in A-A.3]

B. Submittal of Permit Applications

1. Any applicant for a standard permit for an existing or proposed facility shall complete a waste tire standard permit application, and submit four copies to the department. Each individual copy of the application shall be in standard three-ring-bound documents measuring 8 1/2 by 11 inches. All

appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

* * *

[See Prior Text in B.2]

C. Requirements for Public Notification of Permit Application

1. As provided in R.S. 30:2022 and 30:2418, upon receipt of a permit application the department shall provide written notice on the subject matter to the parish governing authority and each municipality affected by the application.

* * *

[See Prior Text in C.2]

3. The applicant shall cause the notice of the hearing to be published in the official journal of the parish or municipality on two separate days preceding the hearing. The last day of publication of such notice shall be at least 10 days prior to the hearing. The applicant shall provide the department with proof of publication.

4. The applicant shall post a notice of the hearing, in prominent view of the public, for two weeks prior to the hearing, in the courthouse, government center, and all the libraries of the parish.

5. A public comment period of at least 30 days shall be allowed following the public hearing.

* * *

[See Prior Text in D-D.2]

E. Waste Tire Standard Permit Application Review

1. An application deemed unacceptable for technical review shall be rejected. Applications shall be subject to the completeness review requirements of LAC 33:I.1505.A.

2. Applications shall be subject to the technical review requirements of LAC 33:I.1505.B.

3. Closure plans that are determined to be unacceptable for a technical review shall be rejected. The applicant shall be required to resubmit the closure plan to the administrative authority.

4. An applicant whose closure plan is acceptable for technical review, but lacks the necessary information, shall be informed of such in a closure plan deficiency letter. These deficiencies shall be corrected by submission of supplementary information within 30 days after receipt of the closure plan deficiency letter. Closure plans that have been deemed technically complete shall be approved.

F. Standard Permit Applications Deemed Technically Complete

* * *

[See Prior Text in F.1-2]

3. After the six copies are submitted to the department, a notice shall be placed in the office bulletin (if one is available), the official journal of the state, and the official journal of the parish or municipality where the facility is located. The department shall publish a notice of acceptance for review one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of the official journal of the parish or municipality where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required.

The notice shall solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper shall be reviewed by the department. The notice shall be published in accordance with the sample public notice provided by the department.

4. A public hearing shall be held for any proposed standard permit application when the administrative authority determines, on the basis of comments received and other information, that a hearing is necessary.

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice required in Subsection F.3 of this Section, request that a public hearing be held. If the administrative authority determines that the hearing is warranted, a public hearing shall be held. If the administrative authority determines not to hold the requested hearing, the department shall send the person requesting the hearing written notification of the determination. The request for a hearing must be in writing and must contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

* * *

[See Prior Text in F.6]

7. Receipt of Comments Following a Public Hearing. The department shall receive comments for 30 days after the date of a public hearing.

* * *

[See Prior Text in G-G.2]

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal of the state and in the official journal of the parish or municipality where the facility is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The permit holder shall provide proof of publication of the notice(s) to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000).

§10515. Agreements with Waste Tire Processors

Standard permitted waste tire processors may apply to the administrative authority for subsidized funding to assist them with waste tire processing and marketing costs. This application form is available from the administrative authority.

A. Maximum Payments to Processors

1. Standard permitted processors shall be eligible to receive a minimum of \$1.50 per tire equivalent unit of 20

pounds of waste tire material that is actually recycled or that reaches certifiable end-market uses provided.

a. Standard permitted processors shall provide documentation to prove that they are contracted with a qualified recycler. Proof shall be provided in the form of a letter or other document from the qualified recycler.

b. Standard permitted processors shall provide a certificate of end use demonstrating that the waste tire material has been recycled.

c. Standard permitted processors shall provide a Department of Agriculture certified scale-weight ticket including gross, tare and net weights.

2. Standard permitted processors shall be eligible to receive a minimum of \$1.50 per 20 pounds of whole waste tire that is marketed and shipped to a qualified recycler in accordance with LAC 33:VII.10535.D.4.

a. Standard permitted processors must apply and obtain approval from the department in order to market and ship whole waste tires. At this time they shall provide a detailed description of the operational plan to market and ship whole waste tires to a qualified recycler, including:

i. shipping destination;

ii. place of origin of the tires;

iii. name of the qualified recycler;

iv. method of recycling authorized or allowed under applicable state and federal laws;

v. detailed description of product material or fuel source; and

vi. a copy of an agreement with the qualified recycler who will accept whole waste tires for recycling.

b. The standard permitted processor shall ensure the qualified recycler accepts whole waste tires or baled waste tires from the processor in accordance with its agreement and Subsection A.2.a of this Section.

B. The standard permitted processor shall provide, with the monthly report required by LAC 33:VII.10535.D.6, a certificate of end use by the qualified recycler, demonstrating that it has recycled the waste tires or waste tire material.

C. The standard permitted processor shall comply with LAC 33:VII.10533.

D. The standard permitted processor shall provide all documentation to demonstrate that all the requirements of this Section have been met.

E. Once the application is approved, the department shall issue an agreement in accordance with Subsection A of this Section.

F. General Conditions of Agreements. It shall be the responsibility of processors to make payments to authorized waste tire transporters who provide them with waste tires. This includes making payments to local governmental bodies acting as transporters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000).

§10517. Standard Waste Tire Permit Application

Each applicant requesting a standard permit in accordance with these regulations shall complete the permit application,

including, but not limited to, the information included in this Section.

A. Processing Facility. The permit application shall include:

1. the name of the applicant;
2. the name and phone number of the owner/contact;

* * *

[See Prior Text in A.3]

4. the location of the processing/collection facility, including section, township, and range;

* * *

[See Prior Text in A.5-6]

7. the name, address, and phone number of a contact person in case of an emergency, other than the individual specified in Subsection A.2 of this Section;

8. a certification in writing that all the information provided in the application and in accordance with the application is true and correct. Providing false or incorrect information may result in criminal or civil enforcement. The applicant shall also provide the site master plan, including property lines, building, facilities, excavations, drainage, roads, and other elements of the process system employed, certified by a registered engineer licensed in the state of Louisiana;

9. a copy of written notification to the appropriate local governing authority, stating that the site is to be used as a waste tire processing and/or collection facility;

* * *

[See Prior Text in A.10]

11. written documentation from the property owner granting approval for use of property as a waste tire processing and/or collection facility, if property owner is other than applicant;

12. proof of publication of Notice of Intent to submit an application for a standard waste tire permit;

* * *

[See Prior Text in A.13-14.a]

b. waste tire acceptance plan, to count, record, and monitor incoming quantities of waste tires;

* * *

[See Prior Text in A.14.c-e.i]

ii. maximum number of waste tires and volume of waste tire material to be stored at any one time. The total amount of waste tires and volume of waste tire material shall not exceed 60 times the daily capacity of the processing unit;

* * *

[See Prior Text in A.14.e.iii-iv]

v. type of access roads and buffer zones; and

* * *

[See Prior Text in A.14.e.vi-15]

16. site closure plan to assure clean closure. The closure plan must be submitted as a separate section with each application. The closure plan for all facilities must ensure clean closure and must include the following:

a. the method to be used and steps necessary for closing the facility;

b. the estimated cost of closure of the facility, based on the cost of hiring a third party to close the facility at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive;

c. an estimate of the maximum inventory of whole waste tires and waste tire material on-site at any one time over the active life of the facility;

d. a schedule for completing all activities necessary for closure; and

e. the sequence of final closure as applicable;

* * *

[See Prior Text in A.17-21]

B. Waste Tire Collection Center. Waste tire processors or other persons may operate a waste tire collection center in accordance with LAC 33:VII.10527. All information required in Subsection A of this Section must be provided in a permit application for each waste tire collection center.

C. Governmental Agencies. Government agencies intending to operate collection centers and/or tire processing equipment for the purposes of volume reduction prior to disposal will not be required to possess permits provided that:

1. the governmental agency collection centers shall be located on property owned or otherwise controlled by the governmental agency, unless otherwise authorized by the department;

2. governmental agency collection centers shall be attended during operational hours and have controlled ingress and egress during non-operational hours;

3. governmental agency collection center personnel shall witness all loading and unloading of waste tires;

4. governmental agency collection centers may accept waste tires from roadside pickup, from rights-of-way, individual residents, and unauthorized waste tire piles. For the tires from unauthorized waste tire piles to be eligible for the \$1.50 per 20 pounds marketing payment to permitted processors as indicated in LAC 33:VII.10535, the governmental agency must notify the department, in writing, of the agency's intent prior to removing the tires from said site;

5. governmental agencies shall develop fire control plans and disease vector control plans for the collection center and/or tire processing equipment; and

6. governmental agencies shall satisfy the requirements of LAC 33:VII.10509 and 10533.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000).

§10519. Standards and Responsibilities of Generators of Waste Tires

A. Within 30 days of commencement of business operations, generators of waste tires shall notify the department of their existence and obtain a generator identification number prior to initiating a waste tire manifest. Notification shall be on a form provided by the department.

B. Tire dealers must accept one waste tire for every new tire sold from the purchaser of the new tire at the time of purchase, unless the purchaser elects to retain the waste tire.

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each new tire weighing 100 pounds or less and a fee of \$1 per 20 pounds for tires

weighing more than 100 pounds. Tires weighing 100 pounds or less include all automobile, pickup, sport utility vehicle, front steer wheel tractor, and farm implement service tires. Tires weighing more than 100 pounds and less than 500 pounds shall pay a fee based on Appendix C of this Chapter. The figures in Appendix C are based on a weighted average of each size, regardless of brand or type. No fee shall be collected on tires weighing more than 500 pounds or solid tires. "Tire dealers" includes any dealer selling new tires in Louisiana, where the tire is delivered into this state.

D. All tire dealers shall remit the waste tire fee, as specified in LAC 33:VII.10535.B and C, to the department on a monthly basis on or before the twentieth day following the month covered. The fee shall be submitted along with the Monthly Waste Tire Fee Report Form WT01 obtained from the department. Until December 31, 2001, the fee shall be reported on Form WT01 in the following tire categories: passenger/light truck, medium truck, and off-road. On January 1, 2002, the fee shall be reported on Form WT02 and shall include all categories of tires listed in Appendix C. Every tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be open for inspection by the administrative authority at all reasonable hours.

* * *

[See Prior Text in E-E.1]

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee of \$2 per tire weighing 100 pounds or less and \$1 per 20 pounds for tires weighing more than 100 pounds, upon sale of each new tire. Tires weighing 100 pounds or less include all automobile, pickup, sport utility vehicle, front steer wheel tractor, farm implement service tires. Tires weighing more than 100 pounds and less than 500 pounds shall pay a fee based on Appendix C of this Chapter. The figures in Appendix C are based on a weighted average of each size, regardless of brand or type. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every new tire sold, unless the purchaser elects to retain the waste tire."

F. The waste tire fee established by R.S. 30:2418 shall be listed on a separate line of the retail sales invoice. No tax of any kind shall be applied to this fee.

G. Generators of waste tires shall comply with the manifest requirements of LAC 33:VII.10533.

H. For all waste tires and waste tire material collected and/or stored, generators must provide:

1. a cover adequate to exclude water from the waste tires;
2. vector and vermin control; and
3. means to prevent or control standing water in the containment area.

I. Generators of waste tires may store waste tires up to 120 days after receipt or generation; however, a generator of

waste tires may store waste tires a maximum of 365 days provided:

1. the storage is solely for the purpose of accumulating such quantities as are necessary to facilitate proper processing; and

2. documentation supporting the storage period and the quantity required for proper processing are available at the generator's facility for department inspection.

J. All waste tires and waste tire material must be collected and/or stored on property contiguous to the tire dealership or other waste tire generator facility.

K. No generator shall allow the removal of waste tires from his place of business by anyone other than an authorized transporter, unless the generator generates 50 or less waste tires per month from the sale of 50 new tires. In this case, the generator may transport his waste tires to an authorized collection or permitted processing facility provided LAC 33:VII.10523.C is satisfied.

L. A generator who ceases the sale of tires at the registered location shall notify the administrative authority within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the tire sale and monthly report records.

M. Generators of waste tires shall segregate the waste tires from any new or used tires offered for sale.

N. Governmental agencies are not required to comply with this Section, except Subsections A, G, I, and J of this Section.

O. All tire wholesalers shall keep a record of all tire sales made in Louisiana. These records shall contain the name and address of the purchaser, the date of the purchase, the number of tires purchased, and the type and size of each tire purchased. These records shall be kept for a period of three years and shall be available and subject to inspection by the administrative authority at all reasonable hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000).

§10521. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000).

§10523. Standards and Responsibilities of Waste Tire Transporters

A. Transporters of waste tires shall complete the application for transporter authorization form and submit the application, with the payment of the transporter fees as specified in LAC 33:VII.10535.A, to the administrative authority.

B. A transporter authorization certificate shall be valid for a maximum of one year from the date of issuance. All transporter authorization certificates expire on August 31 of each calendar year. The administrative authority shall issue to the transporter an appropriate number of transporter decals to be placed in accordance with Subsection F of this Section.

C. No person shall transport more than 20 waste tires without a completed manifest satisfying the requirements of LAC 33:VII.10533.

D. For in-state waste tire transportation, the transporter shall transport all waste tires to an authorized collection center or a permitted processing facility.

E. Any person who engages in the transportation of waste tires from Louisiana to other states or countries or from other states to Louisiana, or persons who collect or transport waste tires in Louisiana, but have their place of business in another state, shall comply with all of the requirements for transporters contained in this Section.

F. The transporter shall affix to the driver's door, along with the transporter decal, and the passenger's door of each truck or tractor listed on the notification form, the authorization certificate number in characters no less than three inches in height.

G. All persons subject to this Section shall notify the administrative authority in writing within 10 days when any information on the authorization certificate form changes, or if they close their business and cease transporting waste tires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2778 (December 2000).

§10525. Standards and Responsibilities of Waste Tire

Processors

A. Upon receiving a shipment containing waste tires, the processor shall be responsible to verify the number of waste tires in each shipment by actually counting each waste tire. The processor shall sign each waste tire manifest upon receiving waste tires.

* * *

[See Prior Text in B-C]

D. All waste tire facilities must meet the following standards.

1. All processors shall control ingress and egress to the site through a means approved by the administrative authority, with at least one entrance gate being a minimum of 20 feet wide.

2. All facilities shall have a buffer zone of 100 feet. Waste tires and waste tire material shall not be placed in the buffer zone.

3. Fire Protection

a. There shall be no open burning.

b. The facility operator shall enter into a written agreement with the local fire department regarding fire protection at the facility.

c. The facility operator shall develop and implement a fire protection and safety plan for the facility to

ensure personnel protection and minimize impact to the environment.

4. Suitable drainage structures or features shall be provided to prevent or control standing water in the waste tires, waste tire material, and associated storage areas.

5. All water discharges, including stormwater runoff, from the site shall be in accordance with applicable state and federal rules and regulations.

6. All waste tire processors, collectors, and associated solid waste management units shall comply with LAC 33:VII.Subpart 1.

7. Waste tires and waste tire material shall be treated according to an acceptable and effective disease vector control plan approved by the administrative authority.

8. Waste tires and waste tire material stored outside shall be maintained in piles, the dimensions of which shall not exceed 10 feet in height, 20 feet in width, and 200 feet in length or in such dimensions as approved by the administrative authority.

9. Waste tire or waste tire material piles shall be separated by lanes with a minimum width of 50 feet to allow access by emergency vehicles and equipment.

10. Access lanes to and within the facility shall be free of potholes and ruts and be designed to prevent erosion.

11. The storage limit for waste tires and waste tire material shall be no more than 60 times the daily permitted processing capacity of the processing facility.

12. All waste tire facility operators shall maintain a site closure financial assurance fund in an amount based on the maximum number of pounds of waste tire material that will be stored at the processing facility site at any one time. This fund shall be in the form of a financial guarantee bond, performance bond, or an irrevocable letter of credit in the amount of \$20 per ton of waste tire material on the site. A standby trust fund shall be maintained for the financial assurance mechanism that is chosen by the facility. The financial guarantee bond, performance bond, irrevocable letter of credit, or standby trust fund must use the exact language included in the documents in Appendix A. The financial assurance must be reviewed at least annually.

13. An alternative method of determining the amount required for financial assurance shall be as follows:

a. the waste tire facility operator shall submit an estimate of the maximum total amount by weight of waste tire material that will be stored at the processing facility at any one time;

b. the waste tire facility operator shall also submit two independent, third-party estimates of the total cost of cleaning up and closing the facility, including the cost of loading the waste tire material, transportation to a permitted disposal site, and the disposal cost; and

c. if the estimates provided are lower than the required \$20 per ton of waste tire material, the administrative authority shall evaluate the estimates submitted and determine the amount of financial assurance that the processor is required to provide.

14. Financial assurances for closure and post closure activities must be in conformity with the standards contained in LAC 33:VII.727.A.2.i.

E. Mobile Processors

1. Only standard permitted processors shall be eligible to apply for mobile processor authorization certificates. Any

mobile processor certificate that expires after the effective date of these regulations shall not be renewed for a period extending beyond 365 days after the effective date of these regulations.

* * *

[See Prior Text in E.2-6]

7. Mobile processors are responsible for notifying the administrative authority in writing within 10 days when any information on the notification changes or if they cease processing waste tires with a mobile unit.

F. Governmental agencies may operate tire splitting equipment for the purposes of volume reduction prior to disposal without a permit to process waste tires, provided they meet the requirements outlined in LAC 33:VII.10517.C and request authorization from the administrative authority before initiating any processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000).

§10527. Standards and Responsibilities for Waste Tire Collectors and Collection Centers

A. All collection center operators shall satisfy the manifest requirements of LAC 33:VII.10533. All collection center operators shall be responsible for counting the tires in the shipment. The collection center shall maintain a log for all unmanifested loads of 20 or fewer waste tires.

B. All collection center operators shall meet the standards in LAC 33:VII.10525.D.1-10 and 12-14.

C. The storage limit for a collection center shall be 3000 whole waste tires or 60 times the daily permitted processing capacity, whichever is greater.

D. Use of mobile processing units are allowed at collection centers only when processed waste tire material is immediately deposited in a trailer or other suitable container for immediate removal from the site.

E. No processed waste tire material shall be deposited on the ground at a collection center at any time.

F. All collection centers shall provide a method to control and/or treat process water if applicable.

G. The closure plan for all collection centers must ensure clean closure and must include the following:

1. the method to be used and steps necessary for closing the center;
2. the estimated cost of closure of the center, based on the cost of hiring a third party to close the center at the point in the center's operating life when the extent and manner of its operation would make closure the most expensive;
3. an estimate of the maximum inventory of whole waste tires ever on-site over the active life of the center;
4. a schedule for completing all activities necessary for closure; and
5. the sequence of final closure as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:2780 (December 2000).

§10529. Standards and Responsibilities of Property Owners

A. Owners of property on which unauthorized waste tire piles are located shall remediate the site or reimburse the department for the cost of remediation, except as provided by R.S. 30:2156.

B. Owners of property on which unauthorized waste tire piles are located shall provide disease vector control measures adequate to protect the safety and health of the public, and shall keep the site free of excess grass, underbrush, and other harborage.

C. Owners of property on which unauthorized waste tire piles are located shall limit access to the piles to prevent further disposal of tires or other waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000).

§10531. Standards And Responsibilities of Qualified Recyclers

* * *

[See Prior Text in A-A.9]

B. All facilities recycling waste tires and/or waste tire material in Louisiana shall meet the requirements of LAC 33:VII.10525.D.

C. The storage limit for waste tire material shall be no more than 180 times the daily recycling capacity of the recycling facility. The facility must maintain records to document its compliance with this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000).

§10533. Manifest System

A. All shipments of more than 20 waste tires shall be accompanied by a waste tire manifest provided by the department and executed in accordance with this Section.

B. The manifest document flow is as follows:

1. the generator initiates the manifest (original and at least five copies), completing all of Section 1 and designating the destination facility in Section 3. After the transporter signs the manifest, the generator retains one copy for his files, and the original and all other copies accompany the waste tire shipment. Upon receipt of the waste tires, the transporter completes the Section 2, Transporter 1 information. If applicable, upon surrender of the shipment to a second transporter, the second transporter completes the Section 2, Transporter 2 information. After Transporter 2 signs the manifest, Transporter 1 retains his copy of the manifest;

2. the transporter secures signature of the designated destination facility operator upon delivery of waste tires and/or waste tire material to the designated destination facility. The transporter retains one copy for his files and gives the original and remaining copies to the designated destination facility operator;

3. the designated processing facility operator completes Section 3 of the manifest and retains a copy for his files. The designated processing facility operator shall submit the original manifest to the department with the monthly processor report. The designated processing facility shall send all remaining copies to the generator no later than seven days after delivery;

4. a generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated destination facility within 30 days of the date the waste tires and/or waste tire material was accepted by the initial transporter must contact the transporter and/or the owner or the operator of the designated destination facility to determine the status of the shipment; and

5. a generator must submit to the department written notification, if he has not received a copy of the manifest with the handwritten signature of the designated destination facility operator within 45 days of the date the shipment was accepted by the transporter. The notification shall include:

a. a legible copy of the manifest for which the generator does not have confirmation of delivery; and

b. a cover letter signed by the generator explaining the efforts taken to locate the shipment and the results of those efforts.

C. Upon discovering a discrepancy in the number or type of tires in the load, the designated destination facility must attempt to reconcile the discrepancy with the generator(s) or transporter(s). The destination facility operator must submit to the administrative authority, within five working days, a letter describing the discrepancy and attempts to reconcile it and a copy of the manifest(s). After the discrepancy is resolved a corrected copy is to be sent to the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000).

§10535. Fees and Fund Disbursement

A. Permit and Application Fees. Each applicant shall submit a non-refundable application fee in the amount specified, according to the categories listed below. The appropriate fee must accompany the permit application or authorization application form.

* * *

[See Prior Text in A.1-4]

5. Permit modification fee **C**\$100.

* * *

[See Prior Text in A.6-8]

B. Waste Tire Fee upon Promulgation of These Regulations. A waste tire fee is hereby imposed on each new tire sold in Louisiana, to be collected by the tire dealer from the purchaser at the time of retail sale. The fee shall be \$2 per tire weighing 100 pounds or less and \$1 per 20 pounds for tires weighing more than 100 pounds. Tires weighing 100 pounds or less include all automobile, pickup, sport utility vehicle, front steer wheel tractor, and farm implement service tires. Tires weighing more than 100 pounds and less than 500 pounds shall pay a fee based on Appendix C of this Chapter. The figures in Appendix C are based on a weighted

average of each size, regardless of brand or type. No fee shall be collected on tires weighing more than 500 pounds or solid tires.

C. The disposition of the fee shall be as follows:

1. the entire waste tire fee shall be forwarded to the administrative authority by the tire dealer and shall be deposited in the Waste Tire Management Fund;

2. the waste tire fee shall be designated as follows: a minimum of \$1.50 per 20 pound equivalent will be utilized to pay waste tire processors that are working under agreement with the administrative authority for the processing of currently generated waste tires marketed in accordance with Subsection D.4 of this Section, a maximum of 10 percent of the waste tire fees collected may be utilized for program administration, 5 percent of the waste tire fees collected may be used for research and market development, and 10 percent of the waste tire fees collected may be used for unauthorized tire pile cleanup.

D. Payments for Processing and Marketing Waste Tires and Waste Tire Material. Payments made by the state of Louisiana are meant to temporarily supplement the business activities of processors and are not meant to cover all business expenses and costs associated with processing and marketing. Payments shall only be paid to standard permitted processors under written agreement with the department in accordance with LAC 33:VII.10515.

* * *

[See Prior Text in D.1-2]

3. No payments shall be made for marketing used tires or for tires destined to be retreaded.

4. The payment for marketing or recycling of shredded waste tire material shall be a minimum of \$1.50 per 20 pounds of waste tire material that is recycled by a qualified recycler. The processor shall demonstrate that the waste tire material has been recycled. The determination that waste tire material is being marketed to a qualified recycler shall be made by the administrative authority; this determination may be reviewed at any time.

5. The payment for marketing waste tire material produced by means other than shredding shall be determined on a case-by-case basis, but shall be a minimum of \$1.50 per 20 pounds of waste tire material.

6. The marketing payments shall be made to the processor for whole waste tires or baled waste tires that are marketed and shipped to a qualified recycler by the processor.

7. Payments shall be made to the processor on a monthly basis, after properly completed monthly reports are submitted by the processor to the department. Reporting forms will be provided by the administrative authority.

8. The amount of payments made to each processor is based on the availability of monies in the Waste Tire Management Fund.

9. All, or a portion, of a processor's payments may be retained by the administrative authority if the administrative authority has evidence that the processor is not fulfilling the terms of his agreement and/or his standard permit.

10. Waste tire material that was produced prior to January 1, 1998, and for which processing payments were made are only eligible for the additional \$0.15 incentive for marketing the waste tire material when the material is marketed after December 31, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000).

§10536. Remediation of Unauthorized Tire Piles

A. Upon promulgation of these regulations, the administrative authority may issue agreements for remediation of unauthorized waste tire piles. The number of agreements issued each year shall be determined based on the availability of funds in the Waste Tire Management Fund that are designated for unauthorized waste tire pile remediation. Any such agreements shall designate specific eligible sites and the department shall monitor the remediation activities, which shall be made in accordance with the standards and responsibilities outlined in the Solid Waste Regulations, LAC 33:VII. Any such agreements shall stipulate a maximum amount of total allowable costs that shall be paid from the Waste Tire Management Fund. These monies shall not be applied to indirect costs and other unallowable costs, which include but are not limited to, administrative costs, consulting fees, legal fees, or premiums for performance bonds. Furthermore, they shall not be applied to reclamation efforts or remediation costs associated with other types of contaminants, which may be detected during the remediation process. Rather, these funds shall be applied to direct costs such as labor, transportation, processing, recycling, and disposal costs of the waste tires.

B. In order to apply for and receive funding for unauthorized waste tire site remediation, local governments must provide the administrative authority with unauthorized waste tire site information. This information includes, but is not limited to, accurate site location, number of tires on site, visual report on site with photographs and proximity to residences, schools, hospitals and/or nursing homes, and major highways. Such information shall be submitted using forms available from the administrative authority.

C. Unauthorized waste tire piles shall be chosen for remediation based on their placement on the waste tire priority remediation list. Point values shall be assigned in accordance with the Waste Tire Management Fund Prioritization System located in Appendix B of this Chapter. These ranking criteria were developed in consideration of threat to human health, threat of damage to surrounding property, and adverse impact on the environment.

* * *

[See Prior Text in D-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000).

§10537. Enforcement

* * *

[See Prior Text in A]

B. Investigations and Audits: Purposes, Notice. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the identity of the persons or parties involved. Upon written request, the results of an investigation shall be given to any complainant who provided the information prompting the investigation and, if advisable, to any person under investigation, if the identity of such person is known. In cases where persons selling new tires have failed to report and remit the waste tire fee to the administrative authority, and the person's records are inadequate to determine the proper amount of fee due, or in cases(s) where a grossly incorrect report or a report that is false or fraudulent has been filed, the administrative authority shall have the right to estimate and assess the amount of the fee due, along with any interest accrued and penalties. The burden to demonstrate to the contrary shall rest upon the audited entity.

* * *

[See Prior Text in C-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000).

**Appendix A
Louisiana Department of Environmental Quality
Financial Assurance Documents For Waste Tire
Facilities
(August 4, 1994)**

The following documents are to be used to demonstrate financial responsibility for the closure of waste tire facilities. The wording of the documents shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**Sample Document 1:
Waste Tire Facility Financial Guarantee Bond**

Date bond was executed: [Date bond executed]

Effective date: [Effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name and business address]

[site identification number, site name, facility name, and current closure amount for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality Waste Tire Management Fund in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

NOW THEREFORE, if the Principal shall provide alternate financial assurance as specified in LAC 33:VII.10525.D.12-14 and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform closure in accordance with the closure plan and permit requirements as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105. Appendix A dated August 4, 1994, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETIES

[Name and Address]

State of incorporation:

Liability limit:

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[This information must be provided for each cosurety]

Bond Premium: \$

**Sample Document 2:
Waste Tire Facility Performance Bond**

Date bond was executed: [date bond executed]

Effective date: [effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility address, and closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality, Waste Tire Management Fund, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described herein above.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of the Louisiana Administrative Code, Title 33, Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified by the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105.Appendix A dated August 4, 1994, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETY

[Name and Address]

State of incorporation:

Liability limit:

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond Premium: \$

Sample Document 3:
Waste Tire Facility Irrevocable Letter of Credit

Secretary
Louisiana Department of Environmental Quality
Post Office Box 82231
Baton Rouge, Louisiana 70884-2231

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit Number [number] in favor of the Department of Environmental Quality of the State of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the closure fund for its [list site identification number, site name, and facility name] at [location], Louisiana for any sum or sums up to the aggregate amount of U.S. dollars \$ [number] upon presentation of:

(1) A sight draft, bearing reference to the Letter of Credit Number [number] drawn by the administrative authority together with;

(2) A statement signed by the administrative authority, declaring that the operator has failed to perform closure in accordance with the closure plan and permit requirements and that the amount of the draft is payable into the Waste Tire Management Fund.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date, and on each successive expiration date thereof, unless, at least 120 days before the then current expiration date, we notify both the administrative authority and the [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft to the Department of Environmental Quality for deposit into the Waste Tire Management Fund in the name of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except as otherwise expressly agreed upon, this credit is subject to the uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce Publication Number 400, or any revision thereof effective on the date of issue of this credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105.Appendix A dated August 4, 1994, effective on the date shown immediately below.

[Signature(s) and Title(s) of Official(s) of issuing Institutions]

[Date]

Appendix B

Waste Tire Management Fund Prioritization System

Each waste tire site for which cleanup funds are solicited will be ranked according to the point system described below. The total number of points possible for any one site is 145 points. The points shall be allocated according to the following criteria:

I. Approximate Number of Tires in the Pile. This figure shall be an estimate by the department.

Number of Tires in Pile	Point Value
>1,000,000	50
250,001 - 1,000,000	40
100,001 - 250,000	30
50,001 - 100,000	20
50,000 or less	10

II. Proximity to Nearest Schools. If a school is located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to Nearest School	Point Value
School within 2 mile radius	25
School within 4 mile radius	17
School within 6 mile radius	9

III. Proximity to Residences. If 50 or more residences are located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to 50+ Residences	Point Value
50 or more within 2 mile radius	25
50 or more within 4 mile radius	17
50 or more within 6 mile radius	9

IV. Proximity to Hospitals and/or Nursing Homes. If a hospital and/or nursing home is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 25.

Proximity to Hospital and/or Nursing Home	Point Value
Hospital and/or nursing home within 2 mile radius	25
Hospital and/or nursing home within 4 mile radius	17
Hospital and/or nursing home within 6 mile radius	9

V. Proximity to Major Highways. If a major highway is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 20.

Proximity to Major Highway	Point Value
Major highway within ¼ mile radius	20
Major highway within ½ mile radius	10

Appendix C

Waste Tire Fee Collection Schedule

Waste tire fees shall be collected according to tire weight or by specific tire type identified in this Appendix.

Code	Category	Waste Tire Fee
A	0 to 100 pounds	\$2.00
B	101 to 120 pounds	6.00
C	121 to 140 pounds	7.00
D	141 to 160 pounds	8.00
E	161 to 180 pounds	9.00
F	181 to 200 pounds	10.00
G	201 to 220 pounds	11.00
H	221 to 240 pounds	12.00
I	241 to 260 pounds	13.00
J	261 to 280 pounds	14.00
K	281 to 300 pounds	15.00
L	301 to 320 pounds	16.00
M	321 to 340 pounds	17.00
N	341 to 360 pounds	18.00
O	361 to 380 pounds	19.00
P	381 to 400 pounds	20.00
Q	401 to 420 pounds	21.00
R	421 to 440 pounds	22.00
S	441 to 460 pounds	23.00
T	461 to 480 pounds	24.00
U	481 to 499 pounds	25.00
V	500 pounds or larger	No Fee

Waste Tire Fee Collection Schedule

\$2 shall be collected on all tires weighing less than 100 pounds unless specifically excluded by these regulations.

Medium Truck Tires

	Code	Fee
Bias, tube type		
825-20	A	\$2.00
900-20	A	2.00
1000-20	B	6.00
1000-22	B	6.00
Radial, tube type		
900 R20	C	7.00
1000 R20	C	7.00
1100 R20	D	8.00
1200 R20	F	10.00
1400 R20	I	13.00
1100 R22	E	9.00
1100 R24	E	9.00
1200 R24	F	10.00
Radial, tubeless		
9 R22.5	A	2.00
10 R22.5	B	6.00
11 R22.5	C	7.00
12 R22.5	D	8.00
11 R24.5	C	7.00
12 R24.5	D	8.00
Radial, low profile		
295/75 R22.5	C	7.00
285/75 R24.5	C	7.00
Super Single		
315/80 R22.5	D	8.00
385/65 R22.5	F	10.00
425/65 R22.5	G	11.00
445/65 R22.5	H	12.00

Rear Farm Tire, Bias

14.9-24	B	6.00
16.9-24	C	7.00
17.5L-24	D	8.00
18.4-24	F	10.00
19.5L-24	E	9.00
21L-24	H	12.00
16.9-26	H	12.00
18.4-26	H	12.00
23.1-26	N	18.00
28L-26	R	16.00
13.6-28	B	6.00
14.9-28	C	7.00
16.9-28	E	9.00
18.4-28	F	10.00
21L-28	J	14.00
16.9-30	F	10.00
18.4-30	F	10.00
23.1-30	L	16.00
24.5-32-R	R	22.00
VA500/95D32	U	25.00
16.9-34	G	11.00
18.4-34	H	12.00
20.8	M	17.00
23.1-34	N	18.00
11.2-38	B	6.00
12.4-38	B	6.00
13.6-38	C	7.00
15.5-38	D	8.00
16.9-38	G	11.00
18.4-38	I	13.00
20.8-38	N	18.00
9.5-42	A	2.00
20.8-42	P	20.00

Rear Farm Tire, Radial

280/70 R-18	I	13.00
380/70 R-20	B	6.00
380/70 R-34	D	8.00
14.9 R-24	G	11.00
320/75 R-24	A	2.00
16.9 R-24	F	10.00
16.9 R-26	G	11.00
18.4 R-26	J	14.00
620/75 R-26	R	22.00
13.6 R-28	D	8.00
14.9 R-28	G	11.00
16.9 R-28	H	12.00
600/65 R-28	G	11.00
420/70 R-28	F	10.00
480/70 R-28	J	14.00
440/80 R-28	B	6.00
380/85 R-28	B	6.00
420/85 R-28	B	6.00
385/80 R-30	B	6.00
420/90 R-30	B	6.00
14.9 R-30	G	11.00
16.9 R-30	I	13.00
18.4 R-30	I	13.00
480/70 R-30	K	15.00
520/70 R-30	J	14.00
540/65 R-30	J	14.00
30.5L R-32	Q	21.00
12.4 R-32	S	23.00
14.9 R-34	G	11.00
320/85 R-34	E	9.00
380/85 R-34	G	11.00
385/85 R-34	H	12.00
480/85 R-34	I	13.00
16.9 R-34	I	13.00
18.4 R-34	I	13.00

12.4 R-36	I	13.00
13.6 R-36	I	13.00
15.5 R-38	F	10.00
480/80 R-38	J	14.00
520/85 R-38	O	19.00
18.4 R-38	M	17.00
20.8 R-38	P	20.00
13.6 R-38	I	13.00
16.9 R-38	J	14.00
320/90 R-42	F	10.00
480/80 R-42	M	17.00
520/85 R-42	Q	21.00
18.4 R-42	M	17.00
20.8 R-42	R	22.00
14.9 R-46	K	15.00
18.4 R-46	P	20.00
320/90 R-46	H	12.00
340/85 R-46	K	15.00
380/90 R-46	J	13.00
380/85 R-46	L	16.00
420/80 R-46	L	16.00
480/80 R-46	L	16.00
520/85 R-46	T	24.00
480/80 R-50	R	22.00

Construction Tires Including Grader and Loader

750-15	A	2.00
820-15	A	2.00
825-20	A	2.00
900-15	A	2.00
900-16	A	2.00
950-20	I	13.00
1000-24	B	6.00
1100-16	A	2.00
1100-20	E	9.00
1200-20	H	12.00
1200-24	K	15.00
1200 R-24	M	17.00
1300-20	O	19.00
1300-24	G	11.00
1300 R-24	J	14.00
1400-20	L	16.00
1400 R-20	K	15.00
1400 R-21	K	15.00
1400-24	P	20.00
1400 R-24	Q	21.00
1400-25	J	14.00
1400 R-25	R	22.00
1600-16	A	2.00
1600-20	K	15.00
1600 R-20	M	17.00
1600-21	R	22.00
1600 R-21	O	19.00
1600-24	P	20.00
1600 R-24	P	20.00
2725-21	O	19.00

James H. Brent, Ph.D.
Assistant Secretary

0012#066

RULE

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

Collection and Deposit of Contributions;
Penalty for Late Payment of Premiums;
Adjustments for Terminated Employees

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(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, and in accordance with R.S. 42:876 regarding collection and deposit of contributions, the board finds that it is necessary to provide for assessment of a late payment penalty to participating employers that fail to remit full payment of premiums by the due date and to limit the time within which credit adjustments may be taken for terminated employees. The reason for this action is to avoid adverse financial impact on the State Employees Group Benefits Program which would 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 board hereby adopts the following Rule.

Collection and Deposit of Contributions

A. The board shall be responsible for preparing and transmitting to each participating employer a monthly invoice premium statement delineating the enrolled employees of that agency, the class of coverage, total amount of employer and employees contributions due to the board, and such other items as are deemed necessary by the board.

B. It shall be the responsibility of the participating employer to reconcile the monthly invoice premium statement, collect employee contribution by payroll deduction or otherwise, and remit the reconciled monthly invoice premium statement and both the employer and employee contributions to the board within 30 days after receipt of the monthly premium invoice statement.

C. Credit adjustments for premiums paid on behalf of employees and dependents of such employees whose coverage under the State Employees Group Benefits Program is terminated by reason of termination of employment with the participating employer may not be made by the participating employer after reconciliation of the second invoice following the date of termination of employment.

D. If any participating employer fails to remit, in full, both the employer and employee contributions to the board within 30 days after receipt of the monthly invoice premium statement, then:

1. at the request of the board, the state treasurer shall withhold from state funds due the participating employer the full amount of the delinquent employer and employee contributions and remit this amount directly to the board; and

2. the participating employer shall pay a penalty equal to 1 percent of the total amount due and unpaid, compounded monthly.

E. Payments received by the board shall be allocated as follows:

1. first, to any late payment penalty due by the participating employer;

2. second, to any balance due from prior invoices; and

3. third, to the amount due under the current invoice.

F. All employer and employee premium contributions for the payment of premiums for group benefits for state employees provided under the board's authority shall be deposited directly with the board. The board shall pay all monies due for such benefits as they become due and payable.

Kip Wall
Chief Executive Officer

0012#040

RULE

**Office of the Governor
Division of Administration
Property Assistance Agency**

Items of Property to be Inventoried
(LAC 34:VII.307)

Editor's Note: This Rule is being repromulgated to correct a citation error. The original rule may be viewed in the September 20, 2000 edition of the *Louisiana Register* on page 2005.

In accordance with the R.S. 49:950, et seq., the Division of Administration, Louisiana Property Assistance Agency, hereby amends LAC 34:VII.307.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part VII. Property Control

Chapter 3. State Property Inventory

§307 Items of Property to be Inventoried

A. All items of moveable property having an "original" acquisition cost, when first purchased by the state of Louisiana, of \$1000 or more, all gifts and other property having a fair market value of \$1000 or more, and all weapons, regardless of cost, with the exception of items specifically excluded in §307.F and §307.G, must be placed on inventory. The term "moveable" distinguishes this type of equipment from equipment attached as a permanent part of a building or structure. The term "property" distinguishes this type of equipment from "supplies" with supplies being consumable through normal use in no more than one year's time. All acquisitions of qualified items must be tagged with a uniform state of Louisiana identification tag approved by the commissioner of administration and all pertinent inventory information must be forwarded to the Louisiana Property Assistance Agency Director or his designee within 45 days after receipt of these items.

B. The head of the agency, at his discretion, may include items such as computers, electronic calculators, desks, file

cabinets, tables, and other property having an acquisition cost of less than \$1000 in the inventory.

C. Gifts of moveable property must be given a fair market value as agreed upon between the donor and head of the receiving agency and recorded in the inventory if the fair market value is \$1000 or more.

D. Agencies manufacturing moveable property for use within the agency must determine the estimated cost based on the cost of labor and materials and include such items in the inventory provided that estimated cost is \$1000 or more.

E. Agencies which are eligible to receive federal surplus property must place on inventory all items acquired from Federal Surplus which would ordinarily be classified as moveable property and which have an acquisition cost of \$1000 or more. The acquisition date will be the date of acquisition by the state agency and the acquisition cost will be the actual cost incurred by the state agency.

NOTE: There are federal regulations regarding accountability for federal surplus property. State agencies should contact the Federal Surplus Property section for information regarding these regulations.

F - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:321 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Control, LR 2:241 (August 1976), amended LR 8:144 (March 1982), amended by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 12:103 (February 1986), LR 26:2788 (September 2000), repromulgated LR 26:2789 (December 2000).

Irene C. Babin
Director

0009#023

RULE

Department of Health and Hospitals Board of Nursing

Nursing Education Programs
(LAC 46:XLVII.Chapter 35)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 has amended the Professional and Occupational Standards pertaining to Nursing Education Programs.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Education Programs

§3503. Definitions

Distance Education—teaching learning strategies to meet the needs of students who are physically separated from the faculty.

Distance Education Technology—the methods and technical support used to teach students who may be physically distant from the faculty. The methods may

include audio conference, compressed video, electronic mail, and the World Wide Web.

Goals—the aims of the program including the expected competencies of the graduate.

Major Change in Curriculum—any one of the following shall be deemed to constitute a major change in curriculum:

1. alteration, other than editorial, in program's mission/philosophy and goals:

Nursing Education Program—a program whose purpose is to prepare graduates eligible to apply to write the registered nurse licensing examination.

1. ...

2. *Baccalaureate*—a program leading to a bachelor's degree in nursing conducted by an educational unit, department, division, college or school, that is an integral part of a college or university.

3. ...

Objectives—the behavioral expectations of the students in courses and throughout the program that lead to the goals of the program.

Preceptorship Experience—an individualized teaching-learning strategy in which a nursing student participates in clinical nursing practice while assigned to a preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:913 and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:184 (April 1977), amended by the Department of Health and Hospitals, Board of Nursing, LR 17:1208 (December 1991), LR 24:1293 (July 1998), LR 26:2789 (December 2000).

§3511. Standards and Requirements for Nursing Education Program: Mission/Philosophy and Goals

A. The nursing education program shall have a clear statement of mission/philosophy, consistent with the mission of the parent institution and congruent with current concepts in nursing education.

B. The program shall use an identified set of professional standards congruent with the mission/philosophy and from which the goals are developed. The standards shall be consistent with the *Legal Standards of Nursing Practice*, LAC 46:XLVII.3900.

C. Expected competencies of the graduate shall be clearly delineated.

D. Distance education programming is consistent with the mission and goals of the nursing unit and the governing organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1146 (September 1993), LR 26:2789 (December 2000).

§3515. Faculty and Faculty Organization

A. - B.1. ...

2. The program head of a baccalaureate program shall hold a minimum of bachelor's and master's degrees in nursing, or its equivalent, and an earned doctorate, and shall

have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

3. ...

4. The nurse faculty shall hold bachelor's and master's degrees in nursing. Requests for academic equivalency shall be approved on an individual basis (see LAC 46:XLVII.3515.B.6 for related standard).

5. Nurse faculty shall have a minimum of two years of nursing practice as a registered nurse in a clinical setting prior to their appointment.

6. Nurse faculty shall maintain current knowledge and skills in areas of responsibility and provide documentation of same.

7. Exceptions to the academic qualifications for nurse faculty shall be justified and approved under board-established guidelines. Such exceptions, if granted by the board shall be:

a. baccalaureate in nursing prepared individuals who are not enrolled in a masters' in nursing program are limited to a maximum of one calendar year;

b. baccalaureate in nursing prepared individuals who are enrolled in a masters' in nursing program shall be approved annually on an individual basis in accordance with current board guidelines. Exceptions may be granted to each individual for a maximum of three calendar years.

8. The number of faculty exceptions shall not exceed twenty percent of the number of full-time nurse faculty employed (not FTE) in the program.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678 (October 1986), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), LR 26:2789 (December 2000).

§3517. Student Selection and Guidance

A. - F. ...

G. Students shall be provided opportunity for input into the program.

H. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), LR 23:962 (August 1997), LR 24:1293 (July 1998), LR 26:2790 (December 2000).

§3519. Facilities, Resources, Services

A. - D. ...

E. Nursing library resources shall be comprehensive, current and accessible.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), LR 26:2790 (December 2000).

§3521. Curriculum

A. The faculty shall periodically review, evaluate and revise as appropriate the mission philosophy, and goals of the program.

B. The mission/philosophy and goals shall be used by the faculty in planning, implementing and evaluating the total program.

C. The goals shall be consistent with the mission and describe the cognitive, affective and psychomotor capabilities of the graduate.

D. The curriculum shall include, but not be limited to, content from the behavioral, biological, mathematical, nursing and physical sciences.

E. Opportunities shall be provided for the application of the nursing process throughout the curriculum and in a variety of settings.

F. Course objectives and content shall reflect society's concern with the bioethical and legal parameters of health care and professional practice.

G.1. The nursing courses shall provide for classroom and clinical laboratory instruction that shall be under the supervision of a faculty member of the nursing program.

2. Provision shall be made for learning experiences with clients having nursing care needs in all age groups and stages of the health-illness continuum as appropriate to the role expectations of the graduate.

H. Provision shall be made for the development of other knowledge and skills as deemed necessary by the faculty and as appropriate to the role expectations of the graduate.

I. The curriculum shall be arranged to provide opportunities for upward career mobility for students who have completed other nursing programs and have met appropriate requirements for licensure.

1. Mechanisms for the recognition of prior learning and advanced placement in the curriculum shall be in place.

2. Any formalized agreements between programs to facilitate the transfer of credit between nursing programs shall be identified and described.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977), amended LR 10:1026 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1148 (September 1993), LR 24:1293 (July 1998), LR 26:2790 (December 2000).

§3523. Program Evaluation

A. ...

1. mission/philosophy, outcomes of the curriculum;

2. - 4. ...

5. faculty evaluations of students;

6. ...

7. follow-up studies of the graduates;

8. employment functioning of the graduates; and

9. evaluation of faculty performance.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977) amended by the Department of Health and Hospitals, Board of Nursing, LR 15:1081 (December 1989), LR 19:1148 (September 1993), LR 24:1293 (July 1998), LR 26:2790 (December 2000).

§3529. Selection and Use of Clinical Facilities

A. Hospitals used for clinical experiences shall be licensed by the state of Louisiana and certified by the Health Care Financing Administration (HCFA). In addition, hospitals should be accredited by the Joint Commission of Accredited Health Organizations (JCAHO). Other health care agencies shall be accredited or approved by a recognized accrediting or approving agency as appropriate.

B. - D. ...

E. The facility shall have:

- 1. a written mission/philosophy of patient/client care which gives direction to nursing care;
- 2. registered nurses to insure the safe care of patient and to serve as role models for students;
- 3. - 13. ...

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:189 (April 1977), amended by the Department of Health and Hospitals, LR 16:133 (February 1990), LR 19:1149 (September 1993), LR 26:2791 (December 2000).

§3533. Procedure for Establishing a New Program

A. - B.5. ...

a. mission/philosophy and goals;

B.5.c. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:190 (April 1977), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:532 (August 1988), LR 24:1293 (July 1998), LR 26:2791 (December 2000).

§3534. Procedure for Restructuring an Existing Program Into/Within Higher Education

A. - C.5. ...

a. mission/philosophy and goals;

C.5.b. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 16:690 (August 1990), amended LR 24:1293 (July 1998), LR 26:2791 (December 2000).

§3536. Approval for Nursing Education Programs whose Administrative Control is Located in Another State Offering Programs, Courses, and/or Clinical Experience in Louisiana

A. - B.1.d.i ...

ii. a copy of the mission/philosophy and goals;

B.1.d.iii. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1145 (September 1993), amended LR 23:962 (August 1997), LR 24:1293 (July 1998), LR 26:2791 (December 2000).

§3537. Procedure for Proposed Major Change in Curriculum

A. A nursing education program proposing a major curriculum change shall submit to the board, six months prior to date of implementation, the following:

- 1. - 2. ...

3. mission/philosophy, goals, course objectives and course outlines;

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1150 (September 1993), LR 24:1293 (July 1998), LR 26:2791 (December 2000).

§3539. Procedure for Submitting Required Forms and Reports

A. - B.2.a. ...

b. A "community-based agency review form" shall be submitted by the nursing education program to the board describing facilities in which a student receives less than 10 percent of the total clinical experience in a given course. This form will be incorporated in the Annual Report.

3. Any program required to submit a National League for Nursing Accrediting Commission or a Council for Collegiate Nursing Education Interim Report shall submit a copy of the report to the board.

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1150 (September 1993), LR 21:803 (August 1995), LR 24:1293 (July 1998), LR 26:2791 (December 2000).

§3541. Preceptorship Learning Experiences

A. - F. ...

G. The faculty member shall confer with each preceptor and student at least once during each daily learning experience.

H. - I. ...

J. There shall be one preceptor for each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 17:1207 (December 1991), LR 24:1293 (July 1998), LR 26:2791 (December 2000).

§3542. Community-Based Learning Experiences

A. - G.4. ...

5. The faculty member shall confer with each preceptor and student(s) at least weekly during said learning experience.

6. ...

7. There shall be no more than three students per preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 21:803 (August 1995), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 26:2791 (December 2000).

Interested persons may submit written comments on the proposed rules to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd,

Suite 501, Metairie, LA, 70002. The deadline for receipt of all written comments is 4:30 p.m. on September 5, 2000.

Barbara L. Morvant
Executive Director

0012#059

RULE

**Department of Health and Hospitals
Board of Physical Therapy Examiners**

**Disciplinary Process and Procedures
(LAC 46:LIV.329)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Physical Therapy Examiners (Board), hereby amends its existing rules as set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LIV. Physical Therapy Examiners
Subpart 2. Practice**

**Chapter 3. Practice
Subchapter D. Disciplinary Proceedings**

§329. Disciplinary Process and Procedures

A. - C. ...

D. Pursuant to the Health Insurance Portability Act of 1996, Public Law 104-191, the board is required to report certain information, including final adverse actions it has taken against its licensees, to the Secretary of Health and Human Services of the United States for recordation in the Health Integrity and Protection Data Bank. The board may delegate an agent, such as the Federation of State Boards of Physical Therapy, to act on its behalf to report information and submit queries to the Health Integrity and Protection Data Bank as required by Federal law, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 19:208 (February 1993), LR 26:2792 (December 2000).

Becky Lege', P.T.
Chairman

0012#003

RULE

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

Chiropractic Service Termination of Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the

1999-2000 General Appropriation Act, which states, "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This 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 terminates coverage of chiropractic services for recipients age 21 and older. In addition, reimbursement to chiropractors for radiology services is discontinued. However, coverage for medically necessary manual manipulations of the spine shall continue for recipients from birth up to the age of 21 when the service is rendered as the result of a referral from an Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT) medical screening provider.

David W. Hood
Secretary

0012#043

RULE

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

**Durable Medical Equipment (DME) Equipment and
Supplies Delivery Reimbursement Reduction**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing 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 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 reduces the reimbursement rate for delivery of prior authorized durable medical equipment and supplies to either the lesser of billed charges or 5 percent of the total shipping amount for the medical equipment and supplies up to a maximum of \$50.

David W. Hood
Secretary

0012#044

RULE

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

Emergency Ambulance Transportation 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 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 emergency ambulance 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

0012#051

RULE

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

Home and Community Based Services Waiver Louisiana Children's Choice

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act.

Rule

The Department of Health and Hospitals implements a new Medicaid Home and Community Based Services

(HCBS) waiver entitled Children's Choice effective January 15, 2001. The policies and procedures governing this HCBS waiver are incorporated into the Children's Choice Provider manual. Children's Choice is implemented in accordance with the waiver document, its amendments, and renewals as approved by the Health Care Financing Administration.

I. Waiver Eligibility

The order of entry is first come, first served from a statewide list arranged by date of application for Mentally Retarded/Developmentally Disabled (MR/DD) waiver services. Families will be given a choice of accepting a slot in the Children's Choice Waiver or remaining on the MR/DD waiver waiting list. The number of participants is contingent on available funding.

A. Children's Choice services are available to children who meet the following criteria:

1. age from birth through age 18;
2. on the MR/DD Waiver waiting list;
3. meet all financial and non-financial criteria for HCBS waiver eligibility;
 - a. income less than three times the SSI amount for the child (excluding consideration of parental income);
 - b. resources less than the SSI resource limit of \$2,000 for a child (excluding consideration of parental resources);
 - c. SSI disability criteria;
 - d. ICF/MR level of care criteria; and
 - e. all Medicaid non-financial requirements such as citizenship, residence, Social Security number, etc.

B. In addition, the plan of care must be sufficient to assure the health and welfare of the waiver applicant/participant in order to be approved for waiver participation or continued participation.

C. Children who reach their nineteenth birthday while a participant in the Children's Choice will transfer with their waiver slot to a HCBS waiver serving adults who meet the criteria for an ICF/MR level of care.

II. Service Cap

A. Children's Choice services are capped at \$7,500 per year per individual.

B. Participants are eligible to receive all medically necessary Medicaid State Plan services, including EPSDT services.

III. Service Definitions

The following services are included in the service package for Children's Waiver. All services must be included on the approved plan of care which prior authorizes all services.

A. Case management consists of services which will assist individuals who receive Children's Choice services in gaining access to needed waiver and other state plan services, as well as needed medical, social, educational and other services, regardless of the funding source for the services to which access is gained. Case managers shall be responsible for ongoing monitoring of the provision of services included in the individual's plan of care. Case managers shall initiate the process of assessment and reassessment of the individual's level of care and the review of plans of care as required.

B. Center-based respite is services provided in a licensed respite care facility to individuals unable to care for themselves. These services are furnished on a short-term

basis because of the absence or need for relief of those persons who normally providing the care.

C. Environmental accessibility adaptations are physical adaptations to the home or vehicle provided when required by the individual's plan of care as necessary to ensure the health, welfare and safety of the individual, or which enable the individual to function with greater independence in the community, and without which the individual would require additional supports or institutionalization.

1. Such adaptations to the home may include the installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, or installation of specialized electric and plumbing systems which are necessary to accommodate the medical equipment and supplies which are necessary for the welfare of the individual.

a. Adaptations which add to the total square footage of the home are excluded from this benefit.

b. All services shall be in accordance with applicable state and local building codes.

2. An example of adaptation to the vehicle is a van lift.

3. Excluded are those adaptations or improvements to the home or vehicle which are of general utility, and are not of direct medical or remedial benefit to the individual, such as carpeting, roof repair, central air conditioning, etc.

D. Family training is defined as training and education for families of recipients that is appropriate to the needs of the child, presented by professional organizations or practitioners, and individually approved by the Bureau of Community Supports and Services. For purposes of this service, "family" is defined as the persons who live with or provide care to a person served on the waiver, and may include a parent, step-parent, spouse, children, relatives, foster family, legal guardian, or in-laws. Training and education includes reimbursement for travel expenses and registration fees for caregivers to attend approved seminars and similar opportunities for knowledge dissemination when such opportunities are approved as appropriate.

E. Family support services are services provided by a Personal Care Attendant that enables a family to keep their developmentally disabled child or family member at home and also enhances family functioning. Services may be provided in the child's home or outside of the child's home in such settings as after school programs, summer camps, or other places as specified in the approved comprehensive plan of care. Family support includes:

1. assistance and prompting with eating, bathing, dressing, personal hygiene, and essential housekeeping incidental to the care of the child, rather than the child's family. The preparation of meals is included, but not the cost of the meals themselves;

2. assistance with participating in the community including activities to maintain and strengthen existing informal networks and natural supports. Providing transportation to these activities is also included.

F. Diapers are provided for participants who are 3 years of age and older when it is necessary for the welfare of the individual and included in the written plan of care.

IV. Provider Qualifications

A. Case Management Providers. Families of waiver participants shall choose one case management agency from

those contracted with DHH in their region to provide MR/DD case management services.

B. Service Providers. Agencies licensed to provide personal care attendant services may enroll as a provider of Children's Choice services, with the exception of case management services. Agencies that enroll to be Children's Choice service provider shall provide family support services, and shall either provide or subcontract for all other waiver services. Families of participants shall choose one service provider agency from those available in their region who will provide all waiver services, except case management. The following individuals shall not be employed or contracted by the service provider to provide services reimbursed through Children's Choice:

1. legally responsible relatives (spouses, parents or stepparents, foster parents, or legal guardians); or

2. any other relatives who live in the same household with the participant.

David W. Hood
Secretary

0012#045

RULE

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

Hospital Program
Outpatient Services
Reimbursement Reduction

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 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 amends the provisions of the January 1996 Rule governing the reimbursement of specified outpatient surgical procedures and the interim reimbursement for all other outpatient hospital services. Those surgical procedures that meet the following criteria are reimbursed at the highest flat fee in the four Medicaid outpatient surgery payment groups when the procedure is performed in an outpatient setting:

1. the surgical procedure is not included on the Medicaid outpatient surgery list; and

2. the surgical procedure is identified by an ICD-9 procedure code in which the first two digits are within the range of "01" through "86."

The interim reimbursement rate for all other outpatient hospital services is changed to a hospital specific cost to charge ratio calculation based on filed cost reports for the period ending in state fiscal year 1997. The cost to charge ratio calculation to determine the interim reimbursement rate is not applicable to laboratory services subject to the Medicare Fee Schedule and outpatient surgeries. Final reimbursement for outpatient services will continue to be adjusted at cost settlement to 83 percent of the allowable costs documented in the cost report, except for laboratory services subject to the Medicare Fee Schedule and outpatient surgeries.

David W. Hood
Secretary

0012#046

RULE

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

Louisiana Children's Health Insurance Program (LACHIP)

The Department of Health and Hospitals, Bureau of Health Services Financing, adopts the following Rule as authorized by R.S. 46:153. This Rule is in accordance with the provisions of 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 implements the third phase of the Louisiana Children's Health Insurance Program (LACHIP) effective January 1, 2001, by expanding coverage under the Medicaid Program to uninsured children, from birth up to age 19, whose family income is up to 200 percent of the federal poverty level (FPL). This expansion is in compliance with section 4901 of the Balanced Budget Act of 1997 which enacted Title XXI of the Social Security Act, Act 128 of the 1998 First Extraordinary Session of the Louisiana Legislature which enacted the LACHIP Program, Act 1197 of the 1999 Regular Session of the Louisiana Legislature and Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature which authorizes the funding for the expansion. All other requirements for LACHIP eligibility will remain the same.

David W. Hood
Secretary

0012#050

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Out-of-State Hospitals
Inpatient Services
Reimbursement Reduction

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 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 amends the reimbursement methodology contained in the January 1996 and September 1997 Rules for out-of-state hospitals that meet the following criteria:

1. have provided at least 500 inpatient hospital days in state fiscal year 1999 to Louisiana Medicaid recipients and
2. are located in a border city. Border cities are defined as those cities that are located within a 50-mile trade area of the Louisiana state border. The following two cities meet the criteria for number of inpatient hospital days provided to Louisiana Medicaid recipients and the definition of a border city: Natchez, Mississippi and Vicksburg, Mississippi.

Louisiana Medicaid reimbursement for inpatient services provided in all hospitals located in these border cities will be at the lesser of each hospital's actual cost per day as calculated from the 1998 filed Medicaid cost report or the Mississippi Medicaid per diem rate. The actual cost per day is calculated by dividing total Medicaid inpatient costs by total Medicaid inpatient days, including nursery days. This reimbursement methodology is applicable for all inpatient services rendered to Louisiana Medicaid recipients in out-of-state hospitals located in border cities, including those recipients who are under age of 21.

David W. Hood
Secretary

0012#048

RULE

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

Professional Services Program
Physician Services
Reimbursement Reduction

Editor's Note: This Rule contains a correction in the procedure code tables, originally printed as a Notice of Intent in the September 20, 2000 edition of the *Louisiana Register* on pages 2095 - 2096.

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 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 reduces the reimbursement paid to physicians for specific Current Procedural Terminology (CPT) procedure codes. The reimbursement for CPT procedure codes 99295 and 99298 (neonatal care) is reduced by 16 percent. In addition, the reimbursement is reduced to the following amounts for CPT procedure codes for tonsillectomy and adenoidectomy:

Procedure Code	Payment Rate
42821	\$425.25
42825	\$405.00
42826	\$438.75
42830	\$408.38
42831	\$388.13

David W. Hood
Secretary

0012#047

RULE

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

Targeted Case Management Services
Nurse Home Visits for First Time Mothers

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is in

accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the July 1999 Rule governing case management services to include a new targeted population of Medicaid recipients, consisting of first time mothers who reside in the Department of Health and Hospitals (DHH) administrative regions of Thibodaux (3), Lafayette (4), Lake Charles (5) and Monroe (8). Providers of nurse home visits for first time mothers case management services must provide home visit services for eligible recipients in all parishes of the Thibodaux, Lafayette, Lake Charles and Monroe regions.

I. Eligibility Criteria

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

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

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

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

The bureau also amends the staffing qualifications contained in the July 1999 Rule to include specific requirements for case management agencies serving the new targeted population.

II. Staffing Qualifications

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

may be substituted for the required one year of professional nursing experience for the supervisor.

The bureau also amends the standards for participation contained in the July 1999 Rule to include a new provider enrollment requirement applicable to all new case management agencies.

III. Standards for Participation

Providers interested in enrolling to provide Medicaid case management services must submit a written request to the Division of Home and Community Based Waiver Services (DHCBWS) identifying the case management population and the region they wish to serve. A new provider must attend a Provider Enrollment Orientation prior to obtaining a provider enrollment packet. The bureau will offer orientation sessions at least twice per year. Enrollment packets will only be accepted for service delivery in those DHH regions that currently have open enrollment for case management agencies interested in serving certain targeted populations.

David W. Hood
Secretary

0012#049

RULE

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

Targeted Case Management Services
Targeted EPSDT Case Management

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing expands coverage of case management services to include a new targeted group of Medicaid eligibles. This new targeted population shall consist of Early, Periodic Screening, Diagnosis and Treatment (EPSDT) recipients who are between the ages of 0 and 21 years old, on the MR/DD Waiver waiting list, and meet the specified eligibility criteria. The point of entry for targeted EPSDT case management services shall be the Office of Citizens with Developmental Disabilities (OCDD) regional offices. However, for those recipients under 3 years of age, case management services will continue to be provided through Childnet. This new targeted population shall be served by agencies who have accepted the department's amendment to their existing contract. In addition, the bureau amends the staffing qualifications contained in the July 1999 Rule to establish a new staff position for case management agencies entitled case manager trainee.

I. Eligibility Criteria

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

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

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

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

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

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

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

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

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

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

II. Case Management Trainee

The case management trainee position may be utilized to provide services to the following target populations: Infants and Toddlers, HIV, MR/DD Waiver, Elderly and Disabled Adult Waiver and Targeted EPSDT. The case management trainee must meet the following educational qualifications: a bachelor's degree in social work, psychology, education, rehabilitation counseling, or a human-service-related field from an accredited college or university. The case management agency must obtain prior approval from the bureau before a case management trainee can be hired. The maximum allowable caseload for a case manager trainee is 20 recipients.

David W. Hood
Secretary

0012#052

RULE

**Department of Natural Resources
Office of Conservation**

Reorganization of Statewide Order No. 29-B
(LAC 43:XIX.Chapters 3, 4 and 5)

Today, the Office of Conservation is publishing notice of a complete reorganization of Statewide Order No. 29-B, LAC 43:XIX.129. Currently, Section 129 provides for the regulation of oilfield related pits, injection/disposal wells, and commercial oilfield waste disposal facilities. The Office of Conservation is anticipating various amendments of these regulations in the next few months. Additional space is needed to facilitate the proposed changes.

Therefore, this reorganization effort will move the oilfield pit regulations into new Chapter 3, move the injection/disposal well regulations into new Chapter 4, and move the commercial facility regulations into new Chapter 5. The cross-reference chart below indicates the new locations for the rules in each existing section. This action will also result in Section 129 being reserved for future use.

Existing Location	New Location	Description
§129.B.1	§301	Definitions
§129.B.2	§303	General Requirements
§129.B.3	§305	Notification
§129.B.4	§307	Pit Classification, Standards, and Operational Requirements.
§129.B.5	§309	Monitoring Program
§129.B.6	§311	Pit Closure
§129.B.7	§313	Pit Closure Techniques and Onsite Disposal of NOW
§129.B.8	§315	Disposal of Reserve Pit Fluids by Subsurface Injection
§129.B.9	§317	Requirements for Community Saltwater Disposal Wells and Systems.
§129.Q	§319	Exceptions
§129.R	§321	Effect on Existing Special Orders
§129.S	§323	Applicability
---	§401	(Reserved for Definitions)
§129.A	§403	Permits Required
§129.C	§405	Application Requirements for New Recovery Injection and New Saltwater Disposal Wells
§129.D	§407	Application Requirements for Enhanced Recovery Projects
§129.E	§409	Permit Notice Requirements
§129.F	§411	Duration of Permits
§129.G	§413	Transfer of Permits
§129.H	§415	Construction Requirements for New Wells
§129.I	§417	Monitoring and Reporting Requirements
§129.J	§19	Logging and Testing Requirements
§129.K	§421	Confinement of Fluids
§129.L	§423	Enhanced Recovery Injection and Disposal Well Plugging Requirements
§129.M	§501 et. seq.	Commercial Facility Regulations - New Chapter 5
§129.N	§425	Liquid Hydrocarbon Storage Wells
§129.O	§427	Injection Well Filing Fees
§129.P	§429	Annular Disposal
§129.Q	§431	Exceptions
C	§433	(RESERVED)
C	§435	(RESERVED)
C	§437	(RESERVED)
C	§439	(RESERVED)
§129.R	§441	Effect on Existing Special Orders

§129.S	§443	Applicability
§129.M.1	§501	Definitions
§129.M.2	§503	Offsite Storage, Treatment, and/or Disposal of Nonhazardous Oilfield Waste at Commercial Facilities
§129.M.3	§505	Permit Application Requirements for Commercial Facilities and Transfer Stations
§129.M.4	§507	Permitting Procedures
§129.M.5	§509	Criteria for the Operation of Commercial Facilities and Transfer Stations
§129.M.6	§511	Manifest System
§129.M.7	§513	Land Treatment Facility Requirements
§129.M.8	§515	Resource Conservation and Recovery of Nonhazardous Oilfield Waste
§129.M.9	§517	Closure
§129.Q	§519	Exceptions
§129.R	§521	Effect on Existing Special Orders
§129.S	§523	Applicability

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§129. Reserved

Chapter 3. Pollution Control Onsite Storage, Treatment and Disposal of Nonhazardous Oilfield Waste (NOW) Generated from the Drilling and Production of Oil and Gas Wells (Oilfield Pit Regulations)

§301. Definitions

Coastal Area that area comprising inland tidal waters, lakes bounded by the Gulf of Mexico, and salt water marshes and more particularly identified as the intermediate marshes, brackish marshes, and saline marshes on the Vegetative Type Map of the Louisiana Coastal Marshes, published by the Louisiana Department of Wildlife and Fisheries, August, 1978.

Community Saltwater Disposal Well or System as defined in §501.

Contamination the introduction of substances or contaminants into a groundwater aquifer, a USDW or soil in such quantities as to render them unusable for their intended purposes.

Elevated Wetland Area a wetland area which is not normally inundated with water and where land mass and levee material are available for mixing with waste fluids during closure of a pit.

Exempt Pits compressor station pits, natural gas processing plant pits, emergency pits, and salt dome cavern pits located in the coastal area.

Groundwater Aquifer water in the saturated zone beneath the land surface that contains less than 10,000 mg/l TDS.

Hydrocarbon Storage Brine well water, potable water, rainwater, or brine (partially saturated to completely saturated) used as a displacing fluid in hydrocarbon storage well operations.

Manufactured Liner any man-made synthetic material of sufficient size and qualities to sustain a hydraulic conductivity no greater than 1×10^{-7} cm/sec after installation and which is sufficiently reinforced to withstand normal wear and tear associated with the installation and pit use without damage to the liner or adverse affect on the quality thereof. For purposes of this Chapter and Chapter 5, a

manufactured liner used in pit construction must meet or exceed the following standards.

Parameter or Test Standard
Thickness (average) > 10 mm (.01 in)
Breaking Strength (Grab Method)* 90 lbs
Bursting Strength * 140 psi
Tearing Strength * 25 lbs
Seam Strength * 50 lbs

*Testing is to be performed according to ASTM method D-751, latest revision.

Mining Water Well water, potable water, rainwater, or unsaturated brine which is injected into a brine solution mining well for recovery as saturated brine.

NOW Nonhazardous oilfield waste.

Nonhazardous Oilfield Waste As defined in §501.

Onsite For purposes of this Section, on the same lease or contiguous property owned by the lessor, or within the confines of a drilling unit established for a specific well or group of wells.

Operation of Oil and Gas Facilities As used in this Section, all oil and gas wells, disposal wells, enhanced recovery injection wells and facilities, flowlines, field storage and separation facilities, natural gas processing and/or gas sweetening plants, and compressor stations.

Pit For purposes of this Chapter, a natural topographic depression or man-made excavation used to hold produced water or other nonhazardous oilfield waste, hydrocarbon storage brine, or mining water. The term does not include lined sumps less than 660 gallons or containment dikes, ring levees or firewalls constructed around oil and gas facilities.

Produced Water Liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations, with underground storage of hydrocarbons, or with solution mining for brine.

Production Pits Either earthen or lined storage pits for collecting NOW sediment periodically cleaned from tanks and other producing facilities, for storage of produced water or other nonhazardous oilfield wastes produced from the operation of oil and gas facilities, or used in conjunction with hydrocarbon storage and solution mining operations as follows.

1. **Burn Pits** Earthen pits intended for use as a place to temporarily store and periodically burn nonhazardous oilfield waste (excluding produced water) collected from tanks and facilities.

2. **Compressor Station Pits** Lined or earthen pits intended for temporary storage or disposal of fresh water condensed from natural gas at a gas pipeline drip or gas compressor station.

3. **Natural Gas Processing Plant Pits** Lined or earthen pits used for the storage of process waters or stormwater runoff. No produced water may be stored in a natural gas processing plant pit.

4. **Produced Water Pits** Lined or earthen pit used for storing produced water and other nonhazardous oilfield wastes, hydrocarbon storage brine, or mining water.

5. **Washout Pits** Lined earthen pits used to collect wash water generated by the cleaning of vacuum truck tanks and other vessels and equipment only used to transport nonhazardous oilfield waste. Any materials other than NOW are prohibited from being placed in such pits.

6. **Well Test Pits** Small earthen pits intended for use to periodically test or clean up a well.

7. **Emergency Pits** Lined or earthen pits used to periodically collect produced water and other NOW fluids only during emergency incidents, rupture or failure of other facilities.

8. **Onshore Terminal Pits** Lined or earthen pits located in the coastal area used for storing produced water at terminals that receive crude oil and entrained water by pipeline from offshore oil and gas production facilities.

9. **Salt Dome Cavern Pits** Lined or earthen pits located in the coastal area associated with the storage of petroleum products and petroleum in salt dome caverns.

Reserve Pits Temporary earthen pits used to store only those materials used or generated in drilling and workover operations.

Submerged Wetland Area A wetland area which is normally inundated with water and where only levee material is available for mixing with waste fluids during closure of a pit.

Underground Source of Drinking Water (USDW) For the purpose of administering these rules and regulations is defined in §403.B.

Upland Area Can area which is not identified as a wetland and includes farm land, pasture land, recreational land, and residential land.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2798 (December 2000).

§303. General Requirements

A. Produced water generated from the drilling and production of oil and gas wells shall be disposed of into subsurface formations not productive of hydrocarbons, unless discharged or disposed of according to the provisions of §303.E or transported offsite in accordance with LAC 43:XIX, Subpart 1, Chapter 5.

B. Produced water may be disposed of by subsurface injection into legally permitted or authorized operators saltwater disposal wells, commercial saltwater disposal wells, enhanced recovery injection wells, community saltwater disposal wells, or gas plant disposal wells. The use of hydrocarbon storage brine and mining water in storage and/or mining operations is not considered to be disposal.

C. Contamination of a groundwater aquifer or a USDW with NOW is strictly prohibited. In addition, the injection of NOW into a groundwater aquifer or a USDW is strictly prohibited.

D. Produced water and other NOW generated in the drilling and production of oil and gas wells shall not be disposed of into a zone producing or productive of hydrocarbons unless such disposal is approved by the Office of Conservation after a public hearing or unless prior approval to use the proposed zone for such disposal can be documented.

E. The discharge of produced water or other NOW (including drilled solids) into manmade or natural drainage or directly into state waters is allowed only in conformance with any applicable state or federal discharge regulatory program.

F. The use of closed NOW storage systems is encouraged by the Office of Conservation; therefore, the use

of new or existing pits to store produced water, drilling fluids, and other NOW generated from the drilling and production of oil and gas wells is prohibited unless:

1. notification for each pit is submitted to the Office of Conservation as outlined in §305; and
2. pits are in conformance with standards set forth in §307.

G. Unless exempted from liner requirements in §303.K.8 or §303.M below, all existing produced water pits, onshore terminal pits, and washout pits which are to be utilized in the operation of oil and gas or other facilities must be shown to comply with the liner requirements of §307.A.1.a or be permanently closed in accordance with the pit closure criteria of §311 and §313 by January 20, 1989. A certification attesting to compliance with these requirements shall be submitted to this office in a timely manner.

H. All existing pits which are not to be utilized in the operation of oil and gas or other facilities must be permanently closed according to the requirements of §311 and §313 by January 20, 1989. A certification attesting to compliance with these requirements shall be submitted to this office in a timely manner.

I. Operators of existing pits are required to comply with all applicable operational requirements of §307.A.2 and 4, §307.B.1, 2, and 3, §307.C.2, 4, 5, and 6, §307.D.2, 4, and 5, §307.E.1, 3, 4, and 6, and §307.F.1 and 3.

J. Production pits, except for those identified in §303.K.1 and §303.M below, may not be constructed in a "V" or A zone as determined by flood hazard boundary or rate maps and other information published by the Federal Emergency Management Agency (FEMA), unless such pits have levees which have been built at least 1 foot above the 100-year flood level and able to withstand the predicted velocity of the 100-year flood. Location, construction and use of such pits is discouraged.

K. Production pits located in the coastal area shall be subject to the following requirements.

1. Except for exempt pits, no production pit may be constructed in the coastal area after June 30, 1989.
2. Production pits located in the coastal area shall be closed in compliance with §311 and §313 by January 1, 1993 with the following exceptions:
 - a. exempt pits as such term is defined in §301;
 - b. any onshore terminal pit that was in existence on June 30, 1989, provided such pit has an approved Louisiana Water Discharge Permit System (LWDPS) permit applicable thereto. Upon expiration of such permit, operator shall discontinue use of said pit and comply with the provisions of §307;
 - c. any production pit which is subject to an approved Louisiana Water Discharge Permit System (LWDPS) permit is not subject to the closure requirements of §311 and §313 until January 1, 1995 or until expiration of such permit which ever occurs first. Upon expiration of such permit, operator shall discontinue use of said pit and comply with the provisions of §307.
3. Operators of existing production pits located in the coastal area shall submit Form UIC-15-CP to the Office of Conservation by January 1, 1991. Pits closed prior to October 20, 1990 are not considered existing pits for purposes hereof.

4. Operators intending to construct an exempt pit shall submit Form UIC-15-CP to the Office of Conservation at least 10 days prior to start of construction thereof.

5. Production pits located within the coastal area must maintain a levee with an elevation of at least two feet above mean high tide, the liquid level in pit(s) shall not be permitted to rise within two feet of top of pit levee or walls, and any surface water discharge from an active pit must be done in accordance with appropriate state or federal regulatory programs. Such discharge must be piped to open water (within the marsh) that receives good flushing action and shall not otherwise significantly increase the salinity of the receiving body of water or marsh. Further, unless otherwise indicated in §303.K.6,7,8 and 9, production pits located in the coastal area shall comply with the standards and operational requirements set forth in §307.

6. Burn pits, compressor station pits, natural gas processing plant pits, and well test pits located in the coastal area are exempt from the liner requirements of §307.A.

7. Salt dome cavern pits are exempt from the liner requirements of §307.A.

8. Produced water pits, washout pits, and onshore terminal pits located in the coastal area shall comply with the liner requirements of §307.A unless such pit is subject to an approved Louisiana Water Discharge Permit System (LWDPS) permit.

9. Emergency pits located in the coastal area shall comply with the requirements of §307.E unless such pit is subject to an approved Louisiana Water Discharge Permit System (LWDPS) permit.

10. Any production pit which is not subject to an approved Louisiana Water Discharge Permit System (LWDPS) permit on October 20, 1990 shall submit a closure plan to the Office of Conservation by January 1, 1991.

L. Within six months of the completion of the drilling or workover of any permitted well, the operator (generator) shall certify to the commissioner by filing Form UIC-16 the types and number of barrels of NOW generated, the disposition of such waste, and further certify that such disposition was conducted in accordance with applicable rules and regulations of the Office of Conservation. Such certification shall become a part of the well's permanent history.

M. Based upon the best practical technology, production pits located within an 'A' zone (FEMA) which meet the following criteria are not subject to the levee height requirements of §303.J above or the liner requirements of §307.A.1:

1. pit size is less than or equal to 10' x 10' x 4' deep;
2. such pit contains only produced brine; and
3. such pit is utilized for gas wells producing less than 25 mcf per day and less than or equal to one barrel of saltwater per day (bswpd).

N. Evidence of contamination of a groundwater aquifer or USDW may require compliance with the monitoring program of §309, compliance with the liner requirements of §307.A.1, or immediate closure of the pit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2799 (December 2000).

§305. Notification

A. Existing Pits

1. Each pit which was constructed prior to January 20, 1986 is an existing pit. Use of an existing pit is prohibited unless the operator has reported that pit to the Office of Conservation by July 20, 1986 according to the requirements of this Paragraph. Notification shall contain the information requested below. Pits closed prior to January 20, 1986 are not considered existing pits.

2. Operators of existing pits must submit the following information to the Office of Conservation by July 20, 1986:

a. for each existing pit to be utilized in the operation of oil and gas facilities, the information requested in §305.D.1-8 below;

b. for each existing pit not to be utilized in the operation of oil and gas facilities the information requested in §305.D.1-6 below;

c. a plan and schedule of abandonment for closure of pits identified in §305.A.2.b above. Such plan must comply with the provisions of §303.H, §311, and §313. Failure to comply with the plan in a timely manner will subject an operator to appropriate civil penalties.

3. Operators of existing pits in the coastal area shall comply with the requirements of §303.K.3.

B. New Pits. Except for reserve pits, operators must notify the Office of Conservation of the intent to construct new pits at least 10 days prior to start of construction. Notification shall contain all information requested in §305.D or §303.K.4 as appropriate. The Office of Conservation may inspect any proposed pit site prior to or during construction; however, initial use of the completed pit need not be deferred if no inspection is made.

C. Reserve Pit Notification. For reserve pits used in drilling and workover operations, notification requirements of this rule shall be satisfied by application for a drilling or work permit.

D. Notification Information RequiredCForm UIC-15

1. name of facility pit (indicate whether new or existing);

2. field designation, if applicable;

3. section, township and range (include approximate footage location of pit center);

4. parish name;

5. type of pit (consistent with definitions in §301);

6. size of pit (length, width and depth);

7. type of liner if applicable;

8. certification that each pit will or does conform to standards stipulated under §307 applicable to that type pit and that such compliance will be within the time frame described in §303.G, H, and I, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2801 (December 2000).

§307. Pit Classification, Standards, and Operational Requirements

A. Produced Water, Onshore Terminal, and Washout Pits

1. Except where exempted by §303.K.8 and §303.M, groundwater aquifer and USDW protection for above-listed pits shall be provided by one of the following.

a. A liner along the bottom and sides of pits which has the equivalent of 3 continuous feet of recompacted or natural clay having a hydraulic conductivity no greater than 1×10^7 cm/sec. Such liners include, but are not limited to the following.

i. *Natural Liner*Cnatural clay having a hydraulic conductivity meeting the requirements of §307.A.1.a above.

ii. *Soil Mixture Liner*Csoil mixed with cement, clay-type, and/or other additives to produce a barrier which meets the hydraulic conductivity requirements of §307.A.1.a above.

iii. *Recompacted Clay Liner*Cin situ or imported clay soils which are compacted or restructured to meet the hydraulic conductivity requirements of §307.A.1.a above.

iv. *Manufactured Liner*Csynthetic material that meets the definition in §301 and is equivalent or exceeds the hydraulic conductivity requirements of §307.A.1.a above. Pits constructed with a manufactured liner must have side slopes of 3:1 and the liner at the top of the pit must be buried in a 1' wide and 1' deep trench. A sufficient excess of liner material shall be placed in the pit to prevent tearing when filled with NOW.

v. *Combination Liner*Ca combination of two or more types of liners described in this Section which meets the hydraulic conductivity requirements of §307.A.1.a above.

b. Any other alternate groundwater aquifer and USDW protection system acceptable to the Office of Conservation.

2. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphon or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Authorized surface discharges of pit contents under federal and/or state regulatory programs are not considered to be pollution or contamination as used herein.

3. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under §305.B.

4. Liquid levels in pits shall not be permitted to rise within two feet of top of pit levees or walls. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

5. When use of a pit will be permanently discontinued by the operator of record, the Office of Conservation shall be notified in writing. Pits shall be emptied of all fluids in a manner compatible with all applicable regulations and closed in accordance with §303.F and G within six months of abandonment.

B. Reserve Pits

1. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Authorized surface discharges of pit contents under federal or state regulatory programs are not considered to be pollution or contamination as used herein.

2. Liquid levels in pits shall not be permitted to rise within two feet of top of pit levees or walls. Pit levees or

walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

3. Operators shall prevent the placing of produced water, waste oil, trash, or any other material into a reserve pit which would increase the difficulty in clean-up of the pit or otherwise harm the environment. Such material shall be properly stored and disposed of according to applicable state or federal regulations.

4. Pits shall be emptied of fluids in a manner compatible with all applicable regulations, and closed in accordance with §311 and §313 within six months of completion of drilling or work over operations.

C. Burn Pits

1. Pits shall be constructed in such a manner as to keep fire hazards to a minimum, and in no case shall be located less than 100 feet from a well location, tank battery, separator, heater-treater, or any and all other equipment that may present a fire hazard.

2. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination.

3. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under §305.B.

4. Any burning process shall be carried out in conformance with applicable air quality regulations. Notification as required by said regulation shall be made to the Air Quality Division, Department of Environmental Quality.

5. No produced water, radioactive material (except industry-accepted and license-approved radioactive material utilized in oilfield operations, and radioactive material naturally occurring in the produced fluids), or other noncombustible waste products shall be placed in pits, except water or emulsion which may be associated with crude oil swabbed or otherwise produced during test operations, or during tank or other vessel cleaning operations. NOW must be removed or burned periodically to assure that storage of materials in the pit is kept to a minimum.

6. Liquid levels in pits shall not be permitted to rise within 2 feet of top of pit levees or walls. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

7. When use of pits will be permanently discontinued by the operator of record, the Office of Conservation shall be notified in writing. Pits shall be emptied of fluids in a manner compatible with all applicable regulations, and closed in accordance with §311 and §313 within six months of abandonment.

D. Well Test Pits

1. Pits shall be constructed in such a manner as to keep fire hazards to a minimum, and in no case shall be located less than 100 feet from a well location, tank battery, separator, heater-treater, or any and all other equipment that may present a fire hazard.

2. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and

no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination.

3. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under §305.B.

4. Within 30 days after completion of a well test, pits shall be emptied of produced fluids and must remain empty of produced fluids during periods of nonuse.

5. Liquid levels in pits shall not be permitted to rise within two feet of top of pit walls or dikes. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

6. When use of pits will be permanently discontinued, the Office of Conservation shall be notified in writing. Pits shall be emptied of fluids in a manner compatible with all applicable regulations, and closed in accordance with §311 and §313 within six months of abandonment.

E. Emergency Pits

1. Groundwater aquifer and USDW protection for emergency pits shall be evaluated on a case-by-case basis. Operators who intend to utilize existing or new emergency pits without liners must demonstrate by written application to the Office of Conservation that groundwater aquifer and USDW contamination will not occur; otherwise, emergency pits shall be lined. Applications to demonstrate unlined pits will not contaminate groundwater aquifers and USDW's shall at a minimum address the following:

a. *Emergency Incident Rate* Operator shall estimate the number of times a pit will be utilized each year. A detailed discussion of the facility operation and reasons for the emergency incident rate must be addressed.

b. *Soil Properties* Operator shall describe and evaluate soil properties onsite. Soil hydraulic conductivity and physical properties must be addressed to assess potential groundwater aquifer and USDW impacts.

c. *Groundwater Aquifer Evaluation* Water quality, groundwater aquifer, and USDW depth shall be evaluated.

d. *Produced Water Composition* (total dissolved solids and oil and grease) must be determined to assess potential impacts on the site.

2. All emergency pits required to be lined must conform to hydraulic conductivity requirements in §307.A.1 above.

3. No produced water or any other NOW shall be intentionally placed in any emergency pit not meeting the hydraulic conductivity requirements (1×10^{-7} cm/sec for 3 continuous feet of clay) except in the case of an emergency incident. In emergency situations, notice must be given to the Office of Conservation within 24 hours after discovery of the incident. Produced water and any other NOW must be removed from the pit within seven days following termination of the emergency situation.

4. Pits shall be protected from surface waters by levees and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Surface discharges of pit contents under federal or state permits are not considered to be pollution or contamination as used herein.

5. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pits as provided under §305.B.

6. Liquid level in pits shall not be permitted to rise within 2 feet of top of pit levees. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

7. When use of pits will be permanently discontinued, the Office of Conservation shall be notified in writing. After notification to the Office of Conservation, pits shall be emptied of all fluids in a manner compatible with all applicable regulations, and closed in accordance with §311 and §313 within six months of abandonment.

F. Natural Gas Processing Plant Pits, Compressor Station Pits, and Salt Dome Cavern Pits

1. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphon or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Authorized surface discharges of pit contents under federal and/or state regulatory programs are not considered to be pollution or contamination as used herein.

2. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under §305.B.

3. Liquid levels in pits shall not be permitted to rise within 2 feet of top of pit levees or walls. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

4. When use of a pit will be permanently discontinued by the operator of record, the Office of Conservation shall be notified in writing. Pits shall be emptied of all fluids in a manner compatible with all applicable regulations and closed in accordance with §311 and §313 within six months of abandonment.

G. Office of Conservation Corrective Action and Closure Requirement. Should the Office of Conservation determine that continued operation of pits specified in this Subparagraph may result in contamination of a groundwater aquifer or a USDW, or the discharge of fluids into man-made or natural drainage or directly into state waters, or contamination of soils outside the confines thereof, further use of the pit shall be prohibited until conditions causing or likely to cause contamination have been corrected. If corrective measures are not satisfactorily completed in accordance with an Office of Conservation compliance order or schedule, the commissioner may require closure of the pit. When an order for closure is issued, a pit shall be closed in accordance with §311 and §313 and the operator must comply with any closure schedule issued by the Office of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2801 (December 2000).

§309. Monitoring Program

A. Upon a determination by the operator or the Office of Conservation that any pit subject to this rule is likely to contaminate a groundwater aquifer or a USDW, the Office of Conservation shall require the timely submission of a plan

for the prevention of such contamination. Such plan may include using an under-built drainage and collection system, monitoring wells, and/or other means that the Office of Conservation may approve to prevent or detect contamination. Any required monitor wells shall be registered with the appropriate state agency.

B. When required by the Office of Conservation, monitoring shall be conducted on a quarterly schedule. A written report summarizing the results of such monitoring shall be submitted to the Office of Conservation within 30 days of the end of each quarter.

C. If monitoring of a groundwater aquifer or USDW indicates contamination due to a discharge from a pit, the owner or operator shall immediately notify the Office of Conservation. Within 30 days, the operator shall empty the pit of all NOW and submit a remedial plan for prevention of further contamination of any groundwater aquifer or any USDW. Upon approval, the remedial plan shall be implemented by the operator and monthly progress reports, reviewing actions taken under the plan and their results, will be filed with the Office of Conservation until all actions called for in the plan have been satisfactorily completed.

D. Notification received by the Office of Conservation, pursuant to §309.A, B, or C above, of any contamination of a groundwater aquifer or a USDW as the possible result of a discharge, or information obtained by the exploitation of such notification shall not be used against the reporting owner or operator in any criminal action, including but not limited to those provided for by Louisiana Revised Statutes 30:18, except in a prosecution for perjury or for giving a false statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2803 (December 2000).

§311. Pit Closure

A. Pits must be closed properly to assure protection of soil, surface water, groundwater aquifers and USDW's. Operators may close pits utilizing onsite land treatment, burial, solidification or other techniques approved by the Office of Conservation only if done so in compliance with §313 and §315. Otherwise, all NOW must be manifested according to §511 and transported offsite to a permitted commercial facility.

B. Liability for pit closure shall not be transferred from an operator to the owner of the surface land(s) on which a pit is located.

C. For evaluation purposes prior to closure of any pit and for all closure and onsite and offsite disposal techniques, excluding subsurface injection of reserve pit fluids, nonhazardous oilfield waste (pit contents) must be analyzed for the following parameters:

1. pH;
2. total metals content (ppm) for:
 - a. arsenic;
 - b. barium;
 - c. cadmium;
 - d. chromium;
 - e. lead;
 - f. mercury;
 - g. selenium;
 - h. silver;

- i. zinc;
 - 3. oil and grease (percent dry weight);
 - 4. soluble salts and cationic distributions:
 - a. electrical conductivity CEC in mmhos/cm (millimhos);
 - b. sodium adsorption ratio CSAR;
 - c. exchangeable sodium percentage CESP (percent);
- and
- d. cation exchange capacity CCEC (milliequivalents/100 gm soil).

4. Radioisotopes if such pit is located in the coastal area and is closed after October 20, 1990.

D. Laboratory Procedures for Nonhazardous Oilfield Waste Analyses

1. For soluble salts, cationic distributions, metals (except barium) and oil and grease (organics) samples are to be analyzed using standard soil testing procedures as presented in the Laboratory Manual for the Analysis of Oilfield Waste (Department of Natural Resources, August 9, 1988, or latest revision).

2. For barium analysis, samples are to be digested in accordance with the "True Total" method, as presented in the Laboratory Procedures Manual for the Analysis of Oilfield Waste (Department of Natural Resources, August 9, 1988 or latest revision).

3. For radioisotopes, the sampling and testing of pit sludges shall comply with the provisions of Department of Environmental Quality, NORM Regulatory Guide, dated March 12, 1990 or latest revision thereof.

E. Documentation of testing and closure activities, including onsite disposal of NOW, shall be maintained in operator's files for at least three years after completion of closure activities. Upon notification, the Office of Conservation may require the operator to furnish these data for verification of proper closure of any pit. If proper onsite closure has not been accomplished, the operator will be required to bring the site into compliance with applicable requirements.

F. Reserve pits utilized in the drilling of wells less than 5,000 feet in depth are exempt from the testing requirements of §311.C and §313 provided the following conditions are met:

- 1. The well is drilled using only freshwater "native" mud which contains no more than 25 lbs/bbl bentonite, .5 lbs/bbl caustic soda or lime, and 50 lbs/bbl barite; and
- 2. Documentation of the above condition is maintained in the operator's files for at least three years after completion of pit closure activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2803 (December 2000).

§313. Pit Closure Techniques and Onsite Disposal of NOW

A. Reserve pit fluids, as well as drilling muds, cuttings, etc. from holding tanks, may be disposed of onsite provided the technical criteria of §313.C, D, E, or F below are met, as applicable. All NOW must be either disposed of on-site or transported to an approved commercial facility or transfer station in accordance with the requirements of LAC 43:XIX, Chapter 5 or under the direction of the commissioner.

B. Prior to conducting onsite pit closure activities, an operator must make a determination that the requirements of this Subparagraph are attainable.

C. For all pit closure techniques in this Subparagraph, except solidification, waste/soil mixtures must not exceed the following criteria:

- 1. range of pH: 6 - 9;
- 2. total metals content (ppm):

Parameter	Limitation
Arsenic	10
Barium	
Submerged Wetland Area	20,000
Elevated Wetland Area	20,000
Upland Area	40,000
Cadmium	10
Chromium	500
Lead	500
Mercury	10
Selenium	10
Silver	200
Zinc	500

D. Land Treatment. Pits containing NOW may be closed onsite by mixing wastes with soil from pit levees or walls and adjacent areas provided waste/soil mixtures at completion of closure operations do not exceed the following criteria, as applicable, unless the operator can show that higher limits for EC, SAR, and ESP can be justified for future land use or that background analyses indicate that native soil conditions exceed the criteria.

1. In addition to the pH and metals criteria listed in §313.C above, land treatment of NOW in submerged wetland, elevated wetland, and upland areas is permitted if the oil and grease content of the waste/soil mixture after closure is < 1 percent (dry weight).

2. Additional parameters for land treatment of NOW in elevated, freshwater wetland areas where the disposal site is not normally inundated:

- a. electrical conductivity (EC-solution phase): < 8 mmhos/cm;
- b. sodium adsorption ratio (SAR-solution phase): < 14;
- c. exchangeable sodium percentage (ESP-solid phase): 25 percent.

3. Additional parameters for land treatment of NOW in upland areas:

- a. electrical conductivity (EC-solution phase): < 4 mmhos/cm;
- b. sodium adsorption ratio (SAR-solution phase): < 12;
- c. exchangeable sodium percentage (ESP-solid phase): < 15 percent.

E. Burial or Trenching. Pits containing NOW may be closed by mixing the waste with soil and burying the mixture onsite, provided the material to be buried meets the following criteria:

- 1. the pH and metals criteria in §313.C above;
- 2. moisture content: < 50 percent by weight;
- 3. electrical conductivity (EC): < 12 mmhos/cm;
- 4. oil and grease content: < 3 percent by weight;
- 5. top of buried mixture must be at least 5 feet below ground level and then covered with 5 feet of native soil;

6. bottom of burial cell must be at least 5 feet above the seasonal high water table.

F. Solidification. Pits containing NOW may be closed by solidifying wastes and burying it onsite provided the material to be buried meets the following criteria:

1. pH range: 6 - 12;
2. Leachate testing* for oil and grease: < 10.0 mg/l and chlorides < 500.0 mg/l

*Note: The leachate testing method for oil and grease is included in the Laboratory Manual for the Analysis of Oilfield Waste (Department of Natural Resources, August 9, 1988, or latest revision).

3. Leachate testing* for the following metals:

- a. Arsenic < 0.5 mg/l
- b. Barium < 10.0 mg/l
- c. Cadmium < 0.1 mg/l
- d. Chromium < 0.5 mg/l
- e. Lead < 0.5 mg/l
- f. Mercury < 0.02 mg/l
- g. Selenium < 0.1 mg/l
- h. Silver < 0.5 mg/l
- i. Zinc < 5.0 mg/l

*Note: The leachate testing method for metals is included in the Laboratory Manual for the Analysis of Oilfield Waste (Department of Natural Resources, August 9, 1988, or latest revision).

4. top of buried mixture must be at least five feet below ground level and covered with five feet of native soil;

5. bottom of burial cell must be at least five feet above the seasonal high water table;

6. solidified material must meet the following criteria*:

- a. unconfined compressive strength (Qu): > 20 lbs/in² (psi);
- b. permeability: <1 x 10⁻⁶ cm/sec;
- c. wet/dry durability: > 10 cycles to failure.

*Note: Testing must be conducted according to ASTM or other approved methods prior to pit closure by solidification processes.

G. Passive Closure

1. The Office of Conservation will consider requests for passive pit closure provided one of the following conditions exists:

a. where pit closure would create a greater adverse environmental impact than if the pit were allowed to remain unreclaimed;

b. where pit usage can be justified for agricultural purposes or wildlife/ecological management.

2. Operators requesting passive pit closure shall submit the following:

a. an affidavit requesting passive pit closure for one of the reasons contained in §313.G.1;

b. a copy of Form UIC-15 or UIC-15-CP with pit identification number shown thereon;

c. an affidavit of no objection from the Louisiana Department of Wildlife and Fisheries obtainable by contacting:

La. Department of Wildlife & Fisheries
P.O. Box 9800
Baton Rouge, LA 70898
Telephone: (225) 765-2367

d. where applicable, an affidavit of no objection from the Department of Natural Resources, Coastal Management Division, obtainable by contacting:

Department of Natural Resources

Coastal Management Division
P.O. Box 44487

Baton Rouge, LA 70804-4487

Telephone: (225) 342-7591

e. an affidavit of no objection from the landowner endorsing operator's request for passive pit closure;

f. a photograph of the pit in question;

g. an inspection of the pit signed by a conservation enforcement agent and a representative of the operator. The operator shall contact the applicable conservation district office to arrange date and time for inspection;

h. analytical laboratory reports of the pit bottoms and pit levees indicating conformance with applicable land treatment criteria set forth in §313.C and D;

i. an analytical laboratory report of the fluid contents of the pit indicating conformance with applicable state and federal discharge regulatory program. Contact the Department of Environmental Quality, Water Pollution Control Division, (225) 342-6363 for information regarding effluent limitations.

3. The Commissioner of Conservation retains the right to grant exceptions to the requirements of §313.G.2 as he deems appropriate.

H. Offsite Disposal of NOW

1. Except for produced water, drilling, workover and completion fluids, and rainwater which may be transported by an oil and gas operator to a community well or an operators permitted Class II disposal well or discharged to surface waters where authorized, nonhazardous oilfield waste shall not be moved offsite for storage, treatment, or disposal unless transported to an approved commercial facility or transfer station in accordance with the requirements of LAC 43:XIX, Chapter 5 or under the direction of the commissioner.

2. The criteria for land treatment, burial, or solidification listed above will apply, as appropriate, to the onsite disposal of any nonhazardous oilfield waste remaining onsite.

3. NOW that fails to meet the criteria of this Paragraph for onsite disposal shall be moved offsite by the operator to a permitted commercial facility or transfer station in accordance with the requirements of LAC 43:XIX, Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2804 (December 2000).

§315. Disposal of Reserve Pit Fluids by Subsurface Injection

A. General Provisions

1. The disposal (subsurface injection) of drilling and workover waste fluids (including reserve pit fluids) into (1) a newly drilled well which is to be plugged and abandoned or (2) into the casing annulus of a well being drilled, a recently completed well, or a well which has been worked over is prohibited, except when such injection is conducted in accordance with the requirements of this Subparagraph.

2. Injection of drilling and workover waste fluids shall not commence until approval has been granted by the Office of Conservation. Operators may apply for approval when applying for a drilling permit. Approval for injection into a

well will remain valid for subsequent workovers provided the criteria in §315.C below continue to be met.

3. Injection of drilling and workover waste fluids (including reserve pit fluids) shall be limited to injection of only those fluids generated in the drilling, stimulation or workover of the specific well for which authorization is requested. Reserve pit fluids may not be transported from one well location to another for injection purposes.

4. Injection of drilling and workover waste pit fluids into zones that have been tested for hydrocarbons or are capable of hydrocarbon production is prohibited, except as otherwise provided by the commissioner.

5. Pump pressure shall be limited so that vertical fractures will not extend to the base of the USDW and/or groundwater aquifer.

6. A drilling and workover waste fluids injection site may be inspected by a duly authorized representative of the commissioner prior to approval.

7. Drilling and workover waste fluids to be injected pursuant to the provisions of this Section are exempt from the testing requirements of §311.C.

B. Application Requirements

1. Prior to the onsite injection of reserve pit fluids, an application shall be filed by the well operator on the appropriate form. The original and one copy of the application (with attachments) shall be submitted to the Office of Conservation for review and approval.

2. An application for approval of reserve pit fluid injection shall include:

- a. schematic diagram of well showing:
 - i. total depth of well;
 - ii. depths of top and bottom of all casing strings and the calculated top of cement on each;
 - iii. size of casing; and
 - iv. depth of the deepest USDW;
- b. operating data:
 - i. maximum pressure anticipated; and
 - ii. estimated volume of fluids to be injected;
- c. a copy of the electric log of the well (if run) or a copy of the electric log of a nearby well;
- d. additional information as the commissioner may require.

C. Criteria for Approval

1. Casing string injection may be authorized if the following conditions are met and injection will not endanger underground sources of drinking water.

a. Surface casing annular injection may be authorized provided the surface casing is set and cemented at least 200 feet below the base of the lowermost USDW, except as otherwise provided by the commissioner; or

b. Injection through perforations in the intermediate or production casing may be authorized provided that intermediate or production casing is set and cemented at least 200 feet below the base of the lowermost USDW, except as otherwise provided by the commissioner.

2. Surface casing open hole injection may be approved provided the surface casing is set and cemented at least 200 feet below the lowermost USDW and a cement plug of at least 100 feet has been placed across the uppermost potential hydrocarbon bearing zone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2805 (December 2000).

§317. Requirements for Community Saltwater Disposal Wells and Systems

A. The use of a legally permitted saltwater disposal well and system for community saltwater disposal purposes is prohibited unless the disposal well system operator submits a statement of noncommercial operation and the information requested in §317.B below to the Office of Conservation. Such statement must indicate that the operators using the community saltwater disposal system share only in the cost of operating and maintaining the well and related storage tanks and equipment (system).

B. The operator of an existing or proposed community saltwater disposal well and system must submit the following information to the Office of Conservation:

1. the name of the community saltwater disposal system including the disposal well name(s) and number(s), serial number(s), field, and section, township, and range;
2. a list of the operators using the community saltwater disposal system;
3. a list of the producing wells (well name, number, and serial number) from which saltwater going into the community saltwater system is generated;
4. the approximate number of barrels per month of saltwater received from each producing well;
5. the method of transportation of the saltwater to the community system (i.e., truck, pipeline, etc.).

C. Within six months of the effective date of this amendment and annually thereafter, the operator of an existing community saltwater disposal system shall report the information required in §317.B above to the Office of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2806 (December 2000).

§319. Exceptions

A. The commissioner may grant an exception to any provision of this amendment upon proof of good cause. The operator must show proof that such an exception will not endanger USDW's.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2806 (December 2000).

§321. Effect on Existing Special Orders

A. This Order shall supersede §129 of Office of Conservation Statewide Order No. 29-B (effective November 1, 1967). Any existing special orders authorizing disposal of saltwater under conditions which do not meet the requirements hereof shall be superseded by this amendment and the operator shall obtain authority for such disposal after complying with the provisions hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2806 (December 2000).

§323. Applicability

A. All oil and gas and commercial facility operators shall be required to comply with applicable portions of this amendment within 90 days of the effective date, provided that all existing commercial facility operators shall be exempt from all permit application and public hearing requirements under §507 of this Order. Failure to comply with this requirement in a timely manner will subject an operator to the suspension or revocation of his permit and/or the imposition of penalties pursuant to R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2807 (December 2000).

Chapter 4. Pollution Control (Class II Injection/Disposal Well Regulations)

§401. Definitions (reserved)

§403. Permits Required

A. Permits are required for wells which inject fluids:

1. which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

2. for enhanced recovery of oil and natural gas; and

3. for storage of hydrocarbons which are liquid at standard temperature and pressure.

B. Sub-surface injection or disposal by use of a well as described in §403.A.1 above is prohibited unless authorized by permit or rule. This authorization shall be conditioned upon the applicant taking necessary or corrective action to protect underground sources of drinking water as specified by the commissioner. *Underground source of drinking water (USDW)* means an aquifer or its portion:

1. which supplies any public water system; or

2. which contains a sufficient quantity of ground water to supply a public water system; and

a. currently supplies drinking water for human consumption; or

b. contains fewer than 10,000 mg/1 total dissolved solids; and

3. which is not an exempted aquifer (see LAC 43:XVII.103.H).

C. Existing enhanced recovery, saltwater disposal, and liquid hydrocarbon storage wells are authorized by rule and are not required to reapply for a new permit. However, they are subject to the provisions of Subsection 419.C.

D. The provisions and requirements of this Section shall apply to underground injection by federal agencies or any other person whether or not occurring on property owned or leased by the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2807 (December 2000).

§405. Application Requirements for New Enhanced Recovery Injection and New Saltwater Disposal Wells

A. Each application for the approval of a new enhanced recovery injection well or disposal well shall be filed on Form MD-10-R and shall be verified by a duly authorized

representative of the operator. The original and one copy of the application and two complete sets of attachments shall be furnished to the commissioner. An application for the approval of an injection well which is a part of a proposed enhanced recovery operation may be consolidated with the application for the approval of the enhanced recovery project (see §407.B.4).

B. The application for the approval of an enhanced recovery injection or disposal well or wells shall be accompanied by:

1. a map showing the disposal well or enhanced recovery project area for which a permit is sought and the applicable area of review (for individual wells **3** mile radius; for enhanced recovery projects **C**the project area plus a circumscribing area the width of which is **3** mile) and the following information:

a. within the area of review, the map must show the number or name and location of all existing producing wells, injection wells, abandoned wells and dry holes;

b. identification of the surface owner of the land on which the enhanced recovery injection or disposal is to be located within the area of review;

c. identification of each operator of a producing leasehold within the area of review;

d. the map may also show surface bodies of water, mines (surface and subsurface), quarries and other pertinent surface features including residences and roads, and faults if known or projected; and

e. only information on file with the Office of Conservation and pertinent information known to the applicant is required to be included on this map;

2. if the well has been drilled, a copy of the Well History and Work Resume Report (WH-1) and any available electric or radioactive log of the well. A descriptive statement of the proposed zone to be used for injection or disposal. The approximate depth of said zone in the case of undrilled wells along with an electric or radioactive log of a nearby well, if available;

3. a schematic diagram of the well showing:

a. the total depth, drilled out depth or plugged back depth of the well;

b. the depth of the top of the injection or disposal interval;

c. the geological name of the injection or disposal zone;

d. the depths of the tops and bottoms of the casing and amount of cement used to cement each string of casing (Every well used for injection shall be cased, cemented and tested in accordance with Subsections 415 and 419 of this Order.);

e. the size of the casing and tubing, and the depth of the packer; and

f. the depth of the base of the deepest USDW;

4. information showing that injection into the proposed zone will not initiate fractures through the overlying strata which could enable the injection fluid or formation fluid to enter an underground source of drinking water. This requirement will be satisfied upon proper demonstration by the applicant that the pressure in the well at the depth of injection shall not exceed 75 percent of the pressure needed to fracture the formation;

5. proposed operating data:

- a. daily injection rates and pressures;
- b. geologic names, depths and location of injection fluid sources;
- c. qualitative and quantitative analysis of water from two or more existing water wells within one-quarter mile of proposed enhanced recovery injection or disposal well or wells. Give location of said water wells and date(s) samples were taken, or statement why samples were not submitted;
- d. qualitative and quantitative analysis of representative sample of water to be injected;
- e. geological name of injection zone and vertical distance separating top of injection zone from base of the deepest USDW, and a geological description of each major separating bed including individual bed thickness; and
- f. geological name, if known, and depth of the base of the deepest USDW.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2807 (December 2000).

§407. Application Requirements for Enhanced Recovery Projects

A. An enhanced recovery project shall be permitted only by order of the commissioner after notice and public hearing.

B. The application for a permit authorizing an enhanced recovery project shall contain the following:

- 1. the names and addresses of the operator or operators of the project;
- 2. in addition to the information on the map required in §405.B.1 above, show the lease, group of leases, unit or units included within the proposed project;
- 3. the common source or sources of supply in which all wells are currently completed;
- 4. the name, description and depth of each common source of supply to be affected;
- 5. a log of a representative well completed in the common source or sources of supply;
- 6. a description of the existing or proposed casing programs for injection wells, and the proposed method of testing all casing;
- 7. a description of the injection medium to be used, its source or sources and the estimated amounts to be injected daily;
- 8. for a project within an allocated pool, a tabulation showing recent gas-oil ratios and oil and water production tests for each of the producing oil and/or gas wells;
- 9. the proposed plan of development of the area included within the project; and
- 10. a schematic diagram of existing and/or proposed injection well(s) as set out in §405.B.3 of this Order.

C. A copy of the application shall be mailed to each operator offsetting the project as shown on the application within five days after the application is filed. An affidavit of compliance with this rule shall be filed on or before the hearing.

D. Injectivity Tests and Pilot Projects

1. Injectivity Test. The commissioner may administratively approve for a period of one week an injectivity test in order to determine the injection rate,

injectivity index, and/or pressure analysis of a well for enhanced recovery.

a. Requests for injectivity tests must include the following:

- i. well name and number;
- ii. serial number;
- iii. Form WH-1 of the well;
- iv. schematic diagram of the well;
- v. sand, reservoir, and field;
- vi. brief discussion of the proposed test.

b. The commissioner must be provided with the results of the injectivity test after completion.

2. Pilot Projects. The commissioner may administratively approve pilot projects for enhanced recovery for a period of six months from the date of initiation of injection.

a. Requests for pilot projects must include Form UIC-2 EOR for each well to be used for injection within the project and such additional information the commissioner deems necessary to justify the approval of the pilot project.

b. Wells used for injection within the pilot project are exempt from the provisions of §409 of this Order.

c. Within 10 days of initiation of injection the operator must notify the commissioner in writing the date injection actually commenced.

d. To continue operation beyond the six-month pilot project approval, the operator must obtain approval of an enhanced recovery project (prior to the expiration date of the administratively approved six-month pilot project) pursuant to the rules of procedure for conducting hearings before the Commissioner of Conservation, R.S. 30:5(C), R.S. 30:6, and §405.A and B, §407.A, B, and C of this Order.

e. In the event the pilot project is unsuccessful, the operator must submit a letter to the commissioner requesting termination of such project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2808 (December 2000).

§409. Permit Notice Requirements

A. Applications for saltwater disposal, enhanced recovery wells or projects, and other Class II facilities shall be advertised in the official state journal.

B. Notice requirements for commercial saltwater facilities can be found in LAC 43:XIX, Chapter 5 of this Order.

C. Public Hearings

1. If any person protests the application for a saltwater disposal or other Class II facility by filing written comments with the commissioner within 15 days following publication of notice, the application shall be set for public hearing at the election of the applicant or the commissioner.

2. All enhanced recovery well or project applications shall be approved only after a 30-day comment period and public hearing. The notice of hearing shall be mailed out to each interested owner and to each interested party.

D. The commissioner may administratively approve or deny the application for a Class II well other than an enhanced recovery well or project, after review, without a public hearing if there are no comments received during the application comment period. If the commissioner denies

administrative approval, the operator shall have a right to a public hearing on the decision.

E. Response to Comments

1. At the time that any final permit is issued, following a public hearing, the commissioner shall issue a response to comments. This response shall briefly describe and respond to all significant comments on the permit application raised during the public comment period, or during any hearing.

2. The response to comments shall be available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2808 (December 2000).

§411. Duration of Permits

A. Permits authorizing injection into enhanced recovery injection wells and disposal wells shall remain valid for the life of the well, unless revoked by the commissioner for just cause.

B. A permit granting underground injection may be modified, revoked and reissued, or terminated during its term for cause. This may be at the request of any interested person or at the commissioner's initiative. All requests shall be in writing and shall contain facts or reasons supporting the request.

C. A permit may be modified, revoked and reissued, or terminated after notice and hearing, if:

1. there is a substantial change of conditions in the enhanced recovery injection well or the disposal well operation, or there are substantial changes in the information originally furnished;

2. information as to the permitted operation indicates that the cumulative effects on the environment are unacceptable, such as pollution of USDW's;

3. there are substantial violations of the terms and provisions of the permit; and

4. the operator has misrepresented any material facts during the permit issuance process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2809 (December 2000).

§413. Transfer of Permits.

A. A permit authorizing an enhanced recovery injection well or disposal well shall not be transferred from one operator to another without the approval of the commissioner (Form MD-10-R-A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2809 (December 2000).

§415. Construction Requirements For New Wells

A. Each new enhanced recovery injection well or disposal well shall be completed, equipped, operated and maintained in a manner that will prevent endangerment of USDW's or damage to sources of oil or gas and will confine injected fluids to the interval or intervals approved.

B. The casing and cementing program shall conform to the following requirements:

1. surface casing set through the base of the deepest USDW and cemented back to the surface in accordance with §109.B.1 of this Order; and

2. long string casing shall be cemented above the injection zone in accordance with §109.D.3 of this Order.

C. Tubing and Packer. New wells drilled or existing wells converted for disposal after the effective date of this rule shall be equipped with tubing set on a mechanical packer. Packers shall be set no higher than 150 feet above the top of the disposal zone.

D. Pressure Valves. The wellhead shall be equipped with aboveground pressure observation valves on the tubing and for each annulus of the well; said valves will be equipped with 2-inch female fittings. Operators of existing wells shall comply with this requirement by no later than six months after adoption of this amendment.

E. Well History. Within 20 days after the completion or conversion of a disposal well, the owner or operator shall file in duplicate to the commissioner a completed form WH-1.

§417. Monitoring and Reporting Requirements

A. The operator shall monitor injection pressure and injection rate of each enhanced recovery injection well or disposal well on a monthly basis with the results reported annually on Form UIC-10.

B. The operator shall report on Form UIC-10 any casing annulus pressure monitoring used in lieu of pressure testing and any other casing annulus pressure test performed.

C. All reports submitted to the Office of Conservation shall be signed by a duly authorized representative of the operator.

D. The operator of an enhanced recovery injection well or disposal well shall, within 30 days, notify the commissioner of the date upon which injection or disposal commenced.

E. The operator shall request permission from the commissioner for suspension of injection if an injection well or project is to be removed from service for a period of six months or more, and give reasons or justification for such suspension of injection. Said permission shall not exceed one year. After one year, the well or well(s) in a project shall be plugged and abandoned as outlined in §137 of this Order. The operator may request a hearing for an extension exceeding one year. Wells required for standby service, provided they meet all requirements for wells in active service, are exempt from the plugging requirements of this Subsection.

F. The operator shall, within 30 days notify the commissioner of the date injection into an enhanced recovery injection well, enhanced recovery injection project or disposal well is terminated permanently and the reason therefore; at which time the permit authorizing the well or project shall expire. Notification of project injection termination must be accompanied by an individual well status report for all project injection wells.

G. Mechanical failures or downhole problems which indicate an enhanced recovery injection well or disposal well is not, or may not be, directing the injected fluid into the permitted or authorized injection zone may be cause to shut-in the well. If said condition may endanger a USDW, the operator shall orally notify the commissioner within 24 hours at (225) 342-5515. Written notice of this failure shall

be submitted to the Office of Conservation within five days of the occurrence together with a plan for testing and/or repairing the well. Results of such testing and well repair shall be included in the annual monitoring report to the commissioner. Any mechanical downhole well repair performed on the well not previously reported shall also be included in the annual report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2809 (December 2000).

§419. Logging and Testing Requirements

A. New Wells

1. Before operating a new well drilled for enhanced recovery injection or saltwater disposal, the casing outside the tubing shall be tested under the supervision of the Office of Conservation at a pressure not less than the maximum authorized injection pressure, or at a pressure of 300 psi, whichever is greater.

2.a. If open-hole logs of a nearby well were not run through the lowermost USDW, a new well shall be logged from the surface to the total depth before casing is set.

b. If such logs exist for a nearby well, the new well need only be logged electrically below the surface casing before the long string is set.

3. After cementing the casing, a cement bond log, temperature survey, xray log, density log or some other acceptable test shall be run to assure there are no channels adjacent to the casing which will permit migration of fluids up the wellbore from the disposal formation to the lowermost USDW. The casing program shall be designed for the lifetime of the well.

B. Converted Wells. Before operating an existing well newly converted to enhanced recovery injection or disposal, the casing outside the tubing shall be tested under supervision of the Office of Conservation at a pressure of 1000 psi or maximum authorized injection pressure, whichever is less, provided no testing pressure shall be less than 300 psi.

C. Existing Wells

1. An injection well has mechanical integrity if:

a. there is no significant leak in the casing, tubing or packer; and

b. there is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection wellbore.

2. One of the following methods must be used to evaluate the absence of significant leaks under §419.C.1.a above:

a. monitoring of annulus pressure; or

b. pressure test with liquid; or

c. records of monitoring showing the absence of significant changes in the relationship between injection pressure and injection flow rate for the following enhanced recovery wells:

i. existing wells completed without a packer provided that a pressure test has been performed and the data is available and provided further that one pressure test shall be performed at a time when the well is shut down and if the running of such a test will not cause further loss of significant amounts of oil or gas; or

ii. existing wells constructed without a longstring casing, but with surface casing which terminates at the base of the lowest USDW provided that local geological and hydrological features allow such construction and provided further that the annular space shall be visually inspected. For these wells, the commissioner shall prescribe a monitoring program which will verify the absence of significant fluid movement from the injection zone into an USDW.

3. One of the following methods must be used to determine the absence of significant fluid movement under §419.C.1.b above:

a. cementing records demonstrating the presence of adequate cement to prevent such migration; or

b. the results of a temperature or noise log.

4. The commissioner may approve a request for the use of a test to demonstrate mechanical integrity other than those listed in §419.C.2 and 3 above, if the proposed test will reliably demonstrate the mechanical integrity for wells for which its use is proposed.

5. Each disposal and enhanced recovery well shall demonstrate mechanical integrity at least once every five years. The commissioner will prescribe a schedule and mail notification to operators to allow for orderly and timely compliance with this requirement.

D. The operator shall notify the commissioner at least 48 hours prior to the testing. Testing shall not commence before the end of the 48-hour period unless authorized by the commissioner. The commissioner may authorize or require alternative tests or surveys as is deemed appropriate and necessary.

E. A complete record of all mechanical integrity pressure tests shall be made out, verified and filed in duplicate on the Form PLT# 1 within 30 days after the testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2810 (December 2000).

§421. Confinement of Fluids.

A. If the operator or the commissioner determines that the disposal operation is causing fluid to enter an unauthorized stratum or to escape to the land surface, the operator shall shut-in the disposal well immediately and notify the commissioner by telephone within 24 hours at (225) 342-5515. Injection into the disposal well shall not be resumed until the commissioner has determined that the well is in compliance with all material permit conditions. If the certificate of compliance is not issued within 90 days, the permit shall be canceled and the disposal well shall be plugged and abandoned in accordance with §137.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2810 (December 2000).

§423. Plugging Requirements

A. Enhanced recovery injection wells and disposal wells shall be plugged in accordance with the provisions of the commissioner's rules governing the plugging of oil and gas wells, as found in §137.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2810 (December 2000).

§425. Liquid Hydrocarbon Storage Wells

A. Authorization for the use of salt dome cavities for storage of liquid hydrocarbons is provided in Statewide Order No. 29-M.

B. Authorization for all other liquid hydrocarbon storage wells will be granted by the commissioner after notice and hearing, provided there is a finding that the proposed operation will not endanger USDW's.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000).

§427. Filing Fee

A. A filing fee of \$100 shall be attached to each application for a saltwater disposal well or enhanced recovery project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000).

§429. Annular Disposal

A. The commissioner may approve annular disposal of saltwater for a period of one year. The applicant shall provide the commissioner a radioactive tracer survey (accompanied by an interpretation of the survey by the company who performed the test) to prove that the injected fluid is entering the correct zone and there are no leaks in the casing. The applicant shall furnish the commissioner an economic study of the well and the economics of alternative methods for disposal of the produced saltwater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000).

§431. Exceptions

A. The commissioner may grant an exception to any provision of this amendment upon proof of good cause. The operator must show proof that such an exception will not endanger USDW's.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000).

§433. Reserved

§435. Reserved

§437. Reserved

§439. Reserved

§441. Effect on Existing Special Orders

A. This Order shall supersede §129 of Office of Conservation Statewide Order No. 29-B (effective November 1, 1967). Any existing special orders authorizing disposal of saltwater under conditions which do not meet the requirements hereof shall be superseded by this amendment and the operator shall obtain authority for such disposal after complying with the provisions hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000).

§443. Applicability

A. All oil and gas and commercial facility operators shall be required to comply with applicable portions of this amendment within 90 days of the effective date, provided that all existing commercial facility operators shall be exempt from all permit application and public hearing requirements under §507 of this Order. Failure to comply with this requirement in a timely manner will subject an operator to the suspension or revocation of his permit and/or the imposition of penalties pursuant to R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000).

Chapter 5. Off-site Storage, Treatment and/or Disposal of Nonhazardous Oilfield Waste Generated From Drilling and Production of Oil and Gas Wells

(Note: Onsite disposal requirements are listed in LAC 43:XIX, Chapter 3)

§501. Definitions

Application Phase Can identifiable period of time during which NOW waste receipts are applied to a land treatment cell.

Cell Can earthen area constructed within a land treatment facility used for the placement, treatment, disposal and degradation of nonhazardous oilfield waste.

Closed System Ca system in which nonhazardous oilfield waste is stored in enclosed tanks or barges prior to being treated and/or disposed of. Pits are not utilized in a closed system.

Commercial Facility Ca legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of nonhazardous oilfield waste for a fee or other consideration.

Commissioner Cthe commissioner of Conservation of the state of Louisiana.

Community Saltwater Disposal Well or System Ca saltwater disposal well within an oil or gas field which is used by operators in the field or adjacent fields for disposal of their produced water.

Generator Cany person or entity who generates or causes to be generated any nonhazardous oilfield waste (NOW), sometimes referred to as "operator."

Groundwater Aquifer Cas defined in §301.

Inactive Cell Ca land treatment cell which is not used for NOW receipts or has been taken out of service by a land treatment facility. Such cell may be considered inactive only if it is a new cell which has not yet received waste or an existing cell which is in compliance with the applicable testing criteria of this Chapter.

Land Treatment Ca dynamic process involving the controlled application of nonhazardous oilfield waste onto or into the aerobic surface soil horizon by a commercial facility, accompanied by continued monitoring and management, to alter the physical, chemical, and biological state of the waste. Site, soil, climate, and biological activity interact as a system to degrade and immobilize waste constituents thereby rendering the area suitable for the

support of vegetative growth and providing for beneficial future land use.

Offsite Cfor purposes of this Section, outside the confines of a drilling unit for a specific well or group of wells, or in the absence of such a unit, outside the confines of a lease or contiguous property owned by the lessor upon which a well is drilled.

NOW Cnonhazardous oilfield waste.

Nonhazardous Oilfield Waste (NOW) Cwaste generated by the drilling and production of oil and gas wells and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations. Such wastes include the following:

1. salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations;
2. oil-base drilling mud and cuttings;
3. water-base drilling mud and cuttings;
4. drilling, workover and completion fluids;
5. production pit sludges;
6. production storage tank sludges;
7. produced oily sands and solids;
8. produced formation fresh water;
9. rainwater from ring levees and pits at production and drilling facilities;
10. washout water generated from the cleaning of vessels (barges, tanks, etc.) that transport nonhazardous oilfield waste and are not contaminated by hazardous waste or material;
11. washout pit water from oilfield related carriers that are not permitted to haul hazardous waste or material;
12. nonhazardous natural gas plant processing waste which is or may be commingled with produced formation water;
13. waste from approved salvage oil operators who only receive waste oil (BS&W) from oil and gas leases;
14. pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pig water, i.e., waste fluids generated from the cleaning of a pipeline;
15. wastes from permitted commercial facilities;
16. material used in crude oil spill clean-up operations.

Oil-Based Drilling Muds Cany oil-based drilling fluid composed of a water in oil emulsion, organophillic clays, drilled solids and additives for down-hole rheology and stability such as fluid loss control materials, thinners, weighting agents, etc.

Pit Can earthen surface impoundment constructed to retain nonhazardous oilfield waste, often referred to as a pond or lagoon.

Reusable Material Ca material that would otherwise be classified as nonhazardous oilfield waste, but which is capable of resource conservation and recovery and has been processed in whole or in part for reuse. To meet this definition, the material must have been treated physically, chemically, or biologically or otherwise processed so that the material is significantly changed (i.e., the new material is physically, chemically, or biologically distinct from the original material), and meets the criteria of §515.F.

Salt Water (Produced Brine) Cproduced water from an oil or gas well with a chloride content greater than 500 ppm.

Transfer Station Ca nonhazardous oilfield waste receiving and storage facility, located offsite, but operated at an approved location in conjunction with a permitted commercial facility, which is used for temporary storage of manifested nonhazardous oilfield waste for a period of 30 days or less.

Transporter Ca legally permitted carrier of nonhazardous oilfield waste contained in trucks, barges, boats, or other transportation vessels.

Treatment Phase Cthe period of time during which NOW in a land treatment cell is physically manipulated and/or chemically altered (through the addition of chemical amendments, etc.) to bring the cell into compliance with the testing criteria or reuse criteria of this Chapter.

Treatment Zone Cthe soil profile in a land treatment cell that is located wholly above the saturated zone and within which degradation, transformation, or immobilization of NOW waste constituents occurs. The treatment zone is subdivided as follows.

a. **Waste Treatment Zone (WTZ)** Cthe active waste treatment area consisting solely of the NOW solids applied to a land treatment cell during the application phase, exists entirely above grade (original cell bottom), and whose actual depth depends on the solids content of the NOW applied. For monitoring purposes the WTZ represents the 0-12" depth increment.

b. **Upper Treatment Zone (UTZ)** Cthe waste/native soil (original cell bottom) interface in a land treatment cell where some disturbance occurs as a result of waste treatment/manipulation. For monitoring purposes, the UTZ represents the 12-24" depth increment.

c. **Lower Treatment Zone (LTZ)** Cthe zone beneath the UTZ in a land treatment cell from approximately 24-54" (or to the top of the subsurface drainage system) which remains undisturbed throughout the life of a land treatment cell.

Type A Facility Ca commercial oilfield waste disposal facility within the state that utilizes technologies appropriate for the receipt, treatment, storage or disposal of oilfield waste solids and liquids for a fee or other consideration. Such facility may include not more than three underground injection wells at the permitted facility.

Type B Facility Ca commercial oilfield waste disposal facility within the state that utilizes underground injection technology for the receipt, treatment, storage and disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration. Such facility may include not more than three underground injection wells at the permitted facility.

Water-Based Drilling Muds Cany water-based fluid composed of fresh water, naturally occurring clays, drilled solids and additives for fluid loss control, viscosity, thinning, pH control, weight control, etc., for down-hole rheology and stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000).

§503. Offsite Storage, Treatment, and/or Disposal of Nonhazardous Oilfield Waste at Commercial Facilities

A. Generators of Nonhazardous Oilfield Waste

1. For NOW taken offsite for storage, treatment, or disposal, the generator is responsible for the proper handling and transportation of such waste to assure its proper delivery to an approved commercial facility. Failure to properly transport such waste shall subject the generator to penalties provided for in R.S. 30:18. Each shipment must be documented as required by §511.

2. Any spills which occur during the offsite transportation of NOW shall be reported to the Office of Conservation, including the appropriate state and federal agencies, within 24 hours of the spill.

3. Operators (generators) are required to report the discovery of any unauthorized disposal of NOW by transporters, pit treaters, or any other oilfield contracting company.

4. Within six months of the completion of the drilling or workover of any permitted well, the operator (generator) shall certify to the commissioner the type(s) and number of barrels of NOW generated, the disposition of such waste, and certify further that such disposition was in accordance with applicable rules and regulations of this office. Such certification shall become part of the well's permanent history.

B. Approval of Commercial Facility Required. The storage, treatment, and/or disposal of NOW by a commercial facility must be approved by the commissioner as provided in this Section. Subsurface disposal of salt water is required and regulated by LAC 43:XIX, Chapter 4. The requirements of this Section do not apply to either lease saltwater disposal wells or to community saltwater disposal wells. The unpermitted or authorized storage, treatment, disposal or discharge of NOW is prohibited and is a violation of these rules.

C. Approval of Transfer Station Required. The construction and operation of a transfer station must be approved by the commissioner upon submission of a permit application according to the requirements of §505.G.

D. Location Criteria. Commercial facilities and associated saltwater disposal wells may not be located in any area:

1. where the disposal well or related storage tanks, pits, treatment facilities or other equipment are within 500 feet of a residential, commercial, or public building, unless adherence to this requirement is waived by the owner of the building, or in the case of a public building, by the responsible administrative body. Any such waiver shall be in writing and must be made part of the permit application;

2. where the subsurface geology of any proposed injection zone (reservoir) does not exhibit the following characteristics:

a. adequate thickness and areal extent of the proposed injection zone; and

b. adequate clay confining beds separating the top of the proposed injection zone and the base of the lowermost underground source of drinking water;

3. where pits or land treatment cells and facilities are located in a "V" or A zone as determined by flood hazard boundary or rate maps and other information published by

the Federal Emergency Management Agency (FEMA) unless adequate levees are constructed to at least one foot above the 100-year flood elevation as certified by a professional engineer or surveyor and able to withstand the velocity of the 100-year flood. Said maps and data are on file and may be viewed by interested parties at the Office of Conservation, Injection and Mining Division, Baton Rouge, La. Existing facilities located in a "V" or A zone will be required to build facility levees above the 100-year flood elevation as certified by a professional engineer or land surveyor. As conditions change and new data is made available by FEMA, owners of existing commercial facilities will be required to update their facilities accordingly;

4. where such area, or any portion thereof, has been designated as wetlands by the U.S. Corps of Engineers during, or prior to, initial facility application review;

5. where other surface or subsurface conditions exist which in the determination of the Commissioner of Conservation would cause the location to pose a threat of substantial, adverse effects on the environment at or near the location.

E. Design Criteria

1. Commercial facilities, associated saltwater disposal wells, and transfer stations shall be designed in such a manner as to prevent the movement of waste materials into groundwater aquifers or underground sources of drinking water (USDW's) or to prevent the discharge of waste materials into man-made or natural drainage or directly into state waters unless a discharge permit has been received from the appropriate state or federal agency.

2. Commercial facilities and transfer stations shall be designed and constructed in accordance with, but not limited to, the following requirements:

a. this Chapter and other applicable Sections of this order;

b. retaining walls (levees) shall be built around all above-ground storage tanks to a level that will provide sufficient capacity to retain the contents of each tank and prevent the escape of stored wastes due to tank leakage, or some other cause;

c. spill containment systems shall be built around unloading areas to prevent the escape of any wastes spilled during off-loading; and

d. limited access shall be provided by a lockable gate system. In addition, the need for a 6-foot chain-link fence around an entire facility or any portion of a facility will be determined after a site investigation by the commissioner or his designated representative. Gates shall be locked except during the hours a facility is permitted to receive nonhazardous oilfield waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2813 (December 2000).

§505. Permit Application Requirements for Commercial Facilities and Transfer Stations

A. Application and Permit Required. Every person who intends to construct and operate a new offsite commercial facility, or make a major modification to an existing facility, shall file a permit application with the Office of Conservation.

B. Notice of Intent

1. At least 30 days prior to filing such application, the applicant shall publish a notice of intent to apply. Such notice shall contain sufficient information to identify the following:

- a. name and address of the applicant;
- b. the location of the proposed facility;
- c. the nature and content of the proposed waste stream(s);
- d. the method(s) of storage, treatment, and/or disposal to be used.

2. The notice of intent shall be published in both the official state journal, *The Advocate*, and the official journal of the parish in which the proposed facility will be located.

3. Such notice shall be in bold-face type and not less than one-quarter page in size and shall be published on three separate days in each journal.

C. General Information. Except for the filing and hearing fees, the following general information must be provided in duplicate in each application for approval to operate a commercial facility:

1. a \$500 nonrefundable filing fee;
2. a \$600 nonrefundable hearing fee;
3. a list of names and addresses of the principal officers of the company or corporation;
4. documentation of compliance with the location criteria of §503.D.1. Provide a list of the names and addresses of all property owners, residents, off-set operators and industrial facilities within one-quarter mile of the proposed facility or disposal well. Include copies of waivers where applicable. Names and addresses of local governing authorities must also be included. Attached to this list must be a simplified drawing (map) showing the following information:
 - a. property boundaries of the commercial facility;
 - b. the boundaries and ownership of all land adjacent to the commercial facility;
 - c. the location and identification of all storage tanks and/or pits, treatment facilities, the disposal well, and all residential, commercial, or public buildings within one-quarter mile of the facility;
5. for operators proposing the construction and operation of a disposal well, complete the appropriate application form, including all required attachments;
6. a copy of the title to the property upon which the facility will be located. If a lease or other agreement is in effect on the property, a copy of this instrument shall be included in the application;
7. a parish map of sufficient scale to identify the location of the proposed facility;
8. a detailed statement of the proposed method of operation of the facility, including procedures for the receipt, storage, treatment and/or disposal of wastes. This statement shall include a complete explanation of procedures for witnessing the receipt, sampling, and testing of wastes to assure that only permitted nonhazardous oilfield wastes are accepted;
9. documentation that the facility and/or disposal well will have limited access through a lockable gate system with appropriate fencing.
10. Financial Responsibility (Insurance)

a. Evidence of financial responsibility for any liability for damages which may be caused to any party by the escape or discharge of any material or waste from the commercial facility or transfer station must be provided by the applicant prior to issuance of a permit.

b. Financial responsibility may be evidenced by filing a certificate of insurance (indicating the required coverage is in effect and all deductible amounts applicable to the coverage), letter of credit, bond, certificate of deposits issued by and drawn on Louisiana banks, or any other evidence of equivalent financial responsibility acceptable to the commissioner.

c. In no event shall the amount and extent of such financial responsibility be less than the face amounts per occurrence and/or aggregate occurrences as set by the commissioner below:

- i. \$1,000,000 minimum coverage for facilities which operate open pits; or
- ii. \$500,000 minimum coverage for any other commercial facility which stores, treats or disposes of nonhazardous oilfield waste solids (i.e. oil- or water-base drilling fluids, etc.); or
- iii. \$250,000 minimum coverage for a commercial salt water disposal facility which utilizes underground injection and a closed storage system; and
- iv. \$100,000 minimum coverage for each transfer station operated in conjunction with a legally permitted commercial facility subject to the guidelines of this Paragraph.

Note: The commissioner retains the right to increase the face amounts set forth above as needed in order to prevent waste and to protect the public health, safety, and welfare.

d. If insurance coverage is used to meet the financial responsibility requirement, it must be provided by a company licensed to operate in the state of Louisiana.

e. For a commercial facility which operates open earthen pits, such insurance must provide sudden and accidental pollution liability coverage as well as environmental impairment liability coverage.

f. For any commercial facility or transfer station which does not operate open earthen pits, such insurance must provide sudden and accidental pollution liability coverage.

g. The application shall contain documentation of the method by which proof of financial responsibility will be provided by the applicant. Where applicable, include copies of a draft letter of credit, bond, or any other evidence of financial responsibility acceptable to the commissioner.

h. Prior to making a final permit decision, final (official) documentation of financial responsibility must be submitted to and approved by the commissioner.

i. A copy of the insurance policy subsequently issued in conjunction with any certificate of insurance is to be immediately filed with the Office of Conservation upon receipt by the operator.

j. Such documentation of financial responsibility must be renewable on April 1 of each year. Existing facilities must comply with this requirement upon the next renewal date.

11. Provisions for Adequate Closure (Bonding)

a. Documentation that a bond or irrevocable letter of credit will be provided for adequate closure of the facility. Such documentation shall be provided as follows:

i. Submission of a detailed cost estimate for adequate closure of the proposed facility. This cost estimate must include a detailed description of proposed future closure procedures including, but not limited to, plugging and abandonment of the disposal well(s) (if applicable), plugging of any monitor wells according to applicable state regulations, closing out any pits or land treatment cells, removing all surface equipment, and returning the environment as close as possible to its natural state. The closure plan and cost estimate must be prepared by an independent professional consultant, must include provisions for closure acceptable to the commissioner, and must be designed to reflect the costs to the commissioner to complete the approved closure of the facility.

ii. Submission of a draft irrevocable letter of credit or bond in favor of the state of Louisiana and in a form which includes wording acceptable to the commissioner.

b. Upon completion of the application review process, the commissioner will set the amount of the required bond or irrevocable letter of credit.

c. The bond or letter of credit must then be submitted to and approved by the commissioner prior to issuance of a final permit decision.

d. The bond or letter of credit must be renewable on October 1 of each year. Existing facilities must comply with this requirement upon the next renewal date.

12. Verification that a discharge permit has been obtained from the appropriate state or federal agencies or copies of any applications submitted to such agencies. If a facility does not intend to discharge treated waste water or other water, a completed and notarized Affidavit of No Discharge must be provided.

13. In order to document compliance with the location criteria of §503.D.2, commercial facilities which propose to permit a disposal well must provide strike and dip geologic cross sections intersecting at the location of the disposal well for which a permit is sought. These cross sections must include, at a minimum, available log control, geologic units, and lithology from the surface to the lower confining bed below the injection zone. The sections shall be on a scale sufficient to show the local geology in at least a two-mile radius from the proposed disposal well. The following information must be included on these cross-sections:

- a. the base of underground sources of drinking water (USDW's);
- b. the vertical and lateral limits of the proposed injection zone (reservoir);
- c. the vertical and lateral limits of the upper and lower confining beds; and
- d. the location of faults or other geologic structures.

14. A list of all other licenses and permits needed by the applicant to conduct the proposed commercial activities. Include identification number of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses.

D. Additional Permit Application Requirements for Closed Systems

1. In addition to the information requested in §505.C above, the following information must be provided in duplicate in each application for approval of a closed system: A detailed schematic diagram of the proposed facility of sufficient scale to show placement of access roads, buildings, unloading areas, storage tanks or barges (including design capacities), treatment system, levees, flow lines, filters, the injection well and all other equipment and operational features of the storage, treatment and/or disposal system.

2. Documentation of compliance with the location criteria of §503.D.4.

E. Additional Permit Application Requirements for Commercial Facilities Utilizing Pits for Temporary Storage of NOW Solids. Pits will not be approved for the permanent disposal of NOW. The construction and use of a receiving pit for temporary storage of NOW may be approved if the requirements of this Subparagraph are met. A receiving pit for temporary storage will only be approved for use as a gathering, collection, and/or temporary storage location if specifically designed for use in connection with a NOW treatment system (i.e. land treatment, chemical fixation, physical dewatering, incineration, etc.). Any proposed pit for temporary storage is not to be constructed until a permit for the NOW treatment system has been issued. Such temporary storage pit must be located on the site of the permitted NOW treatment system and such pit may not exceed a design capacity of more than 50,000 barrels. In addition to the information requested in §505.C above, the following information must be provided in duplicate in each application for approval of a commercial facility incorporating the use of a pit.

1. A detailed schematic diagram of the proposed facility of sufficient scale to show placement of access roads, buildings, unloading areas, monitor well(s), pits, storage tanks, treatment system, flow lines, filters, the injection well and all other equipment and operational features of the storage, treatment, and/or disposal system. The diagram must include the dimensions and design capacity (in barrels) of each proposed pit, tank or barge. The diagram shall also include the following information:

- a. the location and elevation of each soil boring required in §505.E.4 below;
- b. the location and elevation of each monitor well required in §505.E.6 below;
- c. the elevation for the top of each levee;
- d. the elevation of the bottom (base) of each pit;
- e. the elevation of the 100-year flood level;
- f. the general location of groundwater aquifers and USDW's under the site and general direction(s) of area groundwater flow.

2. Documentation of compliance with the location criteria of §503.D.3 and 4.

3. Documentation must be presented which indicates that groundwater and USDW protection shall be provided by one of the following:

- a. a liner along the bottom and sides of pits which has the equivalent of 5 continuous feet of recompacted or natural clay having a hydraulic conductivity no greater than 1×10^{-7} cm/sec. Such liners include, but are not limited to the following:

i. *Natural Liner*—recompacted natural clay having a hydraulic conductivity meeting the requirements of §505.E.3.a above;

ii. *Soil Mixture Liner*—soil mixed with cement, clay-type, and/or other additives to produce a barrier which meets the hydraulic conductivity requirements of §505.E.3.a above;

iii. *Recompacted Clay Liner*—in situ or imported clay soils which are compacted or restructured to meet the hydraulic conductivity requirement of §505.E.3.a above;

iv. *Manufactured Liner*—synthetic material that meets the definition of §301 and is equivalent to or exceeds the hydraulic conductivity requirements of §505.E.3.a above. Pits constructed with a manufactured liner must have side slopes of 3:1 and the liner at the top of the pit must be buried in a 1' wide and 1' deep trench. A sufficient excess of liner material shall be placed in the pit to prevent tearing when filled with NOW;

v. *Combination Liner*—a combination of two or more types of liners described in this Section which meets the hydraulic conductivity requirements of §505.E.3.a above;

b. any other alternate groundwater aquifer and USDW protection system acceptable to the Office of Conservation.

4. The determination of near-surface geological conditions shall be made by soil borings. These borings shall be made prior to construction of any proposed pit. Specific requirements for soil borings and soil testing according to ASTM methods are as follows.

a. Soil borings and soil testing shall be performed by an independent engineering or geotechnical soil testing company or laboratory.

b. The number and locations of borings shall be sufficient to develop an accurate representation of the subsurface conditions at all points beneath the pit(s) and shall be determined in consultation with the commissioner.

c. The soil borings shall be sampled to at least 10 feet below the bottom of the maximum pit excavation, and they must be continuously sampled to at least five feet below maximum excavation.

d. Upon completion of the borings, groundwater levels should be obtained and the boreholes shall be adequately sealed by plugging with a cement/bentonite slurry from the bottom up to the ground surface.

e. The logs of all borings made on-site, together with associated laboratory testing to classify soils and to measure soil strength, permeability and other related parameters, shall be submitted.

5. A cross section showing the proposed placement and type of materials to be used in the construction of the pit levees. The levees must be constructed of soils which are placed and compacted in such a manner as to produce a barrier to horizontal movement of fluids. The levees must be properly tied into the barrier along the bottom and sides of the pits. Actual construction of the levees must be monitored and documented by a professional engineering or geotechnical soil testing company. Documentation that a barrier exists within the levee which consists of at least three feet of soil with a hydraulic conductivity of 1.0×10^{-7} cm/sec or less must be provided. All levees must be provided with a means to prevent erosion and other degradation.

6. A schematic diagram depicting the proposed or actual construction of each monitor well. A minimum of three monitor wells will be required to insure that any seepage into a groundwater aquifer or USDW beneath the pit(s) will be detected prior to leaving the disposal site's perimeter. Monitor wells shall be certified by a professional engineer, hydrologist or geologist as adequate to detect any contamination. Additional monitor wells may be required; the number and location of additional wells will be determined upon review of the pit size(s) and configuration(s) and base line water quality data.

F. Additional Permit Application Requirements for Land Treatment Systems. In addition to the information requested in §505.C, the following information must be provided in duplicate in each application for approval of a commercial facility incorporating the use of land treatment cells:

1. include a detailed description of the site considered for land treatment with relation to the following:

- a. past and present land use;
- b. geology/soil properties/hydrogeology;
- c. drainage and flood control;
- d. hydrologic balance; and
- e. highest seasonal groundwater level;

2. provide a detailed description of the facility design including maps and drawings and a discussion of the following:

- a. site layout;
- b. proposed waste application technique;
- c. drainage control;
- d. proposed waste loading rate; and
- e. expected facility life;

3. submit an explanation of the proposed management plan with reference to the following topics:

- a. sampling and testing of incoming waste;
- b. method of receiving waste;
- c. waste segregation;
- d. application scheduling;
- e. waste-soil mixing; and
- f. proposed land treatment cell and groundwater monitoring plan;

4. provide detailed information concerning closure and post-closure activities and monitoring as follows:

- a. proposed closure procedures;
- b. post-closure maintenance; and
- c. closure and post-closure monitoring;

5. documentation of compliance with the location criteria of §503.D.3 and 4;

6. documentation shall be provided that indicates compliance with the requirements of §513.

G Permit Application Requirements for a Transfer Station

1. The application for construction and operation of a transfer station by an existing Louisiana commercial facility permitted by the Office of Conservation shall include, but may not be limited to the following information:

a. a statement of the proposed method of operation of the transfer station, including, but not limited to, the following:

- i. a description of the storage system;
- ii. a statement as to the method of transportation of waste to and from the transfer station; and

- iii. a statement as to the final disposition of the waste;
- b. documentation that sudden and accidental pollution coverage (liability insurance) in the amount of \$100,000 is in effect for the transfer station;
- c. documentation of compliance with the bonding requirements of §505.C.11;
- d. a parish map of sufficient scale upon which the location of the proposed transfer station is identified;
- e. a schematic drawing showing the following:
 - i. the boundaries of the land, owned or leased, upon which the transfer station is operated;
 - ii. the location and identification of all storage tanks or barges (including design capacities), access roads, buildings, unloading areas, levees, flow lines, filters, and other operational equipment;
- f. a copy of the title of the property upon which the transfer station will be located, or if a lease or other agreement is in effect on the property, a copy must be included in the application;
- g. documentation of compliance with the location criteria of §503.D.1.

2. The application for construction and operation of a transfer station by the operator of an out-of-state, legally permitted commercial facility shall consist of the following:

- a. compliance with the notice of intent requirements of §505.B;
- b. submission of the information required in §505.C;
- c. a detailed schematic diagram of the proposed transfer station of sufficient scale to show the location of access roads, buildings, unloading areas, storage tanks or barges (including design capacities), any treatment system, levees, flow lines, filters, and all other equipment and operational features of the transfer facility;
- d. submission of a copy of any permits issued by the appropriate regulatory agencies of the state in which the out-of-state commercial facility is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2813 (December 2000).

§507. Permitting Procedures

A. The Office of Conservation will review a new commercial facility application or transfer station application within 90 days of receipt and inform the applicant of its completeness.

B. If the application is not complete, the applicant shall be advised of additional information to be submitted for approval or the application shall be returned and the applicant will be required to resubmit the application.

C. Upon acceptance of the application as complete, the Office of Conservation shall set a time and date and secure a location for the required public hearing to be held in the affected parish.

D. At least 30 days prior to the hearing, the applicant is required to file six copies of the complete application with the local governing authority of the parish in which the proposed facility is to be located to be made available for public review.

E. Public Hearing Notice Requirements

1. Upon acceptance of the application as complete, the Office of Conservation shall publish in the next available issue of the *Louisiana Register*, a notice of the filing and the location, date and time of the public hearing to be held in the affected parish. Such public hearing shall not be less than 30 days from the date of notice in the *Louisiana Register*.

2. At least 30 days prior to the scheduled public hearing, the Office of Conservation shall publish in *The Advocate* a notice of the filing of the application and the location, date and time of the hearing.

3. The applicant shall publish a substantially similar notice in the official journal of the affected parish on three separate days at least 15 days prior to the date of the hearing. Such notice shall not be less than one-quarter page in size and printed in bold-face type.

F. The public hearing shall be fact finding in nature and not subject to the procedural requirements of the Louisiana Administrative Procedure Act. All interested persons shall be allowed the opportunity to present testimony, facts, or evidence related to the application or to ask questions.

G Permit Issuance

1. The commissioner shall issue a final permit decision within 90 days of the closing of the public comment period.

2. A final permit decision shall become effective on the date of issuance.

3. Approval or the granting of a permit to construct a commercial facility (and any associated disposal well) shall be valid for a period of one year and if construction is not completed in that time, the permit shall be null and void. Requests for an extension of this one year requirement may be approved by the commissioner for extenuating circumstances only.

H. The application for construction and operation of a new or additional transfer station by an existing commercial facility permitted by the Office of Conservation shall either be administratively approved or denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2817 (December 2000).

§509. Criteria for the Operation of Commercial Facilities and Transfer Stations

A. Commercial facilities and transfer stations shall be operated in compliance with, but not limited to, the following.

1. The area within the confines of tank retaining walls (levees) shall be kept free of debris, trash, and accumulations of oil or other materials which may constitute a fire hazard. Portable gasoline powered engines and pumps must be supervised at all times of operation and stored at least 50' from tank battery firewalls when not in use. Vent lines must be installed on all NOW storage tanks and must extend outside of tank battery firewalls.

2. The area within the confines of tank retaining walls (levees) must be kept free of accumulations of water. This water shall be properly disposed of or discharged in accordance with the conditions of a discharge permit granted by the appropriate state agency.

3. Pit and land treatment cell levees shall be kept free of debris, trash, or overgrowth which would constitute a fire hazard or hamper or prevent adequate inspection.

4. Pit surfaces shall at no time have an accumulation of oil of more than two inches.

5. Pit levels shall be maintained with at least two feet of freeboard at all times.

6. Tank retaining walls (levees) must be constructed of soils which are placed and compacted in such a manner as to produce a barrier to horizontal movement of fluids. The levees must be properly tied into the barrier along the bottom and sides of the levees. All levees must be provided with a means to prevent erosion and other degradation.

B. All facilities and systems of treatment, control, and monitoring (and related appurtenances) which are installed or used to achieve compliance with the conditions of a permit shall be properly operated and maintained at all times.

C. Inspection and entry by Office of Conservation personnel shall be allowed as prescribed in R.S. 30:4.

D. Notification Requirements

1. Any change in the principal officers, management, or ownership of an approved commercial facility must be reported to the commissioner in writing within 10 days of the change.

2. Transfer of Ownership

a. A commercial facility permit may be transferred to a new owner or operator only upon approval by the commissioner.

b. The current permittee shall submit an application for transfer at least 30 days before the proposed transfer date. The application shall contain the following:

- i. name and address of the proposed new owner (permittee);
- ii. date of proposed transfer; and
- iii. a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, insurance coverage, and liability between them.

c. If no agreement described in §509.D.2.b.iii above is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the existing permittee to the new permittee on the date the transfer is approved.

3. Commercial facility and transfer station operators shall give written notice to the commissioner of any planned physical or operational alterations or additions to a permitted facility or proposed changes in the waste management plan. Requests to make such changes must be submitted to and approved by the commissioner prior to beginning construction or accomplishing the change by other means.

4. The operator of a newly approved commercial facility, transfer station, and/or disposal well must notify the commissioner when construction is complete. The operator shall not commence receiving nonhazardous oilfield waste or injecting salt water until the facility has been inspected for compliance with the conditions of the permit and the disposal well has been tested for mechanical integrity.

5. An operator of a commercial facility or transfer station shall report to the commissioner any noncompliance, including but not limited to those which may endanger public health or safety or the environment. Such notice shall be made orally within 24 hours of the noncompliance and followed by written notification within five days explaining details and proposed methods of corrective action.

6. When a commercial facility or transfer station operator refuses to accept a load of waste (other than nonhazardous oilfield waste), he shall notify the Office of Conservation immediately, providing the names of the generator and transporter of the waste.

E. Hours of Receiving

1. Commercial facilities and transfer stations shall be adequately manned during hours of receiving and shall receive nonhazardous oilfield waste by truck during daylight hours only. Daylight hours shall be defined as the daily hours for sunrise and sunset as listed in table Number 1119 entitled "Sunrise and Sunset at Baton Rouge, Louisiana," prepared by the Nautical Almanac Office, United States Naval Observatory, Washington, DC 20390.

2. The commissioner may grant approval for after hours (nighttime) receipt of nonhazardous oilfield waste by a commercial facility or transfer station (by truck) when an emergency condition exists which may endanger public health or safety or the environment. Generators shall be responsible for obtaining prior approval for nighttime hauling by calling the Office of Conservation at (225) 342-5515. When such approval has been granted, the Office of Conservation shall notify both the commercial facility which will receive the waste and the state police.

3. Commercial facilities or transfer stations with barge terminals may receive NOW transported by barge on a 24-hour a day basis.

F. Monitoring of Injection Wells

1. Except during approved workover operations, a positive pressure of no less than 100 psi shall be maintained on the well annulus at all times. In addition, an injection volume recorder (tamper proof meter) must be installed and properly maintained on the injection line of each disposal well system. Injected volumes must be recorded monthly and reported annually on the annual injection well report.

2. Except during approved workover operations, wells shall be equipped with pressure gauges located on the wellhead, and situated so as to monitor the pressure of the injection stream and the pressure of the annular space between the casing and the injection string.

3. The pressure gauges shall have half-inch fittings, be scaled in increments of not more than 10 psi, and be maintained in good working order at all times.

4. A daily pressure monitoring log shall be maintained by the operator of the facility and shall contain the following information:

- a. the date;
- b. the operator's name and address;
- c. the well name, number and serial number;
- d. the monitored injection pressure;
- e. the monitored annulus pressure;
- f. whether or not the well was injecting at the time the pressures were recorded; and
- g. the name or initials of the person logging the information.

5. The pressure gauges shall be read and pressures recorded in the daily log.

6. The daily log information shall be recorded on the appropriate form and submitted to the Office of Conservation within 15 days of the end of each month.

7. Any discrepancies in the monitored pressures, which would indicate a lack of mechanical integrity and

constitute noncompliance with applicable sections of this order, shall be reported to the Office of Conservation within 24 hours.

G Discharges from land treatment cells, pits, tanks, and/or barges into man-made or natural drainage or directly into state waters will be allowed only after the necessary discharge permit has been obtained from the appropriate state and/or federal agencies and in accordance with the conditions of such permit.

H. Monitor Well Sampling and Testing Requirements for Facilities with Temporary Storage Pits

1. Water samples from monitor wells shall be sampled by an independent professional consultant and analyzed by an independent testing laboratory. Samples shall be analyzed for pH, electrical conductivity (EC), chloride (Cl), sodium (Na), total dissolved solids (TDS), total suspended solids (TSS), oil and grease (percent), As, Ba, Cd, Cr, Pb, Hg, Se, Ag, and Zn.

2. Water from newly constructed monitor wells on new facilities shall be sampled and analyzed prior to receipt of waste materials by the facility to provide baseline data for the monitoring system. This data shall be submitted to the Office of Conservation to be made part of the facility's permanent file.

3. Water from monitor wells on existing facilities shall be sampled and analyzed on a quarterly basis, with a copy of the analysis submitted to the Office of Conservation within 15 days of the end of each quarter.

I. Receipt, Sampling and Testing of Nonhazardous Oilfield Waste

1. Only NOW (as defined in §501) from approved generators of record may be received at commercial facilities or transfer stations. Other generators of NOW must receive written approval of the Office of Conservation in order to dispose of approved waste at a commercial facility.

2. Before offloading at a commercial facility or transfer station, each shipment of nonhazardous oilfield waste shall be sampled and analyzed (by facility personnel) for pH, conductivity, and chloride (Cl) content. Records of these tests shall be kept on file at each facility for a period of three years and be available for review by the commissioner or his designated representative.

3. An 8-ounce sample (minimum) of each load must be collected and labeled with the date, operator and manifest number. Each sample shall be retained for a period of 30 days.

J. Renewal of Insurance Coverage. Documentation that the required liability insurance coverage for a commercial facility or transfer station has been renewed must be received by March 15 of each year or procedures to initiate permit suspension will be initiated. Any such permit suspension will remain in effect until insurance coverage has been confirmed.

K. A sign shall be prepared and displayed at the entry of each permitted commercial facility or transfer station. Such sign shall utilize a minimum of 1-inch lettering to state the facility name, address, and phone number and shall be made applicable to the activities of each facility according to the following example:

"This waste (storage, treatment and/or disposal) facility has been approved for (temporary storage, treatment and/or disposal) of nonhazardous

oilfield waste only and is regulated by the Office of Conservation. Violations shall be reported to the Office of Conservation at (225) 342-5515."

L. A vertical aerial color photograph (or series of photographs) with stereoscopic coverage of each Type A facility must be obtained during the month of October each year and provided to the Office of Conservation by November 30 of each year. Such photograph(s) must be taken at an original photo scale of 1" = 1000' to 1" = 500' depending on the size of the facility. Photo(s) are to be provided as prints in either 8" x 10" or 9" x 9" formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2817 (December 2000).

§511. Manifest System

A. In order to adequately monitor the movement and disposal of nonhazardous oilfield waste, every shipment of waste transported to a commercial facility shall be accompanied by a manifest entitled "Oil Field Waste Shipping Control Ticket." It is expressly forbidden to transport or accept such waste without a properly completed manifest form.

B. At the time of transport, the generator shall initiate the manifest by completing and signing Part I. After the transporter completes and signs Part II, the generator shall retain Generator Copy No. 1 (green) for his files. All other copies shall accompany the waste shipment.

C. Upon delivery of the waste, the commercial facility shall complete and sign Part III of the manifest. The transporter shall then retain the Transporter's Copy (pink) for his files.

D. Upon completion of the manifest, the commercial facility operator shall retain the Commercial Facility Copy (yellow) for his files, mail Generator Copy No. 2 to the generator, and mail the Conservation Copy (original) to the Office of Conservation no later than the next working day.

E. The generator, transporter and commercial facility operator shall maintain file copies of completed manifests for a period of not less than three years.

F. Oil and gas, commercial facility, and transfer station operators who transport NOW out-of-state to a permitted disposal facility or receive NOW from out-of-state must comply with the manifest system requirements of this Subsection.

G. A monthly report of waste receipts shall be completed by each commercial facility on the appropriate form and submitted to the Office of Conservation within 15 days of the end of each month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2819 (December 2000).

§513. Land Treatment Facility Requirements

A. Land treatment facilities shall be isolated from contact with public, private, or livestock water supplies, both surface and underground.

B. The siting, design, construction, operation, testing and closure of land treatment facilities shall be approved only after an application is submitted to and approved by the commissioner pursuant to the requirements of §505.

C. General Requirements

1. The soil shall contain a slowly permeable horizon no less than 12 inches thick containing enough fine grained material within 3 feet of the surface to classify it as CL, OL, MH, CH, or OH under the Unified Soil Classification System.

2. The seasonal high water table shall be maintained throughout the facility's operational life at least 36" below the soil surface, either as a result of natural or artificial drainage.

3. Throughout the operational life of a land treatment cell, in order to end the treatment phase and re-enter the application phase, a cell must be shown to comply with the following criteria:

Parameter	Limitation
pH	6.5-9
EC	10 mmhos/cm
SAR	12
ESP	15 percent
Oil and Grease	5 percent (by weight)
Metals:	
Arsenic	40
Total Barium	100,000
Cadmium	10
Chromium	1,000
Lead	1,000
Mercury	10
Selenium	10
Silver	200
Zinc	500

4. The concentration of measured constituents in any groundwater aquifer shall at no time significantly exceed background water quality data.

5. An unsaturated zone monitoring system shall be installed to provide early warning of possible migration of mobile waste constituents. The unsaturated zone shall be defined in the permit application.

6. An independent professional consultant and laboratory shall perform the necessary monitoring to assure adherence to the requirements of this Section.

7. Application Phase

a. NOW may be applied to active land treatment cells during the application phase only. An application phase begins only under the following conditions:

i. a new constructed and approved cell begins receipt of NOW;

ii. a cell containing treated NOW has been shown to meet the testing criteria of §513.C and is utilized for the application of new waste receipts;

iii. a cell from which treated oilfield waste has been removed (after meeting the reuse testing criteria of §515) is utilized for the application of new waste receipts.

b. An application phase ends when either of the following occurs:

i. three months have elapsed since the date application first began; or

ii. 15,000 bbls/acre of waste has been applied to a cell.

c. In order to document the amount of waste applied to each land treatment cell, facilities are required to:

i. indicate on each manifest (oilfield waste shipping control ticket) the number of the cell onto which each load of waste is applied;

ii. maintain a daily or weekly log of type and volume of wastes applied to each land treatment cell;

iii. include in the quarterly report the amount of each type of waste applied to each cell during the quarter.

8. Treatment Phase. Upon completion of the application phase, land treatment cells enter the treatment phase. Remedial action (treatment) must be actively performed in order to bring a cell into compliance with this Section. Cells must reach compliance status within 12 months of the end of the application phase.

9. Land treatment cell levees must be constructed of soils which are placed and compacted in such a manner as to produce a barrier to horizontal movement of fluids. Levee construction material shall be compacted in a maximum of 8" lifts to > 90 percent standard proctor test. The levees must be properly tied into the barrier along the bottom and sides of the cells. Actual construction of the levees must be monitored and documented by professional engineering or geotechnical soil testing company. All levees must be provided with a means to prevent erosion and other degradation.

10. Rainwater and other NOW fluids are not to be stored on land treatment cells. Such fluids are to be removed from cells in a timely manner and stored in appropriate facilities.

D. Monitoring Requirements

Note: References for the parameters required in this Subparagraph are listed as follows:

EC Electrical conductivity (millimhos/cm for soil, micromhos/cm for water)

SAR sodium adsorption ratio

ESP exchangeable sodium percentage (percent)

CEC cation exchange capacity (milliequivalents/100 gm soil)

TOC total organic carbon (percent)

Total metals as follows:

As Arsenic

Ba Barium

Cd Cadmium

Cr Chromium

Pb Lead

Hg Mercury

Se Selenium

Ag Silver

Zn Zinc

TDSS total dissolved solids

TSS total suspended solids

O&G Oil and grease (percent)

Soluble cations:

Na Sodium

Ca Calcium

Mg Magnesium

Soluble anions:

CO₃ Carbonate

HCO₃ Bicarbonate

Cl Chloride

SO₄ Sulfate

1. Prior to the receipt of NOW in a newly permitted and constructed land treatment system or cell, baseline data must be provided by the following sampling and testing program.

a. Soil in the treatment zone (0-24") of each cell must be sampled and tested for the following parameters: pH, EC, SAR, ESP, CEC, TOC, O&G, As, Ba, Cd, Cr, Pb, Hg, Se, Ag, and Zn.

b. Groundwater must be sampled and tested for the following parameters: pH, EC, TDS, TSS, O&G, Cl, Na, As, Ba, Cd, Cr, Pb, Hg, Se, Ag, and Zn.

2. The following monitoring program must be conducted during the active life of a permitted NOW land treatment system:

a. Soil in the treatment zone (waste treatment zoneCWTZ, and upper treatment zoneCUTZ) must be sampled and tested quarterly to determine waste degradation and accumulation of metals and oil and grease. Samples must be analyzed for the following: As, Ba, Cd, Cr, Pb, Hg, Se, Ag, Zn, TOC, and O&G.

b. Soil in the treatment zone (waste treatment zoneCWTZ, and upper treatment zoneCUTZ) must be sampled and tested quarterly to determine the accumulation of salts and to provide data for determining necessary soil amendments. Samples must be analyzed for the following: pH, EC, SAR, ESP, CEC, soluble cations (Na, Ca, Mg), and soluble anions (CO₃, HCO₃, Cl, SO₄).

c. Discharge Water. A copy of each discharge monitoring report made in conformance with any applicable state and/or federal regulatory program shall be furnished to the Office of Conservation on a timely basis.

d. The unsaturated zone must be sampled as soon as practicable following significant precipitation events (within 90 days) to determine the presence of mobile constituents. If "free drainage" soil solution samplers are utilized, sampling and testing shall be performed on a quarterly basis. A composite of at least three samples per management unit (or cell if applicable) are to be analyzed for the following: TDS, pH, Na, Cl, EC, O&G, Ba, Pb, and Zn.

e. Groundwater levels in monitor wells shall be measured monthly for a period of two years to determine seasonal fluctuation in water table. Water level shall be measured quarterly each year thereafter.

f. Groundwater from monitor wells shall be sampled quarterly to determine the impact of facility operation on groundwater. A composite of at least two samples per well shall be tested for the following: TDS, TSS, pH, Cl, Na, EC, O&G, As, Ba, Cr, Pb, and Zn.

g. Quarterly monitoring reports must be submitted to the Office of Conservation according to the following schedule: 1st QuarterCdue March 31st; 2nd QuarterCdue June 30th; 3rd QuarterCdue September 30th; 4th QuarterCdue December 31st. Each quarterly report must contain the following information:

i. the status of each cell at the time of the sampling event (application phase, treatment phase, inactive, etc.), the date(s) sampling took place, and a diagram indicating sample locations for each cell;

ii. the amounts and types of oilfield waste applied to each cell during the application phase, including the beginning and ending dates of application;

iii. a brief description of treatment activities undertaken to bring each cell into compliance with LAC 43:XIX, Chapter 5, Statewide Order No. 29-B;

iv. a compilation (chart) of test results for the present and past three quarterly sampling events;

v. copies of current laboratory test data;

vi. the size of each land treatment cell (in acres).

h. The Office of Conservation may approve an alternative monitoring program upon receipt of evidence that such procedure shall provide adequate monitoring during the active life of a facility.

3. Sampling and Testing Requirements

a. A stratified random sampling system shall be used to determine soil sampling locations in land treatment cells. All cells and monitor wells are to be sampled and tested for all parameters unless otherwise approved by the commissioner. Facilities are required to notify the Office of Conservation at least one week in advance of each quarterly sampling event in order for a representative of this office to be present.

b. Soil samples in land treatment cells shall be taken in the waste treatment zone (WTZ) and the upper treatment zone (UTZ). Over time, the depth of the treatment zone sampled may need to be increased due to solids buildup on land treatment cells. The degree of waste incorporation shall be noted at the time of sampling.

c. At least two samples must be taken from WTZ and UTZ for each acre of cell area. For cells # 6.4 acres in size, all samples from the WTZ and the UTZ are to be composited for one representative analysis for each zone. Cells # 6.5 acres in size must be subdivided for random sample acquisition and compositing.

d. Soil samples are to be analyzed using standard soil testing procedures as presented in the Laboratory Manual for the Analysis of Oilfield Waste (Department of Natural Resources, August 9, 1988, or latest revision).

e. Water samples are to be analyzed for required parameters according to acceptable EPA guidelines and/or the laboratory procedures as presented in the Laboratory Manual for the Analysis of Oilfield Waste (Department of Natural Resources, August 9, 1988, or latest revision).

f. The soil in an inactive cell may not be required to be tested for certain quarterly monitoring parameters only after two consecutive quarterly tests indicate compliance and upon receipt of written approval of this office.

E. Closure and Post-Closure Monitoring

1. Operators of land treatment systems shall submit closure and post-closure maintenance and monitoring programs to the Office of Conservation for approval. The monitoring program shall address sampling and testing schedules for soil in the treatment zone, water collected from the unsaturated zone monitoring system, surface runoff water, and groundwater.

2. Sampling and testing must be performed during the entire closure and post-closure periods. To certify closure of a land treatment system, water collected from the unsaturated zone monitoring system and groundwater must meet background water quality values; in addition, soils in the treatment zone and surface runoff water must meet the following criteria:

Parameter	Criteria	No. of Consecutive Samples
Soils in the Treatment Zone		
pH	6.5-9	2
O&G	# 3.0 percent	2
EC	# 10 mmhos/cm	2
SAR	# 12	2
ESP	# 15 percent	2
Metals (ppm)		
As	# 10	2
Ba	# 100,000	2
Cd	# 10	2
Cr	# 1000	2
Pb	# 1000	2
Hg	# 10	2
Se	# 10	2
Ag	# 200	2
Zn	# 500	2
Runoff Water		
pH	6.5-9.0	4
O&G	# 15 ppm	4
EC	# 0.75 mmhos/cm	4
SAR	# 10	4
TSS	# 60 ppm	4
COD	# 125 ppm	4
Chloride	500 ppm	4
Metals (ppm)		
As	# 0.2	4
Ba	# 10	4
Cd	# 0.05	4
Cr	# 0.15	4
Hg	# 0.01	4
Pb	# 0.10	4
Se	# 0.05	4
Zn	# 1.0	4

3. Post-closure monitoring shall be performed on intervals of 6 months, 1, 2 and 5 years following certification that closure is complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2819 (December 2000).

§515. Resource Conservation and Recovery of Nonhazardous Oilfield Waste

A. In order to encourage the conservation and recovery of resources in the oilfield industry, the processing of nonhazardous oilfield waste into reusable materials, in addition to or beyond extraction and separation methods which reclaim raw materials such as crude oil, diesel oil, etc., is recognized as a viable alternative to other methods of disposal.

B. Commercial facilities may function for the purpose of generating reusable material only, or they may generate reusable material in conjunction with other storage, treatment or disposal operations.

C. Commercial facilities that produce reusable material are subject to all of the permitting requirements imposed on other commercial facilities. They are also subject to the same operational requirements without regard to the distinction between waste and reusable material. Existing permits may

be amended to allow re-use activities at commercial facilities which acquire the capability to engage in processing for re-use. Commercial facilities which utilize extraction or separation methods to reclaim raw materials such as crude oil, diesel oil, etc. may do so without amendment of existing permits.

D. The onsite generation of reusable material by pit treating companies or other companies which do not hold a legal commercial facility permit is prohibited unless the company desiring to perform such activities complies with the requirements of this Subparagraph and submits the following information to the commissioner for approval:

1. the names, addresses, and telephone numbers of the principal officers of the company;

2. a detailed description of the process by which the company will treat pit fluids and/or solids (NOW), including the types of chemicals and equipment used in the process, diagrams, test data, or other information;

3. a description of the geographical area in which the company expects to do business (i.e., statewide, north Louisiana, southwest Louisiana, etc.).

E. In addition to other applicable requirements, companies seeking to be permitted for the production of reusable materials from nonhazardous oilfield waste shall have the following obligations.

1. Prior to permit approval or permit amendment approval, applicants must submit the following information:

a. a detailed description of the process to be employed for generation of reusable material;

b. types of facilities and/or equipment to be constructed (or added);

c. identification of the proposed uses for the reusable material; and

d. a description of the proposed monitoring plan to be utilized.

2. All proposed uses of reusable material must be approved by the commissioner in writing.

3. The production of reusable material must be conducted in accordance with a monitoring plan approved by the commissioner with issue of the permit for each facility or process.

4. For purposes of regulatory authority only by the Office of Conservation and the establishment of reusable material, compliance with the testing criteria of §515.F below allows permitted companies to offer the material for the following uses:

a. daily cover in sanitary landfills which are properly permitted by state and/or local authorities. The use of reusable material in a sanitary landfill will require written approval of the Department of Environmental Quality; and

b. various types of construction material (fill) on a case-by-case basis. The commissioner may approve such use only after submission and review of an application for the intended use. Approval will be dependent upon the composition of the material and the proposed location of use. Reusable material may not be used as fill for construction purposes unless the specific use has been approved in writing by the Commissioner of Conservation.

F. Testing Criteria for Reusable Material

Parameter	Limitation
moisture content	< 50% (by weight) or zero free moisture
pH*	6.5 - 9.0
electrical conductivity (EC)	8 mmhos/cm
sodium adsorption ratio (SAR)	12
exchangeable sodium percentage (ESP)	15%
total barium:	
reuse/stockpile at commercial facility -	100,000 ppm
reuse at location other than commercial facility -	40,000 ppm
Leachate testing** for:	
oil and grease	10.0 mg/l
chlorides	500.0 mg/l
Leachate testing** for:	
arsenic	0.5 mg/l
barium	10.0 mg/l
cadmium	0.1 mg/l
chromium	0.5 mg/l
lead	0.5 mg/l
mercury	0.02 mg/l
selenium	0.1 mg/l
silver	0.5 mg/l
zinc	5.0 mg/l

* Non-hazardous oilfield waste when chemically treated (fixated) shall, in addition to the criteria set forth be acceptable as reusable material with a pH range of 6.5 to 12 and an electrical conductivity of up to 50 mmhos/cm, provided such reusable material passes leachate testing requirements for chlorides in §515.F above and Extraction Procedure for Toxicity (EP) tests for metals in §515.F above.

** The leachate testing method for oil and grease, chlorides and metals is included in the Laboratory Manual for the Analysis of Oilfield Waste (Department of Natural Resources, August 9, 1988, or latest revision).

G. The Commissioner of Conservation, the secretary of the Department of Natural Resources, and the state of Louisiana upon issuance of a permit to a company facility under this Subsection shall be held harmless from and indemnified for any and all liabilities arising from the operation of such facilities and use of their products, and the company shall execute such agreements as the commissioner requires for this purpose.

H. Reporting. Each company which generates reusable material must furnish the commissioner a monthly report showing the disposition of all such material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2822 (December 2000).

§517. Closure

A. All offsite commercial facilities and transfer stations under the jurisdiction of the Office of Conservation shall be closed in a manner approved by the commissioner to insure protection of the public, the environment, groundwater aquifers and underground sources of drinking water. A plan for closure must be developed in accordance with the requirements of the commissioner.

B. Closure bond or letter of credit amounts will be reviewed each year prior to the renewal date according to the following process:

1. A detailed cost estimate for adequate closure of each permitted commercial facility and transfer station shall be prepared by a independent professional consultant and submitted to the commissioner on or before February 1 of each year.

2. The closure plan and cost estimate must include provisions or closure acceptable to the commissioner and must be designed to reflect the costs to the Office of Conservation to complete the approved closure of the facility.

3. Upon review of the cost estimate, the commissioner may increase, decrease or allow the amount of the bond or letter of credit to remain the same.

4. Documentation that the required closure bond or letter of credit has been renewed must be received by September 15 of each year or the commissioner shall initiate procedures to take possession of the funds guaranteed by the bond or letter of credit and suspend or revoke the permit under which the facility is operated. In addition, procedures to initiate permit suspension will be initiated. Any such permit suspension will remain in effect until renewal is documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2823 (December 2000).

§519 Exceptions

A. The commissioner may grant an exception to any provision of this amendment upon proof of good cause. The operator must show proof that such an exception will not endanger USDW's.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2823 (December 2000).

§521. Effect on Existing Special Orders

A. This Order shall supersede §129 of Office of Conservation Statewide Order No. 29-B (effective November 1,1967). Any existing special orders authorizing disposal of saltwater under conditions which do not meet the requirements hereof shall be superseded by this amendment and the operator shall obtain authority for such disposal after complying with the provisions hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2823 (December 2000).

§523. Applicability

A. All oil and gas and commercial facility operators shall be required to comply with applicable portions of this amendment within 90 days of the effective date, provided that all existing commercial facility operators shall be exempt from all permit application and public hearing requirements under §507 of this Order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2823 (December 2000).

If you have any questions concerning this reorganization, please contact Carroll Wascom, Director, Injection and Mining Division, Office of Conservation, P.O. Box 94275, Baton Rouge, Louisiana 70804-9275 or by calling (225) 342-5515.

Philip N. Asproditis
Commissioner

0012#025

RULE

Department of Public Safety and Corrections Gaming Control Board

Assisting in Violations (LAC 42:XIII.2931)

The Louisiana Gaming Control Board hereby amends LAC 42:VII.2931, 42:IX.2927 and 42:XIII.2931 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part VII. Pari-Mutuel Live Racing Facility

Slot Machine Gaming

Chapter 29. Operating Standards

§2931. Assisting in Violations

A. No employee, agent, or representative of a licensee or permittee shall intentionally assist another person in violating any provisions of the act, rules adopted pursuant to the act, any orders of the board or division, or the licensee's internal controls. Such assistance shall constitute a violation of these rules. It is incumbent upon an employee, agent, or representative of a licensee or permittee to promptly notify the division of any possible violation of any Federal, State or Municipal Law, the Act, rules adopted pursuant to the act, any orders of the board or division, or the licensee's internal controls.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:767 (April 2000), amended LR 26:2824 (December 2000).

Part IX. Landbased Casino Gaming

Chapter 29. Operating Standards

§2927. Assisting in Violations

A. No employee, agent or representative of the casino operator or a permittee shall intentionally assist another person in violating any provision of the act, rules adopted pursuant to the act, the casino operating contract, any orders of the board or division, or the casino operator's internal controls. Such assistance shall constitute a violation of these rules. It is incumbent upon an employee, agent or representative of the casino operator or permittee to promptly notify the board and the division of any possible violation of any federal, state or municipal law, the act, the rules adopted pursuant to the act, the casino operator's internal controls or any order of the division or the board.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999), amended LR 26:2824 (December 2000).

Part XIII. Riverboat Gaming

Chapter 29. Operating Standards

§2931. Assisting in Violations

A. No employee, agent, or representative of a licensee or permittee shall intentionally assist another person in violating any provisions of the act, rules adopted pursuant to the act, any orders of the board or division, or the licensee's internal controls. Such assistance shall constitute a violation of these rules. It is incumbent upon an employee, agent, or representative of a licensee or permittee to promptly notify the division of any possible violation of any federal, state or municipal law, the act, rules adopted pursuant to the act, any orders of the board or division, or the licensee's internal controls.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended LR 26:2824 (December 2000).

Hillary J. Crain

Chairman

0012#018

RULE

Department of Public Safety and Corrections Gaming Control Board

Riverboat Gaming Commission; Licenses and Permits;
Passenger Embarkation and Disembarkation
(LAC 42:XIII.Chapters 3, 5, 7, 9,
2118, 2123, 2156 and 2910)

The Louisiana Gaming Control Board hereby repeals LAC 42:XIII.Chapters 3, 5, 9, and §§701-709 and 713-717, and adopts LAC 42:XIII.2118, 2156 and 2910, and amends XIII.2123 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Subpart 1. Riverboat Gaming Commission

Chapters 3, 5 and 9

Repealed

Chapter 7. Operating Standards

§701. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Riverboat Gaming Commission, LR 19:895 (July 1993), repealed LR 26:2824 (December 2000).

§703. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Riverboat Gaming Commission, LR 19:895 (July 1993), repealed LR 26:2824 (December 2000).

§704. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Riverboat Gaming Commission, LR 20:672 (June 1994), repealed LR 26:2824 (December 2000).

§705. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Riverboat Gaming Commission, LR 19:895 (July 1993), repealed LR 26:2825 (December 2000).

§707. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Riverboat Gaming Commission, LR 19:895 (July 1993), repealed LR 26:2825 (December 2000).

§709. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department Public Safety and Corrections, Riverboat Gaming Commission, LR 19:895 (July 1993), amended LR 20:672 (June 1994), repealed LR 26:2825 (December 2000).

§713. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Riverboat Gaming Commission, LR 19:895 (July 1993), repealed LR 26:2825 (December 2000).

§715. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Riverboat Gaming Commission, LR 19:895 (July 1993), repealed LR 26:2825 (December 2000).

§717. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Riverboat Gaming Commission, LR 19:895 (July 1993), repealed LR 26:2825 (December 2000).

Chapter 21. Licensees and Permits

§2118. Indemnification

A. Every contract for construction of a riverboat shall contain an indemnification provision for the protection of the state, the board and division and their agents and employees against claims for personal injury or property damage arising out of errors and omissions in the:

1. approval of riverboat or support facility plans, designs and specifications;
2. granting of approval or licensure;
3. issuance of emergency orders;
4. denial, suspension or revocation of a license.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2825 (December 2000).

§2123. Additional Application Information Required

A.1 - 11. ...

12. a description of planned excursions including all proposed designated waterways and routes, frequency and approximate schedule of excursions, projected passenger load, admission charges, and a proposed general location of the berth;

13. a general promotion and advertising plan. A general description of the amounts, kinds and types of general

promotion and advertising campaign(s) which will likely be undertaken by the applicant or operator including information whether any national or regional advertising will occur, the medium(s) which may be used, the proposed market and whether any other facility or activity except the riverboat will be included in such advertising;

14. a feasibility study. Each applicant shall submit or make available to division or board personnel a feasibility study performed by an independent or approved applicant's staff consultant, which study shall examine, evaluate and attest to the feasibility of the applicant's proposed operation and shall describe or list the evaluation methodology used. The feasibility study shall include a list of the consultant's qualifications, a discussion of the overall market for riverboat gaming operations and the effect of the proposed riverboat on the market. In addition, the feasibility study shall address possible competition from other riverboat gaming and other forms of gaming in all areas of Louisiana and other states;

15. an economic development and utilization plan. Each applicant shall submit an economic development plan addressing the purchasing of or utilization of goods and services in the construction and operation of proposed operations. The plan shall include a list and offer of voluntary conditions by the applicant regarding the following procurement:

- a. an estimated procurement budget for resources and goods to be used in the operation of a riverboat listing the amount of the proposed utilization of Louisiana resources, goods and services in the operation of the riverboat and the area from which they will be procured;
- b. a list of employees which the applicant anticipates employing in the riverboat operation, including job classifications and total estimated salaries;
- c. the percentage of Louisiana residents projected to be hired and the percentage of minorities projected to be employed.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:703 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2825 (December 2000).

§2156. Modifications of Routes, Excursion Schedules and Berth

A. Except for emergency orders and applications therefor, all proposed modifications to routes, excursion schedules, and berth shall be submitted by the applicant or licensee for prior approval by the board.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2825 (December 2000).

§2910. Passenger Embarkation and Disembarkation

A. Except in the case of emergencies, passengers and crew may embark and disembark from a riverboat only at its authorized berth.

B. In the event that the vessel master, pursuant to the provisions to R.S. 27:65 (B)(1)(a), certifies in writing that weather or water conditions make it unsafe for a riverboat to

commence or continue on its authorized excursion, and gaming activities are conducted while the vessel is at dockside, there shall be no restriction on the embarking or disembarking of passengers.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2825 (December 2000).

Hillary J. Crain
Chairman

0012#017

RULE

Department of Social Services Office of Community Services

Relinquishment of Newborns (LAC 67:V.1505)

The Department of Social Services, Office of Community Services, adopts a Rule entitled "Relinquishment of Newborns" for the implementation of the provisions of Title XVII of the Louisiana Children's Code. This Rule is mandated by Article 1706 of the Louisiana Children's Code.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 3. Child Protective Services

Chapter 15. Conducting Investigation in Families

§1505. Relinquishment of Newborns

A. The Department of Social Services, Office of Community Services, establishes procedures for implementation of Title XVII, Relinquishment of Newborns, of the Louisiana Children's Code, for the initial agency response within the Child Protection Investigation Program.

1. Reports that a newborn has been relinquished at a designated emergency care facility will be accepted as a report of child abuse/neglect and immediately assigned to a Child Protection Investigation worker. The worker will respond to secure the safety of the child and obtain immediate medical care if the child is at a location other than a medical facility able to provide the child with immediate medical care.

2. The worker will contact the appropriate court with juvenile jurisdiction and request an instant order placing the child in the custody of the Department of Social Services as a child in need of care.

3. The worker will contact local law enforcement agencies to request their assistance to determine if the relinquished child may have been reported missing. The agency will also contact the national registry for missing and exploited children to determine if the child has been reported missing to that registry.

B. Once any necessary medical care has been received and the child discharged from the medical facility providing emergency and/or other medical care, OCS will place the child in the foster home which can best provide for his needs. Efforts for the continuance of custody as a child in need of care and the procedure for a termination of parental rights will begin immediately and proceed in accordance

with the provisions of Titles VI, Child in Need of Care, and XVII, Relinquishment of Newborns. The child will receive services through the OCS Foster Care and Adoption Programs until the parental rights are terminated and an adoption is finalized or the mother and/or father establish parental rights.

AUTHORITY NOTE: Promulgated in accordance with Article 1705 of the Louisiana Children's Code, Title XVII, Relinquishment of Newborns.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 26:2196 (September 2000), LR 26:2826 (December 2000).

J. Renea Austin-Duffin
Secretary

0012#077

RULE

Department of Social Services Office of Family Support

Child Care Assistance Program Eligibility, Payments and Providers (LAC 67:III.Chapter 51)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 12, the Child Care Assistance Program.

With the rapid growth of the Child Care Assistance Program, these actions were designed to streamline the program and help reduce current levels of spending.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

§5102. Definitions

Case Head Can individual who may apply for child care assistance for a child who customarily resides with him/her for more than half the time, including the child's parent, or an adult household member with primary responsibility for the child's financial support and care if the child's parent is not living in the home or living in the home but is under age 18 and not emancipated by law.

Full-Time Care Authorized child care calculated to be 30 or more hours per week that is paid in units of days with a maximum of 22 days per month.

Household A group of individuals who live together, consisting of the case head, that person's legal spouse or non-legal spouse, (if the parent of a child in the household), and all children under the age of 18 who are dependent on the case head and/or spouse, including the minor unmarried parent (MUP) who is not legally emancipated and the minor unmarried parent's children.

Part-Time Care Authorized child care calculated to be less than 30 hours per week, paid in units of hours (total per day may not exceed daily rate) up to a maximum of 129 hours per month.

Training or Employment Mandatory Participant (TEMP) A household member who is required to be employed or attending a job training or educational program, including the case head, the case head's spouse, and the

minor unmarried parent of children who need child care assistance.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000).

§5103. Conditions of Eligibility

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Family Independence Work Program (FIND Work), as determined by the Case Manager, are categorically eligible. The program will pay 100 percent of the FITAP/FIND Work participant's child care costs.

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria:

1. The household must reside in Louisiana to be eligible for Child Care Assistance.

2. The household must include a child in current need of child care services who is under the age of 13, or age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or is under court supervision.

3. ...

4. The case head, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), including any minor unmarried parent who is not legally emancipated, and whose children are in need of Child Care Assistance, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or Veteran's Administration Disability benefits for a disability of at least 70 percent, must be:

a. employed a minimum average of 20 hours per week and all countable work hours must be paid at least at the Federal minimum hourly wage; or

b. ...

c. engaged in some combination of employment which is paid at least at the Federal minimum hourly wage, or job training, or education as defined in §5103.B.4.b, that averages at least 20 hours per week.

d. ...

5. Household income does not exceed 60 percent of the state median income for a household of the same size. Income is defined as the gross earnings of the case head, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), and any minor unmarried parent who is not legally emancipated and whose children are in need of child care assistance, from all sources of employment and from the following types of unearned income of all household members: Social Security Administration benefits, Supplemental Security Income, Veteran's Administration benefits, retirement benefits, disability benefits, child support/alimony, unemployment compensation benefits, adoption subsidy payments, and worker's compensation benefits.

6. - 7. ...

C. Cases eligible for payment shall be assigned a certification period of up to six months. The household is required to report any changes that could affect eligibility or benefit amount within 10 days of knowledge of the change.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444(December 1999), LR 26:2827 (December 2000).

§5105. Funding Availability

A. Louisiana's share of the national total of available funds for child care programs is based on factors determined by federal law and regulation. Funds are appropriated by Congress and allocated on an annual basis so that a limited amount of federal funding is available each year through the Child Care and Development Fund (CCDF). Therefore, a determination will be made of the number of children, or slots, that the CCDF can pay for based on available funding.

1. A certain number of slots will be set aside for the children of FIND Work participants and for the children of those participants whose FIND Work eligibility has been terminated due to earned income. When the remaining slots are filled, all funds for the current year shall be considered as obligated, and no payments may be made for any additional children determined to be eligible.

2. After all available slots are filled, a waiting list of cases/eligible children will be established and maintained for each parish in chronological order by date of application. As slots become available, cases will be removed from the waiting list and considered for current eligibility.

a. To facilitate maintaining an active waiting list in each parish, open enrollment will be scheduled for a limited time in the months of October, January, April, and July. During open enrollment periods, children determined eligible will be added to the waiting list. At the agency's discretion additional enrollment periods may be designated.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 26:2827 (December 2000).

§5107. Child Care Providers

A. The case head, or parent/caretaker relative in the case of a FIND Work participant, shall be free to select a child care provider of his/her choice including center-based child care (licensed Class A day care centers and licensed Class A head start centers which provide before-and-after school care and/or summer programs), registered family child day care homes, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before- and after- school care programs.

B. A family child day care home shall be registered and entered into the provider directory by the Child Care Assistance Program before payments can be made to that provider.

1. To be eligible for participation, a family child day care home provider must sign a provider agreement, complete a request for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is at least 18 years of age, and meet all registration requirements including:

a. current certification in infant/child or infant/child/adult cardiopulmonary resuscitation (CPR);

b. criminal background check on all adults living at the provider's residence or employed by the provider and working in the provider's home or on the provider's home property, including the provider;

c. furnish verification of 12 clock hours of training in pediatric first aid and other job-related subject areas approved by the Department of Social Services by the provider's renewal date beginning January 1, 2002, and every year thereafter;

d. retain a statement of good health signed by a physician or his designee and proof of a clear tuberculin test, both of which must have been obtained/performed within the past three years and must be repeated every three years thereafter; and

e. pass an inspection by the Office of State Fire Marshal.

2. All registration functions for family child day care homes, as provided in R.S. 46:1441 et seq. and as promulgated in the *Louisiana Register*, September 20, 1991, previously exercised by the bureau of licensing, shall be carried out by the Office of Family Support, Child Care Assistance Program.

C. An in-home child care provider must show proof that he/she is at least 18 years of age, verify Social Security number and residence, and complete the Health and Safety Standards Form, the Provider Agreement, and form W-9. An in-home provider may not live at the same residence as the child who is being cared for and may not use the participant's residence address or post office box as his/her mailing address.

D. Under no circumstance can the following be considered an eligible child care provider:

1. a person living at the same residence as the child;
2. the child's parent or guardian, or parent/caretaker relative in the case of a FIND Work participant, regardless of whether that individual lives with the child (if the child's non-custodial parent is residing in the Family Child Day Care Home (FCDCH) in which the child receives care and is not working during the hours that care is needed, the FCDCH provider is ineligible to receive Child Care Assistance payments for that child);
3. Class B child care centers;

4. persons who have been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1(C) or who reside with or employ a person who has been convicted of such an offense;

5. persons/centers providing care outside of the state of Louisiana.

E. Providers must certify that neither they, nor any person employed by or residing with them, have been the subject of a validated complaint of child abuse or neglect, nor have they, or any person employed by or residing with them, been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.(C). Providers, other than an in-home child care provider, unless the agency is aware of a possible criminal offense, must certify that a criminal background check has been requested from the Louisiana State Police to verify this information with respect to above providers and employees of Class A centers. Results of the criminal background check must be received annotating "no hits" prior to being licensed/registered as an eligible provider or certified as an in-home provider if the agency is aware of a possible criminal offense.

1. Providers shall be disqualified from further participation in the program if the agency determines that a condition exists which threatens the physical or emotional health or safety of any child in care. (Examples: a complaint of child abuse or neglect is validated by authorities, the provider breaks the terms of the provider agreement, or a family child day care home fails the Fire Marshal inspection.)

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000).

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels which are published annually. A non-FITAP household shall pay a portion of its child care costs in accordance with the sliding fee scale, and this shall be referred to as a **Acopayment**. The sliding fee scale is as follows.

**Sliding Fee Scale For Non-Fitap Child Care Assistance Recipients
60 Percent Of Projected Median Income**

Number in Household	2	3	4	5	6	7	DSS %
Monthly Household Income	0 - 922	0 - 1157	0 - 1392	0 - 1627	0 - 1862	0 - 2097	85%
	923 - 1084	1158 - 1352	1393 - 1620	1628 - 1889	1863 - 2157	2098 - 2351	70%
	1085 - 1245	1353 - 1547	1621 - 1848	1890 - 2150	2158 - 2452	2352 - 2604	55%
	1246 - 1406	1548 - 1742	1849 - 2076	2151 - 2412	2453 - 2747	2605 - 2858	40%
	1407 - 1567	1743 - 1936	2077 - 2304	2413 - 2673	2748 - 3042	2859 - 3111	25%
	ABOVE 1567	ABOVE 1936	ABOVE 2304	ABOVE 2673	ABOVE 3042	ABOVE 3111	0%

Number in Household	8	9	10	11	12	13	DSS %
Monthly Household Income	0 - 2332	0 - 2567	0 - 2802	0 - 3037	0 - 3272	0 - 3507	85%
	2333 - 2544	2568 - 2738	2803 - 2931	3038 - 3125	3273 - 3319	3508 - 3512	70%
	2545 - 2756	2739 - 2908	2932 - 3060	3126 - 3212	3320 - 3365	3513 - 3517	55%
	2757 - 2968	2909 - 3079	3061 - 3189	3213 - 3300	3366 - 3411	3518 - 3522	40%
	2969 - 3180	3080 - 3249	3190 - 3318	3301 - 3387	3412 - 3457	3523 - 3526	25%
	ABOVE 3180	ABOVE 3249	ABOVE 3318	ABOVE 3387	ABOVE 3457	ABOVE 3526	0%

Number in Household	14	15	16	17	18	19	20	DSS %
Monthly Household Income	0 - 3595	0 - 3644	0 - 3733	0 - 3802	0 - 3871	0 - 3940	0 - 4010	85%
	ABOVE 3595	ABOVE 3644	ABOVE 3733	ABOVE 3802	ABOVE 3871	ABOVE 3940	ABOVE 4010	0%

B. Determination of Payments

1. Payments to providers on behalf of non-FITAP recipients will be a percentage of the lesser of:

- a. the providers actual charge multiplied by authorized service days or authorized service hours; or
- b. the State Maximum Rate for authorized services as indicated below.

Class A Centers

Regular Care	Special Needs Care
Daily \$15.00	\$18.75
Hourly \$ 1.87	\$ 2.34

All Other Provider Types

Regular Care	Special Needs Care
Daily \$12.00	\$15.00
Hourly \$ 1.50	\$ 1.87

c. The number of hours authorized for payment is based on the lesser of the following:

- i. the number of hours the child is actually in care each week; or
- ii. the number of hours the case head, the case head's spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity. For households with more than one TEMP, the hours of the TEMP with the smallest number of activity hours are used.

2. Payments to providers on behalf of FITAP recipients will be the lesser of:

- a. the providers actual charge multiplied by authorized service days or authorized service hours, or
- b. the State Maximum Rate for authorized services as indicated below:

Class A Centers

Regular Care	Special Needs Care
Daily \$15.00	\$18.75
Hourly \$ 1.87	\$ 2.34

All Other Provider Types

Regular Care	Special Needs Care
Daily \$12.00	\$15.00
Hourly \$ 1.50	\$ 1.87

c. The number of hours authorized for payment is based on the lesser of the following:

- i. the number of hours the child is actually in care each week; or
- ii. the number of hours the head of household, head of household's spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity. For households with more than one TEMP, the hours of the TEMP with the smallest number of activity hours are used.

C. Payment is made to the eligible child care provider on a monthly basis following the month in which services are provided.

D. Payment may be made to more than one provider for the same child if providers are not paid for the same day, and the combined payment does not exceed the maximum allowable per child.

E. Payment will not be made for a child who is absent from day care more than five days in a calendar month or for an extended closure by a provider of more than five consecutive days in any calendar month.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2829 (December 2000).

§5111. Ineligible Payments

A. All ineligible benefits are subject to action to recover such benefits.

B. When a participant is suspected of Intentional Program Violation (IPV), appropriate referral and forms shall be submitted to the Fraud and Recovery Section. The Fraud and Recovery Section may then:

1. refer the case for prosecution; or
2. refer the case to the Appeals Bureau for a Disqualification Hearing if the participant does not sign the Waiver of Right to an Administrative Hearing and the facts of the case do not warrant civil or criminal prosecution through the appropriate court systems; or the case was previously referred for prosecution and was declined by the appropriate legal authority; or the case was previously referred for prosecution and no action was taken within a reasonable period of time and the referral was formally withdrawn by Fraud and Recovery.

C. If an Intentional Program Violation is established, Fraud and Recovery will send a notice to the person to be disqualified and a copy of the notice to the parish office. The parish office will take action to disqualify for the appropriate situations:

1. 6 months for the first violation;
2. 12 months for the second violation;
3. 24 months for the third violation and for any additional violations.

Exception: The disqualification process will be waived for FIND Work participants and for participants in federally - or state-funded work or training programs.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2830 (December 2000).

J. Renea Austin-Duffin
Secretary

0012#076

RULE

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

Child Support Enforcement Program
Delinquent Child Support Payments (LAC 67:III.2303, 2304, 2579, 2801)

The Department of Social Services, Office of Family Support, has changed the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to R.S. 46:236.6(F) the agency has changed the criteria from 12 months to 6 months for including a noncustodial parent's name in the publication of names of delinquent payors who have not paid court-ordered child support.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 23. Single State Agency Organization

Subchapter A. Designation, Authority, Organization and Staffing

§2303. State Plan

A. The Louisiana Health and Human Resources Administration, Division of Youth Services, first adopted the State Plan for Child Support Collection and Establishment of Paternity effective August 1, 1975. Support Enforcement Services is now the single-state agency operating under the federally-approved State Plan for Child Support Enforcement Services.

B. The State Plan is available for review at the Office of Family Support Planning Section, A.Z. Young Building, 755 Third Street, Room 321, Baton Rouge, LA 70802.

AUTHORITY NOTE: Promulgated in accordance with Title IV-D of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Louisiana Health and Human Resources Administration, Division of Youth Services, LR 11:495 (November 1975), amended by the Department of Social Services, Office of Family Support, LR 26:2830 (December 2000).

§2304. Expedited Administrative Process

- A.1. - 5. ...
6. freeze and seize assets;
7. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:747 (June 1997), amended LR 26:2830 (December 2000).

Chapter 25. Single State Agency Organization

Subchapter A. Designation, Authority, Organization and Staffing

§2579. Publication of Names

- A. ...
- B. Information to be released includes the name, date of birth, last known address, and the total amount of past-due support owed by the noncustodial parent. Persons to be listed are those who have made no payments within the last six months, excluding payments received through IRS, state tax, or lottery intercepts. Noncustodial parents who are incarcerated or who cannot pay because of a proven disability will not be listed. If a noncustodial parent is listed on the DSS Homepage the name will be removed only upon written request of the noncustodial parent and proof that the arrears have been reduced to less than six months support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.6(F).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2457, (December 1999), amended LR 26:2830 (December 2000).

Chapter 28. Non-IV-D Program

Subchapter A. Non-IV-D Case Administration

§2801. General Provisions

A. In all new child support orders not being enforced by the Department of Social Services, payments for immediate income assignment orders shall be made payable through the Department of Social Services, Office of Family Support, Support Enforcement Services. Services provided are limited to accepting payments through immediate income

assignment, distributing those payments, maintaining payment history records, and retaining records in the same manner as IV-D cases. Enforcement services are not provided. Case records are determined confidential as per R.S. 46:56.

B. Payments shall be made payable to Department of Social Services. When a payment is received from the noncustodial parent or that parent's employer, a new check for the same amount will be issued to the custodial parent. Payments will be distributed in accordance with the agency's non-FITAP distribution schedule. The clerks of court will provide information to identify a case if requested by the Department of Social Services.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.100, P.L. 100-485 and R.S. 9:303; 42 U.S.C. Section 654(b) and R.S. 46:236.11.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:1527 (December 1993), amended LR 20:449 (April 1994); LR 26:2830 (December 2000).

J. Renea Austin-Duffin
Secretary

0012#073

RULE

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

Family Independence Temporary Assistance
Program (FITAP)C Crime Victim Compensation
(LAC 67:III.1229)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to 42 U.S.C. 10602(c), the agency has amended §1229 to add a crime victim compensation program payment as an exclusion from income for purposes of determining eligibility and payment amounts. The U.S. Department of Health and Human Services, Administration for Children and Families, recently advised the agency of the need to include this regulation in its Temporary Assistance for Needy Families (TANF) State Plan.

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. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining eligibility and payment amounts except income from:

1. - 27. ...

28. crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully

compensate the applicant for losses suffered as a result of the crime.

B. - G ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:2831 (December 2000).

J. Renea Austin-Duffin
Secretary

0012#074

RULE

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

Family Independence Temporary Assistance
Program (FITAP)C Flat Grant Amount
(LAC 67:III.1229)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families Block Grant, the agency has amended §1229 by increasing the FITAP grant amount for all assistance units in the amount of \$50 per month. Grants were increased beginning July 2000 in an Emergency Rule signed on July 14, 2000.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

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

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

Subchapter B. Conditions of Eligibility

§1229. Income

A. - C. ...

D. Flat Grant Amounts

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

18+

See Note 1

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

E. - G ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:2831 (December 2000).

J. Renea Austin-Duffin
Secretary

0012#078

RULE

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

**Kinship Care Subsidy Program (KCSP)C Crime
Victim Compensation (LAC 67:III.5329)**

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 13, the Kinship Care Subsidy Program (KCSP).

Pursuant to 42 U.S.C. 10602(c), the agency has amended §5329 to add a crime victim compensation program payment as an exclusion from income for purposes of determining eligibility and payment amounts. The U.S. Department of Health and Human Services, Administration for Children and Families, recently advised the agency of the need to include this regulation in its Temporary Assistance for Needy Families (TANF) State Plan.

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. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. - 26. ...

27. crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully compensate the applicant for losses suffered as a result of the crime.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000).

J. Renea Austin-Duffin
Secretary

0012#075

RULE

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

**Kinship Care Subsidy Program (KCSP)C Increased
Grant Amount (LAC 67:III.5329)**

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 13, the Kinship Care Subsidy Program (KCSP).

Pursuant to the authority granted to the department by the Louisiana Temporary Assistance to Needy Families Block Grant, the agency has amended §5329 by increasing the KCSP grant amount for eligible children by the amount of \$50 per month Beginning July 2000, grants were increased in an Emergency Rule signed on July 26, 2000.

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000).

J. Renea Austin-Duffin
Secretary

0012#079

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, changing the possession limit for the recreational harvest of Spanish mackerel from 10 to 15 fish per person per day. Authority for adoption of this Rule is included in R.S. 56:325.1 and R.S. 56:326.3.

**Title 76
WILDLIFE AND FISHERIES**

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery
§327. Daily Take and Possession Limits of King and Spanish Mackerel and Cobia

A. The recreational bag limit for possession of Spanish mackerel (*Scomberomorus maculatus*) whether caught within or without the territorial waters of Louisiana shall be 15 fish per person, per day.

B. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 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), LR 26:2833 (December 2000).

Thomas M. Gattle, Jr.
Chairman

0012#038

RULE

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

Reef Fish Harvest Regulations (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.335, increasing the commercial and recreational minimum size limits for gag and black grouper, prohibiting the commercial harvest and sale or purchase of gag, black, and red grouper from February 15 to March 15 each year, and general reorganization of the rule. Authority for adoption of this Rule is included in R.S. 56:6(25)(a) and R.S. 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery
§335. Reef Fish Harvest Regulations

A. Recreational bag limits regarding the harvest of reef fish: triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters:

Species	Recreational Bag Limits
1. Red Snapper	4 fish per person per day
2. Queen, mutton, school-master, blackfin, cubera, gray, dog, mahogany, silk, yellowtail snappers, and wenchman	10 fish per person per day (in aggregate)
3. Vermilion snapper, lane snapper, gray triggerfish, almaco jack, goldface, tilefish, tilefish, blackline tilefish, anchor tilefish, blue line tilefish	20 per person per day (in aggregate)
4. Red hind, rock hind, speckled hind, black grouper, misty grouper, red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, warsaw grouper, gag grouper, scamp	5 fish per person per day (in aggregate) with not more than 1 speckled hind and 1 warsaw grouper per vessel

- 5. Greater amberjack 1 fish per person per day
- 6. Banded rudderfish and lesser amberjack 5 fish per person per day (in aggregate)
- 7. Hogfish 5 fish per person per day
- 8. No person shall possess jewfish or Nassau grouper whether taken from within or without Louisiana territorial waters per LAC 76:VII.337.

B. Reef Fish Permits

1. All persons who do not possess a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the harvest of Gulf of Mexico Reef Fish resources are limited to the recreational bag limit. To commercially harvest, sell, barter, trade or exchange or possess for commercial purposes all species of reef fish including dwarf sand perch and sand perch, but (excluding queen triggerfish, black seabass, porgies, and grunts) requires a valid Federal Reef Fish Vessel Permit be on board the vessel and in the immediate possession.

2. Charter vessels and headboats harvesting all species of reef fish including dwarf sand perch and sand perch, but (excluding queen triggerfish, black seabass, porgies, and grunts) are required to have a valid federal charter vessel/headboat reef fish permit on board the vessel and in immediate possession.

3. Persons who are limited to a recreational bag limit shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any reef fish.

4. A person subject to a bag limit may not possess during a single day, regardless of the number of trips or the duration of a trip, any reef fish in excess of the bag limits.

5. No person aboard any commercial vessel shall transfer or cause the transfer of reef fish between vessels on state or federal waters.

C. Charter Vessels and Headboats

1. For charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2, there will be an allowance for up to two daily bag limits on multi-day trips provided the vessel has two licensed operators aboard as required by the U.S. Coast Guard for trips of over 12 hours, and each passenger is issued and has in possession a receipt issued on behalf of the vessel that verifies the length of the trip.

2. Any fish taken from charter vessels or headboats as defined in Federal Regulations 50 CFR Part 622.2 or any charter vessel as described in R.S. 56:302.9 shall not be sold, traded, bartered or exchanged or attempted to be sold, traded, bartered or exchanged. The provisions of §335 apply to fish taken within or without Louisiana's territorial waters.

D. Red Snapper

1. All persons who do not possess a class 1 or class 2 red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to the recreational bag limit for red snapper. Those persons

possessing a Class 2 red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to a daily take and possession limit of 200 pounds of red snapper per vessel.

2. Those persons possessing a class 1 red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to a daily take and possession limit of 2,000 pounds of red snapper per vessel.

3. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any red snapper in excess of any possession limit for which a commercial license or permit was issued.

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
1. Red Snapper	16 inches total length (Recreational) 15 inches total length (Commercial)
2. Gray, yellowtail, cubera, dog, mahogany snapper, and schoolmaster	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red and yellowfin grouper	20 inches total length
7. Gag and black grouper	22 inches total length (Recreational) 24 inches total length (Commercial)
8. Scamp	16 inches total length
9. Greater amberjack	28 inches fork length (Recreational) 36 inches fork length (Commercial)
10. Black seabass	8 inches total length
11. Hogfish	12 inches fork length
12. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size); 22 inches fork length (maximum size)
13. Gray triggerfish	12 inches total length

F. Definitions. Federal regulations 50 CFR Part 622.2 defines charter vessels and headboats as follows.

Charter Vessel—A vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

Headboat—A vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory pelagic fish or Gulf reef fish, when there are more than three persons aboard, including operator and crew.

G Seasons

1. The season for the commercial harvest of greater amberjack shall be closed during the months of March through May of each year. Possession of greater amberjack in excess of the daily bag limit while on the water is prohibited during the closed season. Any greater amberjack harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be

purchased, sold, traded, bartered or exchanged. The provisions of §335.G apply to fish taken within or without Louisiana's territorial waters.

2. The commercial season for gag, black, and red grouper shall be closed from February 15 to March 15 of each year. During this closed season no person shall commercially harvest, sell, purchase, barter, trade or exchange or attempt to sell, purchase, trade, barter or exchange gag, black, or red grouper whether taken from within or without Louisiana territorial waters. This prohibition on sale/purchase does not apply to gag, black grouper, or red grouper that were harvested, landed ashore, sold and purchased prior to February 15.

3. Persons aboard a vessel for which the permits indicates both charter vessel/headboat for Gulf reef fish and commercial Gulf reef fish may continue to retain gag, red grouper, and black grouper under the recreational take and possession limits specified in §335.A, provided the vessel is operating as a validly licensed charter vessel or headboat with prepaid recreational charter fishermen aboard the vessel. During the closed commercial season gag, red grouper or black grouper shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. The provisions of §335.G.3 apply to fish taken within or without Louisiana's territorial waters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000).

James H. Jenkins, Jr.
Secretary

0012#037

RULE

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

Tuna Harvest Regulations (LAC 76:VII.361)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.361, establishing regulations for the take of yellowfin tuna and bigeye tuna. Authority for adoption of this Rule is included in R.S. 56:325.1 and R.S. 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§361. Tuna Harvest Regulations

A. Bag and possession limits, recreational.

Species	Bag and Possession Limit
1. Yellowfin Tuna	3 fish per person

B. Size limits, Recreational and Commercial

Species	Minimum Size Limit
1. Yellowfin Tuna	27 inches curved fork length (CFL)
2. Bigeye Tuna	27 inches curved fork length (CFL)

Note: Curved fork length (CFL): the length of a fish measured from the tip of the upper jaw to the fork of the tail along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.

C. No person shall take or have in their possession any species of tuna, less than the minimum size or in excess of the take or possession limits. The possession limit on tunas applies to tuna taken within or outside Louisiana territorial waters.

D. Permits

1. Recreational. Persons aboard a vessel whether within or outside Louisiana territorial waters possessing any of the following tuna species: Atlantic bluefin tuna, yellowfin tuna, bigeye tuna, skipjack tuna, albacore, and Atlantic bonito are required to have a valid federal recreational tuna permit in their immediate possession on board the vessel.

2. Commercial. Persons harvesting the following tuna species: Atlantic bluefin tuna, yellowfin tuna, bigeye tuna, skipjack tuna, albacore, and Atlantic bonito whether within or outside Louisiana state territorial waters for commercial

purposes or possessing such tuna species in excess of a recreational take limit are required to have a valid federal commercial tuna permit in their immediate possession on board the vessel. No person shall sell, barter, trade or exchange or attempt to sell, barter, trade or exchange any species of tuna without a valid federal permit. No person shall purchase, barter, trade or exchange or attempt to purchase, barter, trade or exchange any species of tuna from any person who harvested tuna without a valid federal commercial permit.

3. No person aboard any commercial vessel shall transfer or cause the transfer of fish between vessels on state or federal waters.

4. No person shall possess any species of tuna without tail intact or skinned or scaled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:2834 (December 2000).

James H. Jenkins, Jr.
Secretary

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