

Rules

RULE

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Advisory Commission on Pesticides

Advisory Commission on Pesticides
(LAC 7:XXIII.121, 125, and 129)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, has amended regulations regarding the examinations of applicators, certification of commercial applicators and agricultural consultants.

The amendments clarify and accurately indicate the intent of the regulations. The test scores are in percentage, certification shall be renewed and the consultants are controlling pests.

These Rules comply with and are enabled by R.S. 3:3203 and R.S. 3:3223.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter E. Applicators, Salespersons and Agricultural Consultants

§121. Examinations of Applicators, Salespersons and Agricultural Consultants

A. The minimum score necessary for successful completion of examinations for certifications under these Rules shall be 70 percent.

B. The director, in cooperation with the director of the Cooperative Extension Service or his designee, shall be responsible for the preparation of all examinations.

C. The director shall be responsible for the administration and grading of all examinations.

D. Each applicant who fails to receive a passing score on any test in any category or subcategory shall wait a minimum of 10 days before being eligible for re-examination.

E. No person shall be allowed to take an examination in any category more than three times in a 12-month period.

F. Louisiana citizens who have failed any examinations under these standards shall not be permitted to receive certification under a reciprocal agreement with another state.

G. All applicants for private applicators' certification must be at least 16 years of age or an emancipated minor. All applicants for salesperson certification must be at least 18 years of age or an emancipated minor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3241 and 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 28:39 (January 2002).

Subchapter F. Certification

§125. Certification of Commercial Applicators

A. - D. ...

E. Each person that has been certified in any category or subcategory as a commercial applicator, and whose certification has not been revoked or suspended, shall renew that certification by attending a recertification meeting or training course for that category as designated by the commissioner.

F. The commissioner shall issue a certification card to each commercial applicator showing the categories or subcategories in which the applicator is certified. This certification card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form prescribed by the commissioner and by submitting the proper fee.

G. Each person who is certified as a commercial applicator need not be certified as a private applicator or a pesticide salesperson to apply or supervise the application of any restricted use pesticide as a private applicator, or to sell or supervise the sale of restricted use pesticides.

AUTHORITY NOTE: Promulgated in accordance with RS. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002).

§129. Certification of Agricultural Consultants

A. - D.2.a.i. ...

ii. Forest Entomology. Making recommendations for the control of forest pests.

iii. Household, Structural and Industrial Entomology. Making recommendations for the control of household pests, structural and industrial pests (such as termites, in stores, warehouse and transportation facilities).

iv. Medical, Veterinary and Public Health Entomology. Making recommendations for control of arthropods affecting man and animals.

v. Orchard and Nut Tree Entomology. Making recommendations for the control of orchard pests.

vi. Ornamental Entomology. Making recommendations for the control of pests of ornamentals, lawns, turf and shade trees.

b. Control of Plant Pathogens (Category 2).

i. Agricultural Plant Pathology. Making recommendations for the control of diseases of agronomic crops, especially sugarcane, cotton, rice, soybeans and home garden plants.

ii. Turf, Ornamental, Shade-tree and Floral Plant Pathology. Making recommendations for the control of diseases of turf, ornamentals, shade-trees and floral plants. Also includes greenhouse and nursery plant disease control.

iii. Forest Pathology. Making recommendations for the control of diseases of trees in plantations, nurseries and managed or unmanaged forests wherein the principal value lies in the production of wood fiber.

iv. Orchard Pathology. Making recommendations for the control of diseases of wood vines and trees wherein the principal value lies in the production of fruits or nuts.

c. Control of Weeds (Category 3).

i. Agricultural Weed Control. Making recommendations for the control of weeds and grasses in field crops, vegetable crops, pastures and rangeland.

ii. Turf, Ornamental and Shade-Tree Weed Control. Making recommendations for the control of weeds and grasses in ornamentals, turf areas, cemeteries and other similar areas.

iii. Forest Weed Control. Making recommendations for the control of weeds and grasses in forest lands.

iv. Right-of-Way and Industrial Weed Control. Making recommendations for the control of weeds and grasses in and around industrial and commercial sites.

d. Soil Management (Category 4).

i. Agricultural Field Soil Management. Knowledgeable in symptoms of soil and/or tissue nutrient problems; sampling techniques for soil and/or tissue analysis; interpretation of laboratory results; and recommendations for soil and/or tissue amendments.

ii. Agricultural Soil, Water and Tissue Laboratory Analysis. Knowledge of all diagnostic procedures pertaining to analysis of soil, water and/or tissue samples.

iii. Agricultural Soil Reclamation. Knowledge of techniques, methods, etc. for restoring or attempting to restore soil productivity as a result of physical and/or chemical disturbance or natural causes such as severe erosion or contaminated soils.

iv. Agricultural Water Management. Knowledge of irrigation scheduling practices and techniques for various enterprises requiring water on a regular or intermittent basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3246 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:281 (February 1998) amended LR 28:39 (January 2002).

Bob Odom
Commissioner

0201#071

RULE

**Department of Civil Service
Division of Administrative Law**

**Hearing Procedures CAdjudication
(LAC 1:III.Chapters 1-7)**

In accordance with R.S. 49:950 et seq., that the Division of Administrative Law, pursuant to authority vested in the Director by R.S.49:996(7) and in accordance with applicable provisions of the Administrative Procedure Act, has adopted Rules establishing hearing procedures to regulate DAL

adjudications. These Rules are intended to supplement procedures already existing in the Administrative Procedure Act.

Title 1

ADMINISTRATIVE LAW

Part III. Division of Administrative Law

Chapter 1. General Rules

§101. Purpose

A. Adjudications conducted by the Division of Administrative Law shall be governed by the Administrative Procedure Act (APA), R.S. 49:950 et seq., and the Division of Administrative Law Act (DALA), R. S. 49:991 et seq. To the extent that these Rules are not in conflict with other statutory authority, they establish additional procedures for regulating adjudications conducted by the Division. These Rules are not intended to be a comprehensive guide for Division hearings but are intended only as a supplement to the APA and the DALA. Adjudications conducted pursuant to federal law or R.S. 49:999.1, may be governed by other rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by Department of Civil Service, Division of Administrative Law, LR 28:40 (January 2002).

§103. Definitions

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

Administrative Hearings Clerk Cthe person who, directly or through his/her designee, maintains custody of and receives filings to the adjudicatory record for the Division.

Division Cthe Division of Administrative Law.

Pleading Ca petition, motion, response, request or any statement of position filed in connection with an adjudication or appeal.

Referring Agency Cthe state agency for which an adjudicatory hearing is being held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:40 (January 2002).

§105. Conflicts

A. Except as otherwise required by law, this Chapter shall govern procedures used in Division adjudications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:40 (January 2002).

§107. Severability

A. If any provision of these Rules, or the application thereof, is held to be invalid, the remaining provisions shall not be affected, so long as they can be given effect without the invalid provision. To this end, the provisions of these Rules are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:40 (January 2002).

§109. Computation of Time

A. In computing any period of time prescribed or allowed in these Rules, except where otherwise required by law, the day on which the designated period begins shall not be included. The last day of the designated period shall be included unless it is a Saturday, Sunday, or a legal holiday as provided in R.S. 1:55, in which event the designated period shall run until the end of the next day which is not a Saturday, Sunday, or a legal holiday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:41 (January 2002).

Chapter 3. Filing and Notices

§301. Administrative Hearings Clerk

A. The administrative hearings clerk shall be the official custodian of adjudicatory records for the Division. The clerk shall certify copies of official documents in his/her custody; distribute decisions, recommendations, orders, subpoenas, and notices issued by the administrative law judges; and perform other duties as assigned by the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:41 (January 2002).

§303. Docket Number

A. At the time a request for docketing or hearing is received by the Division, the matter shall be assigned a docket number. The docket number shall be used on all subsequent pleadings, amendments or supplements filed in the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:41 (January 2002).

§305. Official Recordings; Copies of Official Recordings; Transcripts

A. The Division shall make an official recording of the hearing.

B. Copies of tapes shall be available for purchase from the administrative hearings clerk.

C. A verbatim transcript shall be made when requested by a party or required by law. Requests for a transcript shall be in writing and submitted to the administrative hearings clerk. The administrative hearings clerk will furnish an estimate of the transcription costs. The estimated costs must be paid before the recording will be transcribed. Actual costs must be paid in full before delivery of the transcript.

D. When a transcript of any part of the proceeding has been made, the original shall be filed into the adjudicatory record.

E. Copies of public records held by the Division may be purchased pursuant to Division of Administration regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:41 (January 2002).

§307. Filing of Pleadings and Documents

A. Any pleading, document or other item which is being filed into the adjudicatory record shall be filed by hand delivery, mail, or if less than 25 pages, by facsimile transmission with the administrative hearings clerk.

B. Unless otherwise provided by law, all pleadings, documents or other items shall be deemed filed on the date received by the administrative hearings clerk. Receipt of a filing by facsimile transmission on or before the due date shall be considered as timely filed, provided the original document is filed into the adjudicatory record within five working days of receipt of the facsimile.

C. Parties requesting discovery shall serve such requests on any other party, his/her counsel of record, or other designated representative, but discovery requests shall not be filed in the record of the proceedings. The party responsible for service of the discovery materials shall retain the original and become the custodian of such materials. The provisions of this Section shall not be construed to preclude the filing of any discovery materials as exhibits or as evidence in connection with a motion or hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:41 (January 2002).

§309. Notices

A. This section shall apply to notices of hearings, orders, decisions and other pertinent documents sent by the Division.

B. Notices shall be sent by regular mail unless otherwise required by law. Notices may be sent to the counsel of record only. Otherwise, notices are sent to the party's last known address as filed in the adjudicatory record. Parties shall promptly send address changes to the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:41 (January 2002).

§311. Pleadings Form and Content

A. Unless otherwise required by law, pleadings should:

1. state the name, mailing address and telephone number of the person filing the pleading, and his/her attorney bar roll number, if applicable;

2. be legibly written in ink, typewritten or printed with one-inch top, bottom and side margins and should be on strong durable white paper, no larger than 8 1/2 by 11 inches;

3. be divided into separately numbered paragraphs and double-spaced;

4. state clearly, concisely and particularly all relevant facts that support the relief sought;

5. state the relief sought;

6. when appropriate, identify any statute, regulation, rule, written statement of law or policy, decision, order, permit, or license and the particular aspect of each upon which the pleading relies;

7. be signed in ink by the party filing same or by his or her duly authorized agent or attorney. The signature of the person signing the document constitutes a certification that he or she has read the document and that, to the best of his or

higher docket number shall be transferred to the administrative law judge to whom the matter with the lower docket number was assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:42 (January 2002).

§513. Separation of Actions

A. Upon motion of the administrative law judge or of any party, the administrative law judge may separate actions, which were cumulated or consolidated if separation would simplify the proceedings, permit a more orderly disposition of the matter, or otherwise be in the interest of justice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:43 (January 2002).

§515. Continuances

A. Except where otherwise prohibited by law, a continuance may be granted in any case for good cause shown. Motions for continuance should be in writing.

AUTHORITY NOTE: Promulgated in accordance with R. S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:43 (January 2002).

§517. Motions

A. Any party may file motions relating to an adjudication.

B. Except as otherwise permitted by the administrative law judge, all motions, other than those made during a hearing or conference, shall be submitted in writing and served on all parties as provided in §313 of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:43 (January 2002).

§519. Subpoenas

A. The Division shall order the issuance of a subpoena upon written request of a party and compliance with the requirements of this Rule.

B. Unless otherwise provided, to request the issuance of a subpoena, the following procedure shall be followed.

1. The subpoena shall be prepared and served by the requestor who shall file the return of service into the adjudicatory record. In Department of Public Safety/Office of Motor Vehicles cases a law enforcement officer subpoena shall be prepared by the administrative hearings clerk and delivered to the appropriate law enforcement agency to be served upon the law enforcement officer witness.

2. A request on behalf of any party shall be accompanied by a check or money order to cover witness fees pursuant to R.S. 49:956(5), R.S. 13:3662.A (law enforcement officers), LAC 55.III.201, or other applicable law. Witness fees for experts shall be set by the administrative law judge in accordance with R.S. 49:950 et seq. The check or money order shall be made payable to each witness subpoenaed, or as provided for law enforcement witnesses.

3. Additional witness fees must be submitted in order for a subpoena to be reissued due to a continuance or other reason.

4. The subpoena should include the following:

- a. the heading contained in §311.B of these Rules;
- b. the name of the party and the representative or attorney requesting the subpoena;
- c. the docket number of the case;
- d. the complete name, service address (with directions if necessary), and telephone number of the person being subpoenaed;
- e. a sufficient description of any document or item to be produced; and
- f. the date, time, place and proceeding for which the subpoena is requested.

C. A subpoena adapted from the Louisiana Code of Civil Procedure formulary is acceptable. Sample subpoena forms are available from the administrative hearings clerk.

D. Failure of a witness to appear or respond to a subpoena will not be grounds for a continuance or dismissal unless Paragraph B.1 above has been complied with, and the request for the subpoena was received by the Division at least 10 days before the date required for appearance, production or inspection. However, the administrative law judge may grant a continuance when the interest of justice requires it.

E. Only the administrative law judge may dismiss a witness who appears at a hearing pursuant to a subpoena issued by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:43 (January 2002).

§521. Discovery

A. Any party to a proceeding may conduct discovery in all manners as provided by law in civil actions as provided by R.S. 49:956.

B. In the interest of administrative economy, the parties should first attempt to obtain discovery by agreement or through the Public Records Act, R.S. 44:1 et seq.

C. The administrative law judge, for good cause, may issue any order to protect a party or person from annoyance, embarrassment, oppression, disclosure of confidential information, undue burden or expense.

D. The following Section applies only in cases adjudicated pursuant to the Louisiana Implied Consent Law, R.S. 32:661 et seq.

1. Requests for discovery should be made at the same time as the request for hearing.

2. Failure to request discovery at the time the hearing request is filed may result in a continuance if a response is not timely received, but not necessarily a dismissal of the case.

AUTHORITY NOTE: Promulgated in accordance with R. S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:43 (January 2002).

§523. Exhibits

A. Maps, drawings and other exhibits should not exceed 8 1/2 by 14 inches unless they are folded or reduced to the required size.

B. During the hearing, copies of exhibits should be furnished to the administrative law judge and all parties, unless the administrative law judge rules otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:44 (January 2002).

§525. Confidentiality

A. Except as otherwise provided by law, all portions of adjudicatory records are subject to review by all parties and the general public.

B. A motion for protective order, or other request to limit discovery, may be considered as a request for confidentiality. In the event a protective order is issued or discovery is otherwise limited, the administrative law judge may designate in writing as confidential that portion of the adjudicatory record necessary to enforce the provisions of the protective order.

C. Any portion of the adjudicatory record deemed to be confidential by statutory authority should be brought to the attention of the Division in order to help ensure the confidentiality of that portion of the record.

AUTHORITY NOTE: Promulgated in accordance with R. S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:44 (January 2002).

§527. Prehearing Order

A. The administrative law judge may require, prior to the adjudicatory hearing, that the parties submit a joint proposed prehearing order approved and signed by all parties or their counsel of record. Except as otherwise ordered by the administrative law judge, the proposed prehearing order should set forth the following:

1. a brief but comprehensive statement of the factual and legal contentions of each party;
2. a list of the legal authority (including statutes, code articles, regulations and cases) to be relied upon by each party at the adjudicatory hearing;
3. a detailed itemization of all pertinent uncontested facts established by pleadings, stipulations and admissions;
4. a detailed itemization of all contested issues of fact;
5. a list of all contested issues of law;
6. a list and brief description of all exhibits to be offered in evidence by each party. Exhibits to be used solely for impeachment or rebuttal need not be included on the list;
7. a list naming the fact witnesses and the expert witnesses each party may call and a short statement as to the nature of their testimony. Witnesses to be called solely for impeachment or rebuttal need not be included on the list;
8. a list of all matters to be officially noticed;
9. a statement by each party as to the estimated length of time necessary to present its case;
10. all other stipulations;
11. a list of all pending motions;
12. a statement as to any other matters that may be relevant to a prompt disposition of the case;

13. the following certification: "We hereby certify that we have conferred for the purpose of preparing this joint proposed prehearing order and that we have no objections to the contents of this prehearing order other than those attached hereto"; and this order:

"IT IS ORDERED that this matter be set for hearing at _____ o'clock, ___M. on the _____ day of _____, 20__ and to continue thereafter until completed."

ADMINISTRATIVE LAW JUDGE

B. In the event that any party disagrees with the proposed prehearing order, or any part thereof, he shall attach to the order a signed statement of his opposition and reasons therefor but shall, nevertheless, sign the joint proposed prehearing order which shall be deemed to be approved in all respects except those covered in the statement of opposition.

C. The person who has certified the prehearing order should attend the prehearing conference and the adjudicatory hearing. Any counsel or other representative attending the prehearing conference shall be knowledgeable of aspects of the case and possess the necessary authority to commit his client, associate counsel and witnesses to changes, stipulations and hearing dates.

D. At the conclusion of the prehearing conference, the administrative law judge shall sign the order setting the case for the adjudicatory hearing. Thereafter no amendments to the prehearing order shall be made except at the discretion of the administrative law judge based upon consent of the parties or for good cause shown. If a party fails to cooperate in preparing or filing a prehearing order, the administrative law judge may proceed with the prehearing conference, sign the prehearing order as drafted, continue the prehearing conference, continue the hearing, or order such other action as necessary to facilitate the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by Department of Civil Service, Division of Administrative Law, LR 28:44 (January 2002).

§529. Rehearing, Reopening, Reconsideration

A. Unless otherwise provided by law, a decision on the merits shall become final as to any party thirty days after mailing of the notice unless a petition for reconsideration, reopening or rehearing is filed with the Division within ten days from date of mailing pursuant to R.S. 49:959.

B. Any requests for reconsideration, reopening or rehearing shall be granted or denied by the administrative law judge who originally decided the case or any judge to whom the matter is subsequently assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:44 (January 2002).

§531. Termination of Adjudications; Voluntary Withdrawal; Involuntary Waiver; Failure to Appear; Abandonment

A. The administrative law judge may issue an order terminating an adjudication based upon voluntary waiver, withdrawal of the request for a hearing, rescission by the

agency of the underlying action, settlement, stipulation, consent order, or any other procedure allowed by law.

B. In accordance with R.S. 49:955.A, a party who requests an administrative hearing may be deemed to have waived its right to a hearing if after having been provided with reasonable notice the party fails to appear on the day and time set for hearing. In such instances, the rule to show cause, hearing request, or the party's appeal may be dismissed based on the party's waiver of the right to a hearing. The order of dismissal shall be mailed to the party's last known address.

C. Abandonment

1. Except as otherwise provided by law, an action is abandoned when the parties fail to take any step in its prosecution or defense for a period of three years.

2. This provision shall be operative without formal order. However, on ex parte motion of any party, other interested person or the administrative hearings clerk, supported by affidavit, the administrative law judge shall enter an order of dismissal as of the date of its abandonment.

3. The affidavit shall specify that no step has been taken for a period of three years in the prosecution or defense of the action.

4. The order shall be mailed to all parties, and the parties shall have thirty days from date of mailing to move to set aside dismissal based on a showing of good cause.

5. Any formal discovery as authorized by these Rules and the Administrative Procedure Act and served on all parties, whether or not filed of record, including the taking of a deposition with or without formal notice, shall be deemed to be a step in the prosecution or defense of an action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:44 (January 2002).

Chapter 7. Mediation

§701. Mediation

A. Any party may request a pre-trial mediation conference.

B. Mediation shall not be conducted over the objection of a party.

C. The administrative law judge to whom the case was originally assigned shall not conduct the mediation. The order setting the matter for mediation shall designate another administrative law judge to act as mediator.

D. Each party, representative or attorney shall negotiate in good faith, and be prepared to obtain the authority necessary to settle and compromise the litigation. The mediator may permit telephone appearances in lieu of a personal appearance for good cause and convenience of the parties.

E. Mediation shall not unduly delay the hearing schedule. The presiding administrative law judge may continue scheduled dates on motion of a party or on his/her own motion.

F. Confidentiality of mediations shall be governed by R.S. 9:4112.

G. Each party or representative should submit information sufficient to explain the gist of the case to the

assigned mediator at least one day prior to the conference. The submittals need not be in any certain form and may consist of any documents, exhibits or writings the party wishes the mediator to consider before the conference. The mediator may use all statements, documents, exhibits or other types of information submitted, as he/she deems appropriate to foster settlement unless a party has expressly stated otherwise.

H. The mediator shall not draft settlement agreements. Agreements may be recited on the record before the presiding administrative law judge and later reduced to writing by the parties or their representatives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:45 (January 2002).

Ann Wise
Director

0201#024

RULE

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

Scholarship/Grant Programs
(LAC 28:IV.301 and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended Rules of the Scholarship/Grant programs (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

Title 28

EDUCATION

Part IV. Student Financial Assistance

Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

* * *

Selective Enrollment Program Can advanced college course of study with competitive admissions based on a student's qualifications including successful completion of required college courses and a minimum college cumulative grade point average. Examples of Selective Enrollment Programs include, but are not limited to, medical technology, nursing (bachelor of science), occupational therapy, physical therapy, and radiation technology.

* * *

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 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 28:45 (January 2002).

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

A. - E.9.c. ...

10. Transfer/Selective Enrollment Program

a. Definition. A student/recipient who completed his or her program requirements for transfer to a Selective Enrollment Program.

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

i. a completed exception request form including official college transcripts and the semester(s) affected, and

ii. a written statement from the dean of the college or the dean's designee certifying that the student/recipient has or will complete his or her course requirements for transfer to a Selective Enrollment Program.

c. Maximum Length of Exception. Two semesters or three quarters.

A.11.c. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17: 959 (October 1991), amended LR 22:338 (May 1996), LR 23:1647 (December 1997), LR 24:647 (April 1998), LR 24:1916 (October 1998), LR 26:1015 (May 2000) LR 28:46 (January 2002).

Mark S. Riley
Assistant Executive Director

0201#016

RULE

Office of the Governor
Division of Administration
Racing Commission

Licenses Necessary for Entry (LAC 46:XLI.1105)

The Louisiana State Racing Commission has amended the following Rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLI. Horseracing Occupations

Chapter 11. Owners

§1105. Licenses Necessary for Entry

A. Before a horse may be entered, its owner or owners must secure the appropriate licenses from the commission, unless permission is granted by the stewards.

B. The minimum age for an owner's applicant is 16 years old. However, for every applicant under the age of 18 years old, the owner's license application shall be submitted with a notarized affidavit from his or her parent or legal guardian stating that the parent or legal guardian assumes responsibility for the minor licensee's financial, contractual and other obligations relating to the applicant's participation in racing. Further, the applicant's parent or legal guardian must be eligible and present for eligibility for licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:429 (December 1976), repromulgated LR 3:25 (January 1977), LR 4:274 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 28:46 (January 2002).

Charles A. Gardiner III
Executive Director

0201#014

RULE

Department of Health and Hospitals
Office of Public Health

Emergency Medical Technician Training
Fee Schedule (LAC 48:XI.3501)

The Department of Health and Hospitals, Office of Public Health, in accordance with R.S. 40:1232.1, R.S. 40:5 and the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 48 XI.3501, Fee Schedule as follows.

Title 48

PUBLIC HEALTHC GENERAL
Part XI. Hospitals

Chapter 35. Emergency Medical Technician Training
§3501. Fee Schedule

A. - B. ...

C. The Bureau of Emergency Medical Services shall set fees for emergency medical personnel under the following conditions.

1. Volunteers. The bureau shall not require or collect any fee or charges for certification or recertification of emergency medical personnel who:

- a. serve as such on a voluntary basis; and
- b. receive no compensation of any kind for such services.

2. Public Exceptions. The bureau shall not set the fee for certification of an emergency medical technician/basic to exceed \$15 for any individual who:

- a. is an employee of a municipal law enforcement agency; or
- b. fire service; or
- c. fire protection district, who does not perform emergency medical services outside of the individual's official governmental responsibilities for any form of compensation.

3. The bureau shall not set the fee for recertification of an emergency medical technician-basic to exceed \$10 for any individual who:

- a. is an employee of a municipal law enforcement agency; or
- b. fire service; or
- c. fire protection district, who does not perform emergency medical services outside of the individual's official governmental responsibilities for any form of compensation.

4. The bureau shall assess fees for testing and certification based on the following schedule:

- a. test fees:
 - i. first responderCwritten only: \$15;
 - ii. first responderCwritten only (out-of-state): \$15;
 - iii. basic initial written and practical: \$60;
 - iv. basic entire practical exam: \$30;
 - v. basic partial practical: \$15;
 - vi. basic testing/retestingCwritten only: \$15;
 - vii. basic testing/retestingCwritten only (out-of-state): \$15;
 - viii. intermediate initial written and practical: \$75;
 - ix. intermediate initial written and practical (out-of-state): \$100;
 - x. intermediate retest entire practical: \$50;
 - xi. intermediate retest entire practical (out-of-state): \$65;
 - xii. intermediate retest partial practical: \$30;
 - xiii. intermediate retest partial practical (out-of-state): \$30;
 - xiv. intermediate testing/retestingCwritten exam only: \$15;
 - xv. intermediate testing/retestingCwritten exam only (out-of-state): \$15;
 - xvi. paramedic initial written and practical: \$90;
 - xvii. paramedic initial written and practical (out-of-state): \$125;
 - xviii. paramedic retesting entire practical: \$60;
 - xix. paramedic retesting entire practical (out-of-state): \$75;
 - xx. paramedic retesting partial practical: \$35;
 - xxi. paramedic retesting partial practical (out-of-state): \$40;
 - xxii. paramedic testing/retesting written: \$15;
 - xxiii. paramedic testing/retesting written (out-of-state): \$15.
- b. Certification fees are charged as follows:
 - i. first responder initial certification: \$10;
 - ii. basic emergency medical technician initial certification: \$30;
 - iii. intermediate initial certification: \$40;
 - iv. paramedic initial certification: \$50;
 - v. first responder recertification: \$5;
 - vi. basic emergency medical technician recertification: \$25;
 - vii. intermediate recertification: \$35;
 - viii. paramedic recertification: \$45;
 - ix. basic EMT reciprocity: \$60;
 - x. intermediate reciprocity: \$80;
 - xi. paramedic reciprocity: \$100.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1232.1 (Act 515 of the 2001 Louisiana Legislature).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Hospitals, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 15:478, 512 (June 1989), LR 28:46 (January 2002).

David W. Hood
Secretary

0201#048

RULE

Department of Health and Hospitals Office of Public Health

Reportable Disease

Under the authority of R.S. 40:5 and in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended Chapter II of the Louisiana Sanitary Code.

The threat of new or re-emerging infectious diseases/conditions, as well as, the potential for bioterrorist events, necessitates the addition of several diseases/conditions to the list of reportable diseases/conditions and changes in the time periods for reporting specific diseases/conditions (Section 2:003). The revised list of reportable diseases provides for the addition of the following diseases/conditions: Anthrax, Aseptic meningitis, Brucellosis, Cryptococcosis, Cyclosporiasis, Dengue, EHEC serogroup non 0157, EHEC + shiga toxin not serogrouped, Giardia, Hantavirus Pulmonary Syndrome, Hansen Disease (leprosy), Listeria, Plague, Psittacosis, Streptococcal pneumoniae (invasive in children <5 years of age), Tularemia, Smallpox and Viral Hemorrhagic fever. This action has become necessary as a result of the recognition of new and re-emerging diseases of public health importance and/or those that may be associated with bioterrorist events. In addition, three diseases were removed from the reportable list for which reports have been rare or sporadic: Amebiasis, Meningitis, other bacterial, fungal and Mycobacteriosis, atypical. The need to categorize the reportable disease/condition list according to time periods for reporting will allow for more timely and efficient public health responses for which active intervention and prevention can be instituted.

Employee Health requirements for tuberculosis control would no longer apply to day care center employees (Section 2:022, 2:023 and 2:024), as no cases of tuberculosis have occurred among them since the requirement was implemented in 1994.

Sanitary Code State of Louisiana

Chapter II. The Control of Disease

2:003 The following diseases or conditions are hereby declared reportable with reporting requirements by Class:

A. Class A Diseases or Conditions Which Shall Require Reporting Within 24 Hours

This class includes diseases of major public health concern because of the severity of disease and potential for epidemic spread. Class A diseases or conditions shall be reported to the Office of Public Health by telephone immediately upon recognition that a case, a suspected case, or a positive laboratory result is known. In addition, all cases of rare or exotic communicable diseases, unexplained death, unusual cluster of disease and all outbreaks shall also be reported.

The following diseases or conditions shall be classified as Class A for reporting requirements:

- Anthrax
- Botulism
- Brucellosis
- Cholera
- Diphtheria
- Haemophilus influenzae (invasive infection)
- Measles (rubeola)
- Neisseria meningitidis (invasive infection)
- Plague
- Rabies (animal and man)
- Rubella (congenital syndrome)
- Rubella (German measles)
- Smallpox
- Tularemia
- Viral Hemorrhagic Fever

B. Class B Diseases or Conditions Which Shall Require Reporting Within 1 Business Day

This class includes diseases of public health concern needing timely response because of potential for epidemic spread. The following Class B diseases shall be reported to the Office of Public Health by the end of the next business day after the existence of a case, a suspected case, or a positive laboratory result is known

Arthropod-borne encephalitis

- Aseptic meningitis
- Chancroid¹
- E. Coli 0157:H7
- Hantavirus Pulmonary Syndrome
- Hemolytic-Uremic Syndrome
- Hepatitis A (acute illness)
- Hepatitis B (carriage in pregnancy)
- Herpes (neonatal)
- Legionellosis
- Malaria
- Mumps
- Pertussis
- Salmonellosis
- Shigellosis
- Syphilis¹
- Tetanus
- Tuberculosis²
- Typhoid Fever

C. Class C Diseases or Conditions Which Shall Require Reporting Within 5 Business Days

This class shall include the diseases of significant public health concern. The following diseases shall be reported to the Office of Public Health a by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known

- Acquired Immune Deficiency Syndrome (AIDS)
- Blastomycosis
- Campylobacteriosis
- Chlamydial infection⁰
- Cryptococcosis
- Cryptosporidiosis

- Cyclosporiasis
- Dengue
- EHEC serogroup non 0157
- EHEC + shiga toxin not serogrouped
- Enterococcus -Vancomycin Resistant; (VRE)
- Giardia
- Gonorrhea⁰
- Hansen Disease (leprosy)
- Hepatitis B (acute)
- Hepatitis C (acute)
- Human Immunodeficiency Virus (HIV)
- Listeria
- Lyme Disease
- Lymphogranuloma venereum⁰
- Psittacosis
- Rocky Mountain Spotted Fever (RMSF)
- Staphylococcus aureus, Methicillin/Oxacillin or vancomycin resistant (MRSA)
- Streptococcus pneumoniae [invasive infection; penicillin, resistant (DRSP)]
- Streptococcus pneumoniae (invasive infection in children <5 years of age)
- Varicella (chickenpox)
- Vibrio infections (other than cholera)

D. Other Reportable Conditions

- Cancer
- Complications of abortion
- Congenital hypothyroidism*
- Galactosemia*
- Hemophilia*
- Lead Poisoning*
- Phenylketonuria*
- Reye's Syndrome
- Severe traumatic head injury**
- Severe undernutrition
(severe anemia, failure to thrive)
- Sickle cell disease (newborns)*
- Spinal cord injury**
- Sudden infant death syndrome (SIDS)

Case reports not requiring special reporting instructions (see below) can be reported by Confidential Disease Case Report forms (2430), facsimile, phone reports, or electronic transmission.

⁰Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

⁵Report on CDC72.5 (f.5.2431) card.

*Report to the Louisiana Genetic Diseases Program Office by telephone (504) 568-5070 or FAX (504) 568-7722.

**Report on DDP-3 form; preliminary phone report from ER encouraged (504) 568-2509. Information contained in reports required under this section shall remain confidential in accordance with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4; R.S. 40:2 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:1386, (December 1992), amended LR 20: 1294 (November 1994); LR 28:47 (January 2002).

2:022 All persons prior to or at the time of employment at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or any person prior to or at the time of commencing volunteer work

involving direct patient care at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals shall be free of tuberculosis in a communicable state as evidenced by either

(1) a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method;

(2) a normal chest x-ray, if the skin test is positive; or

(3) a statement from a licensed physician certifying that the individual is non-infectious if the x-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4; R.S. 40:2 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:1386 (December 1992), amended LR 20:1294 (November 1994), LR 28:48 (January 2002).

2:023 Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals who has a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a chest x-ray other than normal, in order to remain employed or continue work as a volunteer, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4; R.S. 40:2 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:1386 (December 1992), amended LR 29:1294 (November 1994), LR 28:49 (January 2002).

2:024 Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals who has a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, in order to remain employed or to continue to work as a volunteer, shall be re-tested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, remains negative. Any employee or volunteer converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, shall be referred to a physician and followed as indicated in Section 2:023.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4; R.S. 40:2 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:1386 (December 1992), amended LR 20:1294 (November 1994), LR 28:49 (January 2002).

David W. Hood
Secretary

0201#047

RULE

Department of Health and Hospitals Office of Public Health

Retail Food Establishments (LAC XXIII.Chapters 1-47)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, repeals Chapter XXII, Chapter XXIII, and Chapter XXIII.A and promulgates Part XXIII of the Louisiana State Sanitary Code to be in accordance with current Food and Drug Administration, (FDA), Food Code guidelines and codified in accordance with the Administrative Procedure Act as follows:

Title 51

PUBLIC HEALTHCSANITARY CODE

Part XXIII. Retail Food Establishments

Chapter 1. Definitions

§101. Definitions [formerly paragraph 23:001]

A. Terms not defined or referenced herein shall have the meanings as defined in LAC 51:I. In any instance where a term defined herein is also defined in one or more Parts of LAC 51:Part I, the definition contained in this Part shall govern this Part.

"a" Cwater activity.

Additive Cas defined in Federal Food, Drug and Cosmetic Act 201(s), [21 U.S.C. 321(s)], any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include:

- a. a pesticide chemical residue in or on a raw agricultural commodity, processed food; or
- b. a pesticide chemical; or
- c. a color additive; or
- d. any substance used in accordance with a sanction or approval granted prior to the enactment of this paragraph pursuant to this Act, the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 et seq.); or
- e. a new animal drug; or
- f. an ingredient described in paragraph (ff) of this Act in, or intended for use in, a dietary supplement;
- g. and defined in 21 CFR 170.3(e)(1) CFood additives include all substances not exempted by section 201(s) of this Act, the intended use of which results or may

reasonably be expected to result, directly or indirectly, either in their becoming a component of food or otherwise affecting the characteristics of food. A material used in the production of containers and packages is subject to the definition if it may reasonably be expected to become a component, or to affect the characteristics, directly or indirectly, of food packed in the container. "Affecting the characteristics of food" does not include such physical effects, as protecting contents of packages, preserving shape, and preventing moisture loss. If there is no migration of a packaging component from the package to the food, it does not become a component of the food and thus is not a food additive. A substance that does not become a component of food, but that is used, for example, in preparing an ingredient of the food to give a different flavor, texture, or other characteristic in the food, may be a food additive.

Adulterated FoodCa as defined in §607 of the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.), a food is considered adulterated if it has been found to be such by any department of the United States government, or:

a. if it contains any poisonous or deleterious substances, added or otherwise, which may render it dangerous to health, or any added poisonous or deleterious substance which is prohibited by R.S. 40:611 or which is in excess of the limits of tolerance prescribed by regulations of the department;

b. if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food;

c. if it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health;

d. if it is the product of a diseased animal or of an animal which has died otherwise than by slaughter;

e. if its container is composed of any poisonous or deleterious substance which may render the contents injurious to health;

f. if any valuable constituent has been in whole or in part abstracted therefrom;

g. if any substance has been substituted wholly or in part therefor;

h. if damage or inferiority has been concealed in any manner;

i. any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, reduce its quality or strength, or create a deceptive appearance;

j. if it contains a coal-tar color other than one from a batch that has been certified in accordance with regulations of the department;

k. if it is confectionery or ice cream and contains any alcohol, resinous glaze, or non-nutritive substance except harmless coloring, harmless flavoring, natural gum, and pectin. However, this Paragraph does not apply to any confectionery or ice cream by reason of its containing less than one-half of one percent by volume of alcohol, derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless non-nutritive masticatory substance.

Approved SupplierCa producer, manufacturer, distributor or food establishment that is acceptable to the enforcement agency based on a determination of conformity

with applicable laws, or, in the absence of applicable laws, with current public health principles and practices, and generally recognized industry standards that protect public health.

Base of Operations/CommissaryCa catering establishment, restaurant, or any other properly equipped place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

Bed and Breakfast EstablishmentCa privately owned house where rooms are let and a breakfast is included in the rent. See Food Establishment.

BeverageCa liquid for drinking, including water.

Bulk FoodCa processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn.

CIPCa clean in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

Certification NumberCa unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

ComminutedCa reduced in size by methods including chopping, flaking, grinding, or mincing and restructured or reformulated.

ConsumerCa "person" who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a "food" establishment or "food processing plant" and does not offer the "food" for resale.

Convenience StoreCa retail food store which is usually easily accessible and deals mostly with prepackaged food products.

Corrosion-Resistant MaterialCa material that maintains acceptable surface cleanability characteristics under prolonged influence of the "food" to be contacted, the normal use of cleaning compounds, and "sanitizing" solutions, and other conditions of the environment.

Critical Control PointCa as defined in the 1999 Food Code published by FDA, a point or procedure in a specific "food" system where loss of control may result in an unacceptable health risk.

Critical ItemCa provision of this code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation, such as, but not limited to a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water sources, sewage backup, severe insect and rodent infestation, and chemical contamination.

Deli/DelicatessenCa food establishment which generally serves ready to eat food products such as sandwiches, cold cuts, cheeses, prepared salads and some prepared hot foods.

Drinking WaterCa see potable water.

Dry Storage AreaCa room or area designated for the storage of "packaged" or containerized bulk "food" that is not Apotentially hazardous@ and dry goods such as "single-service" items.

Easily Cleanable Surfaces that are readily accessible and made of such materials, finish and so fabricated that residue may be effectively removed by normal cleaning methods.

Employee the permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

Equipment Can article that is used in the operation of a food establishment and retail food store/market such as, but not limited to, a reach-in or walk-in refrigerator or freezer, grinder, ice maker, meat block, mixer, oven, scale, sink, slicer, stove, table, thermometers, vending machine, or warewashing machine.

Fairs and Festivals Ca gathering of persons for an event such as a bazaar, carnival, circus, public exhibition or other similar gathering for the purpose of celebration, competition, entertainment, distribution or sale of foods or goods, exhibition, religious activity, or other such purposes, which will operate for only a temporary period in any one location.

Food Ca raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

Foodborne Disease Outbreak Cthe occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

Food Contact Surfaces Ca surface of equipment or a utensil with which food normally comes in contact with, or a surface of equipment or a utensil from which food may drain, drip or splash into a food or onto a surface normally in contact with food.

Food Establishment Can operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption. The term includes restaurants, cafeterias, caterers, delicatessens, bars, lounges, or any other facility that prepares food for individual service or for a group of people, whether consumption is on or off the premises and regardless if there is a charge for the food. The term does not include:

a. private homes where food is prepared or served for individual family consumption and a kitchen in a private home if only "food" that is not "potentially hazardous" is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by "law" and if the "consumer" is informed by a clearly visible placard at the sales or service location that the "food" is prepared in a kitchen that is not subject to regulation and inspection by the "regulatory authority;"

b. a kitchen in a private home, such as a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed six, breakfast is the only meal offered, the number of guests served does not exceed 18, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the Office of Public Health.

Food Vendor/Food Concessionaire Cany person who handles food or drink during preparation or serving, or who comes in contact with any eating or drinking utensils, or who

is employed at any time in a room in which food or drink is prepared or served in a temporary food service.

Game Animals Can animal, the products of which are food, that is not classified by law as cattle, sheep, swine, goat, poultry, fish, and game birds or small animals as described in Chapter X of the Louisiana State Sanitary Code.

Garbage Cthe putrescible components of refuse which are subject to spoilage, rot, or decomposition. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

HAACPC Hazard Analysis Critical Control Point.

HACCP Plan Ca written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee of Microbiological Criteria for Foods.

Hermetically Sealed Container Ca container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

Highly Susceptible Population Ca group of "persons" who are more likely than other populations to experience foodborne disease because they are immunocompromised, or for the purposes of this Part, older adults in a facility that provides health care or assisted living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a day care center.

Hot Holding Temperature Cfood stored for hot holding and service shall be held at a temperature of 140EF (60EC) or higher with the exception of roast beef. If roast beef is cooked in accordance with §1305.A.7 the minimum hot holding temperature shall be 130EF (54EC).

Individual Food Operator/Responsible Person Cthe person responsible for operating the individual temporary food service.

Injected Cmanipulating a meat through tenderizing with deep penetration or injecting the meat such as with juices which may be referred to as "injecting," "pinning," or "stitch pumping."

Itinerant Food Establishment Cany fixed or mobile food establishment which operates on a temporary or seasonal basis.

Itinerant Retail Food Store/Market Cany fixed or mobile retail food store/market which operates on a temporary or seasonal basis.

Kiosk Ca small structure used as a food and/or beverage booth.

Kitchenware Cfood preparation and storage utensils.

Label Cthe principal display or displays of written, printed, or graphic matter upon any food or the immediate container thereof, or upon the outside container or wrapper, if any, of the retail package of any food.

Labeling Cincludes all labels and other written, printed and graphic matter, in any form whatsoever, accompanying any food.

Linens C fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

Market Ca retail food store or food market which stores, prepares, packages, serves, vends or otherwise provides food

products such as beverages, eggs, meat, milk, produce, seafood or other similar products.

Microorganisms Yeasts, molds, fungi, bacteria, parasites and viruses including, but not limited to, species having public health significance. The term "undesirable microorganisms" includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated within the meaning of the Food, Drug and Cosmetic Laws and Regulations.

Mobile Food Establishment A vehicle-mounted food establishment designed to be readily movable.

Mobile Retail Food Store/Market A vehicle-mounted retail food store/market designed to be readily movable.

Multi-Service Articles Creusable articles for the service of foods made of smooth, impervious material and approved by the State Health Officer.

Noncritical Item Call provisions in this Part that are not classified as critical items.

Offal Waste parts, especially of a butchered animal, including but not limited to bones, cartilage, fatty tissue and gristle.

Open Air Market A site that deals in produce that is normally peeled or washed prior to consumption, honey, jellies and syrups.

Organizer/Promoter/Chairman That person responsible for managing a festival or fair. In the event of his/her unavailability, the assistant shall be deemed the responsible person.

"pH" The symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 alkalinity. The value for pure distilled water is 7, which is considered neutral.

PPM Parts per million, (mg/l) which is the metric equivalent.

Packaged Bottled, canned, cartoned, securely bagged, or securely wrapped.

Permit The document issued by the "Department" that authorizes a "person" to operate a "food establishment" or "retail food store/market."

Permit Holder The entity that:

a. is legally responsible for the operation of the establishment such as the owner, the owner's agent, or other "person"; and

b. possesses a valid "permit" to operate an establishment.

Person An association, a corporation, individual, partnership, other legal entity, governmental subdivision or agency.

Person in Charge The individual present at a food establishment or retail food store/market who is responsible for the operation at the time of inspection.

Personal Care Items

a. items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a "person's" health, hygiene, or appearance;

b. includes items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

Pest Refers to any objectionable animal or insect including, but not limited to, birds, roaches, rodents, flies, and larvae.

Poisonous or Toxic Materials Substances that are not intended for ingestion including, but not limited to:

a. cleaners and "sanitizers" which include cleaning and "sanitizing" agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

b. pesticides, except "sanitizers," which include substances such as insecticides, rodenticides, herbicides;

c. substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and "personal care items" that may be deleterious to health.

Potable Water Water having bacteriological, physical, radiological and chemical qualities that make it safe and suitable for use by people for drinking, cooking or washing.

Potentially Hazardous Food

a. food that is natural or synthetic and is in a form capable of supporting:

i. the rapid and progressive multiplication of infectious or toxigenic microorganisms;

ii. the multiplication and toxin production of *Clostridium botulinum*; or

iii. in shell eggs, the multiplication of *Salmonella enteritidis*.

b. *potentially hazardous food* includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic and oil mixtures.

c. *potentially hazardous food* does not include:

i. an air-cooled hard-boiled-egg with shell intact;

ii. a food with a water activity (a_w) value of 0.85 or less;

iii. a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 75°F (24°C);

iv. a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or

v. a food for which a variance granted by the regulatory authority is based upon laboratory evidence demonstrating that rapid and progressive multiplication of infectious and toxigenic microorganisms or the slower multiplication of *C. botulinum* cannot occur.

Premises

a. the physical facility, its contents, and the contiguous land or property under the control of the "permit holder"; or

b. the physical facility, its contents, and the land or property not described under Subparagraph a of this definition if its facilities and contents are under the control of the "permit holder" and may impact establishment personnel, facilities, or operations, and an establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

Pushcart A mobile food establishment or retail food store/market propelled by a person.

Ready-to-Eat-Food Food that is in a form that is edible without washing, cooking, or additional preparation by the

food establishment or the consumer and that is reasonably expected to be consumed in that form.

Recognized Louisiana Festival or FairCthose fairs or festivals that are officially acknowledged, in writing, as recognized by a state, parish, or municipal governmental body or by the Louisiana Association of Fairs and Festivals.

ReconstitutedCdehydrated food products recombined with water or other liquids.

Reduced Oxygen PackagingCthe reduction of the amount of oxygen in a package by mechanically evacuating the oxygen; displacing the oxygen with another gas or combination of gases; or otherwise controlling the oxygen content in a package to a level below that normally found in the surrounding atmosphere, which is 21 percent oxygen. This may include methods referred to as altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging including sous vide.

RefuseCany garbage, rubbish, sludge from a food establishment, retail food store/market, waste treatment plant, water supply treatment plant, or air pollution control facility. It also includes other discarded material such as solid, liquid, semi-solid, or contained gaseous material resulting from either industrial, commercial, mining, or agricultural operations, or from community activities. It does not include solid or dissolved material in domestic sewage, irrigation return flow, industrial discharges which are point sources, or radioactive wastes.

Regulatory AuthorityCthe local, state or federal enforcement body or authorized representative having jurisdiction over the food establishment or retail food store/market.

Retail Food ManufacturerCan establishment in which food is manufactured or packaged for human consumption and is sold only at the site of manufacture, such as but not limited to bakery products and candy.

Retail Food Store/MarketCall types of food markets including convenience, fixed, mobile and temporary food stores. These may also be referred to as groceries. Larger retail food stores may also include bakeries and delicatessens.

RubbishCall non-putrescible waste matter, except ashes, from any public or private establishments, institution, or residence. It also includes construction and demolition wastes.

Safe MaterialCan article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any "food."

SanitizationCthe application of cumulative heat or chemicals on cleaned "food-contact surfaces" that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999-percent reduction of representative disease microorganisms of public health importance.

SeafoodCincludes but is not limited to fish, shellfish, edible crustaceans, marine and freshwater animal food products.

SealedCfree of cracks or other openings that allow the entry or passage of moisture.

SeasonalCa recurrent period that is characterized by certain seasons of the year, occupations, festivities, or crops;

any period of time that is legally available to the hunter, fisherman, or trapper. These seasons are legally set by government regulatory agencies such as the State Department of Wildlife and Fisheries, State Department of Agriculture or other such agencies.

Single-Service ArticlesCtableware, carry-out utensils, and other items such as bags, containers, cups, lids, closures, plates, knives, forks, spoons, paddles, napkins, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use and then discarded.

Single-Use ArticlesCutensils and bulk food containers designed and constructed to be used once and discarded. "Single-use articles" includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs, or buckets, bread wrappers, pickle barrels, and number 10 cans.

SlackingCthe process of moderating the temperature of a "food" such as allowing a "food" to gradually increase from a temperature of -23EC (-10EF) to -4EC (25EF) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen "food" such as spinach.

Smoked FoodCfood which has been colored or flavored by natural or liquid smoke.

Substantial RenovationC

a. alterations or repairs made within a 12-month period, costing in excess of 50 percent of the then physical value of the existing building; or

b. alterations or repairs made within a 12-month period, costing in excess of \$15,000; or

c. alterations or repairs made within a 12-month period, involving a change in "occupancy classification" or use of the property;

d. the physical value of the building in Subparagraph a of this Paragraph may be established by an appraisal not more than three years old, provided that said appraisal was performed by a certified appraiser or by the tax assessor in the parish where the building is located;

e. the cost of alterations or repairs in Subparagraphs a or b of this Paragraph may be established by:

i. an estimate signed by a licensed architect or a licensed general contractor, or

ii. by copies of receipts for the actual costs.

TablewareCoating, drinking, and serving utensils for table use such as flatware including forks, knives and spoons; hollowware including bowls, cups, serving dishes, tumblers; and plates.

Temperature Measuring DeviceCa thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

Temporary Food EstablishmentC a fixed or mobile food establishment that operates for a period of time of not more than 21 consecutive days in conjunction with a single event in a single location such as, but not limited to a festival or fair.

Temporary Retail Food Store/MarketCa fixed or mobile food store/market which operates for a period of time no more than 21 consecutive days in conjunction with a single event in a single location such as, but not limited to a festival or fair.

*Temporary Food Service*Ca "temporary food establishment" or "temporary retail food store/market."

*Utensil*Ca food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multi-use, single-service, or single-use; gloves used in contact with food; and food temperature measuring devices.

*Warewashing*Cthe cleaning and sanitizing of food-contact surfaces of equipment and utensils.

*Water Activity*C(a_w) a measure of the free moisture in a food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

*Wholesome*Cfood which is in sound condition, clean, free from adulteration or contamination and is otherwise suitable for human consumption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:49 (January 2002).

Chapter 3. General Requirements

§301. Effective Date of Title

A. The provisions of this Title shall have effect from the date of publication hereof as a rule in the *Louisiana Register*. Upgrading of such buildings and facilities shall be required when:

1. the construction of buildings and facilities was not previously approved by the state health officer pursuant to sanitary code requirements then in effect;

2. substantial renovation of, or additions to, such buildings or facilities is undertaken;

3. the real property ownership, or the occupancy classification of the business located therein changes subsequent to the effective date hereof;

4. the business ownership (occupant) changes subsequent to the effective date, except that the upgrading of restroom plumbing fixtures shall not be required where only the business ownership (occupant) changes if the construction of restroom plumbing fixtures was approved by the state health officer pursuant to sanitary code requirements then in effect; or

5. a serious health threat to the public health exists, unless otherwise specifically provided hereinafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:54 (January 2002).

§303. Interpretation

[formerly paragraph 23:002]

A. This Part shall be interpreted and applied to promote its underlying purpose of protecting the public health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:54 (January 2002).

§305. Food Safety Certification

[formerly paragraph 23:002-2]

A. The owner or a designated employee of each food establishment shall hold a "food safety certificate" from the department exclusively on behalf of that food establishment.

The certificate shall be required to be renewed every five years.

B. Any food establishments with food sales of less than \$125,000 annually shall not be required to comply with this Section until July 1, 2002. However, any establishment may apply for such certificate prior to such date. Those food establishments permitted after July 1, 2002 shall comply with this Section within 60 days of permit issuance.

C. To obtain a department food safety certificate, the following is required.

1. The individual must complete a course provided by an approved training program. The department shall approve all training programs and shall maintain a list of these training programs. These programs shall include, but are not limited to, the standards set forth in the ServSafe Program established by the Educational Foundation of the National Restaurant Association, or other programs recognized by the food service industry and the department.

a. Instructors/trainers shall meet the criteria established by the Educational Foundation of the National Restaurant Association or other instructor/trainer requirements established by the food service industry and the department.

b. The department shall approve training programs administered or approved by another state, political subdivision, or other jurisdiction with standards that meet or exceed those established in this code.

2. The individual must pass a written exam approved by the department before qualifying for the certificate. This test will meet the standards as described in Paragraph 1 above.

3. The individual must submit a completed application to the department with:

a. satisfactory evidence that he/she has completed an approved training program which includes passing a written examination; and

b. a \$25 fee for each certificate.

4. Upon receipt and approval of the documentation and fee described in Paragraph 3 above, the department shall then issue a food safety certificate to the applicant.

5. The permit holder shall display a current state food safety certificate in a location in the food establishment conspicuous to the public.

D. Certificates from the department shall be required to be renewed every five years for a \$25 fee. A person shall pass another written exam as described in Paragraph 2, Subsection C above before the certificate is renewed.

E. No parish or municipality in Louisiana shall enforce any ordinance or regulation requiring a food establishment or any of its employees to complete a Food Safety training program or test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:54 (January 2002).

§307. Submission of Plans

[formerly paragraph 23:003]

A. Whenever a food establishment or retail food store/market is constructed, substantially renovated, or a change of real property or business ownership occurs, or the occupancy classification changes, plans and specifications shall be submitted to the state health officer for review and

approval. The plans and specifications must be approved before construction and renovation begins and shall indicate the proposed type of operation, anticipated volume and types of food products to be stored, prepared, packaged and/or served along with the proposed layout of the facility, mechanical plans, construction materials and the types and location and specifications of all fixed and mobile equipment to be used in the establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:54 (January 2002).

§309. Preoperational Inspection
[formerly paragraph 23:004]

A. The state health officer may conduct one or more preoperational inspections to verify that the food establishment or retail food store/market is constructed and equipped in accordance with the approved plans and is in compliance with all provisions of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:55 (January 2002).

§311. Hazard Analysis Critical Control Point (HACCP) [formerly paragraph 22:02-4]

A. A food establishment or retail food store/market that packages food using a reduced oxygen packaging method shall have a Hazard Analysis Critical Control Point (HACCP) plan and provide the information required in §4121.

B. A HACCP plan shall contain:

1. a categorization of the types of Potentially Hazardous Foods that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the department.

2. a flow diagram by specific food or category type identifying Critical Control Points and providing information on the following;

a. ingredients, materials, and equipment used in the preparation of that food; and

b. formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

3. a supervisory training plan that addresses the food safety issues of concern;

4. a statement of standard operating procedures for the plan under consideration including clearly identifying;

a. each critical control point;

b. the critical limits for each critical control point;

c. the method and frequency for monitoring and controlling each critical control point by the employee designated by the person in charge;

d. the method and frequency for the person in charge to routinely verify that the employee is following standard operating procedures and monitoring critical control points;

e. action to be taken by the person in charge if the critical limits for each critical control point are not met;

f. records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

5. additional scientific data or other information, as required by the department supporting the determination that food safety is not compromised by the proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:55 (January 2002).

Chapter 5. Permits
§501. General

[formerly paragraph 23:125]

A. No person shall operate a food establishment or retail food store/market of any type without first having received a valid permit to operate from the state health officer. Permits are not transferable. A valid permit shall be posted in a location of the establishment conspicuous to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:55 (January 2002).

§503. To Obtain a Permit from the State Health Officer: [formerly paragraph 23:126-1, 23:126-2, 23:126-3]

A. The owner, president of the corporation, or other such officer duly delegated by the corporation or partnership shall make written application for a permit to operate and submit plans as described in §307 to the state health officer.

B. After plans and specifications have been reviewed and approved, the owner, president of the corporation, or other such officer shall request a preoperational inspection be made as described in §309 to determine compliance with all provisions of this Title.

C. A permit to operate shall be issued by the state health officer to the applicant if an inspection reveals that the proposed food establishment or retail food store/market and applicant has complied with all the provisions of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:55 (January 2002).

Chapter 7. Employee Health
§701. General

[formerly paragraph 23:031]

A. All employees shall meet the requirements of Part I, §117.A, B of this title, Employee Health and Chapter 2, The Control of Diseases, of the State Sanitary Code. The employee shall report information to the person in charge about their health and activities as they relate to infectious diseases that are transmissible through food. The person in charge shall be responsible for complying with Part I, §117 of this title, and excluding the employee from the food establishment to prevent the likelihood of foodborne disease transmission.

B. All employees shall report to the person in charge any symptom caused by illness, infection, or other source that is:

1. associated with an acute gastrointestinal illness such as diarrhea, fever, vomiting, jaundice or sore throat with fever; or

2. a lesion containing pus such as a boil or infected wound that is open or draining and is:

- a. on the hands or wrist, unless an impermeable cover such as a finger cot, or stall protects the lesion and a single-use glove is worn over the impermeable cover;
- b. on exposed portions of the arms, unless the lesion is protected by an impermeable cover; or
- c. on other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.

C. The person in charge shall restrict employees from working with exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles, in a food establishment or retail food store/market if the employee is suffering a symptom specified in Subsection B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:55 (January 2002).

Chapter 9. Personal Cleanliness and Hygienic Practices

§901. Handwashing
[formerly paragraph 23:032]

A. Employees shall thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, before applying gloves, during work as often as necessary to keep them clean, and after smoking, using tobacco, eating, drinking, coughing, sneezing, handling raw food, using the toilet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:56 (January 2002).

§903. Fingernails
[formerly paragraph 22:06-2]

A. Employees shall keep their fingernails clean and trimmed not to exceed the end of the fingertip. An employee shall not wear nail polish or artificial fingernails when working with exposed food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:56 (January 2002).

§905. Jewelry
[formerly paragraph 22:06-3]

A. Employees may not wear jewelry on their arms and hands while preparing food. This does not apply to a plain ring such as a wedding band.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:56 (January 2002).

§907. Outer Clothing
[formerly paragraph 22:06-4]

A. Employees shall wear clean outer clothing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:56 (January 2002).

§909. Hand Sanitizers

A. Employees may apply hand sanitizers only to hands that are cleaned as specified in §901 of this Chapter. Hand sanitizers shall comply with all state and federal regulations and be used in accordance with label directions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:56 (January 2002).

§911. Eating and Drinking
[formerly paragraph 23:034-1]

A. Employees shall eat and drink only in designated areas where the contamination of exposed food, equipment, utensils or other items needing protection cannot result. An employee may drink while preparing food from a closed beverage container if the container is handled properly to prevent contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:56 (January 2002).

§913. Using Tobacco
[formerly paragraph 23:034-2]

A. Employees shall not use tobacco in any form while preparing or serving food. Employees shall use tobacco only in designated areas such as described in §4105.C of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:56 (January 2002).

§915. Hair Restraints
[formerly paragraph 23:033-2]

A. Employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food, equipment, utensils and other items needing protection. This does not apply to employees such as counter staff who only serve beverages and wrapped or packaged food items if they present a minimal risk of contaminating exposed food, clean equipment, utensils, and linens, and unwrapped single service and single use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:56 (January 2002).

§917. Food Contamination
[formerly paragraph 22:07-4]

A. Employees experiencing persistent sneezing, coughing or a runny nose may not work with exposed food, equipment, utensils or other items needing protection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:56 (January 2002).

§919. Handling

[formerly paragraph 22:07-5]

A. Employees shall handle soiled tableware in a manner to prevent the contamination of clean tableware by their hands. Employees may not care for or handle animals allowed under §4101.B of this Part while preparing or serving food, except employees may handle or care for fish in aquariums, or molluscan shellfish, or crustacea in display tanks or storage when they wash their hands as specified under §901 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:57 (January 2002).

Chapter 11. Food Supplies

§1101. General

[formerly paragraph 22:08-1]

A. All food shall be safe, unadulterated and honestly presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:57 (January 2002).

§1103. Source

[formerly paragraph 22:08-2]

A. Food shall be obtained from sources that comply with law. Food prepared in a private home may not be used or offered for human consumption in any food establishment or retail food store/market. This section shall not apply to any jellies, preserves, jams, honey and honeycomb products prepared in private homes, when the gross annual sales are less than \$5000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:4.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:57 (January 2002).

§1105. Package

[formerly paragraph 22:08-3]

A. Food packages shall be in a good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:57 (January 2002).

§1107. Labeling

[formerly paragraph 22:08-4]

A. Packaged food shall be labeled as specified by law. All bulk food storage containers shall be properly labeled according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:57 (January 2002).

§1109. Raw Shellfish Consumer Information Message

[formerly paragraph 22:08-5.1]

A. All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording:

ATHERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.® In addition, this message must appear on the principal display panel or top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels. In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters: "THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.®

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:57 (January 2002).

§1111. Exemption to Raw Shellfish Consumer Information Message

[formerly paragraph 22:08-5.2]

A. Food establishments that exclusively serve raw molluscan shellfish that have been subjected to a process recognized by the state health officer as being effective in reducing the bacteria *Vibrio vulnificus* to non-detectable levels may apply for an exemption from the mandatory consumer information notification requirement. Food establishments interested in obtaining an exemption shall certify in writing to the state health officer that it shall use exclusively for raw consumption only molluscan shellfish that have been subjected to the approved process. Upon receipt and verification of that communication, the state health officer may confirm the establishment as being exempt from the requirement of displaying the consumer information message. The food establishment's certification must be sent to the state health officer at the following address:

Louisiana Office of Public Health
P.O. Box 629
Baton Rouge, LA 70821-0629

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:57 (January 2002).

§1113. Hermetically Sealed Containers

[formerly paragraph 22:08-6]

A. Food in hermetically sealed containers shall be obtained from a licensed and/or regulated food processing plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:57 (January 2002).

§1115. Milk

[formerly paragraph 22:08-7]

A. Fluid, frozen, dry milk and milk products shall be obtained from sources with Grade A Standards as specified in law and Chapter VII and Chapter VIII of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:57 (January 2002).

§1117. Seafood

[formerly paragraph 22:08-8]

A. Fish, shellfish, edible crustaceans, marine and fresh water animal food products shall be obtained from sources according to law and Chapter IX of the State Sanitary Code. Shellstock tags shall be retained by the food establishment or retail food store/market for 90 days after service or sale to the consumer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:58 (January 2002).

§1119. Eggs

[formerly paragraph 22:08-9]

A. Shell eggs shall be received clean and sound according to law.

B. Liquid, frozen and dry egg products shall be obtained pasteurized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:58 (January 2002).

§1121. Poultry and Meats

[formerly paragraph 22:08-10]

A. Poultry and meat products shall be obtained from sources according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:58 (January 2002).

§1123. Game Animals

[formerly paragraph 22:08-11]

A. Game animals may be received for sale if they are under a routine inspection program conducted by a regulatory authority or raised, slaughtered, and processed under a voluntary inspection program by a regulatory authority.

B. If retail food markets are requested by an individual to process wild deer meat, they must process this meat in accordance with the guidelines established by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:58 (January 2002).

Chapter 13. Temperature

§1301. Temperature Control

[formerly paragraph 22:09-1]

A. Except as specified in §1303 of this Chapter, all refrigerated potentially hazardous foods shall be received at a temperature of 41EF (5EC) or below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:58 (January 2002).

§1303. Exceptions

[formerly paragraph 22:09-2]

A. Shell eggs, milk and molluscan shellstock may be received at a temperature not to exceed 45EF (7.2EC) as specified by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:58 (January 2002).

§1305. Cooking/Reheating

[formerly paragraph 22:09-3]

A. Foods shall be cooked to heat all parts of the food to a temperature and for a time that are at least:

1. 165EF (74EC) or above for 15 seconds for wild game, poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites or stuffing containing fish, meat or poultry;

2. 155EF (68EC) or above for 15 seconds for comminuted fish, comminuted meats, injected meats, ratites or raw pooled eggs;

3. 165EF (74EC) or above when foods are cooked or reheated in microwave ovens and the food shall be rotated and stirred throughout to compensate for uneven distribution of heat;

4. 145EF (63EC) or above for 15 seconds for pork and all other foods;

5. 165EF (74EC) or above for 15 seconds in all parts of the food when reheating all potentially hazardous food that is cooked, cooled, and reheated for hot holding or serving;

6. 130EF (54EC) minimum internal temperature for beef roasts or to a temperature and time that will cook all parts of the roast as required by the following;

a. in an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature; and

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 4.5 kg (10 lbs.)	4.5 kg (10 lbs.) or more
Still Dry	350EF (177EC) or more	250EF (121EC) or more
Convection	325EF (163EC) or more	250EF (121EC) or more
High Humidity ¹	250EF (121EC) or less	250EF (121EC) or less

¹Relative humidity greater than 90 percent for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100 percent humidity.

b. as specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature;

Temperature	Time in Minutes	Temperature	Time in Minutes	Temperature	Time in Minutes
130EF (54EC)	121	136EF (58EC)	32	142EF (61EC)	8
132EF (56EC)	77	138EF (59EC)	19	144EF (62EC)	5
134EF (57EC)	47	140EF (60EC)	12	145EF (63EC)	3
Holding time may include post-oven heat rise.					

7. 140EF (60EC) or above for 15 seconds for raw vegetables and fruit.

B. Exceptions:

1. raw or undercooked whole muscle, intact beef steak to be served or offered for sale in a ready to eat form shall be cooked to 145EF (63EC) or above surface temperature on both the top and bottom and until a cooked color change is achieved on all external surfaces; and

2. all food shall be served in accordance with this Section unless otherwise ordered by the consumer for immediate service, such as but not limited to raw, marinated fish, raw molluscan shellfish, steak tartare, or partially or lightly cooked food, if the food establishment serves a population that is not a highly susceptible population.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:58 (January 2002).

§1307. Hot Holding Temperatures
[formerly paragraph 22:09-4]

A. Food stored for hot holding and service shall be held at a temperature of 140EF (60EC) or higher with the exception of roast beef. If roast beef is cooked in accordance with §1305.A.6 of this Chapter the minimum hot holding temperature shall be 130EF (54EC).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:59 (January 2002).

§1309. Cold Holding Temperatures
[formerly paragraph 22:09-5]

A. Food stored for cold holding and service shall be held at a temperature of 41EF (5EC) or below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:59 (January 2002).

§1311. Cooling
[formerly paragraph 22:09-6]

A. Cooling of food shall be accomplished by using one or more of the following methods:

1. placing the food in shallow pans;
2. separating the food into smaller or thinner portions;
3. using rapid cooling equipment;
4. stirring the food in a container placed in an ice water bath;
5. using containers that facilitate heat transfer;
6. adding ice as an ingredient;
7. other approved effective methods.

B. Cooked potentially hazardous food shall be cooled:

1. to 70EF (21EC) from 140EF (60EC) within two hours of cooking or hot holding; and
2. to 41EF (5EC) from 70 EF (21EC) within four hours or less.

C. Potentially hazardous food, if prepared from ingredients at ambient temperature, shall be cooled to 41EF (5EC) within four hours following preparation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:59 (January 2002).

§1313. Frozen Food
[formerly paragraph 22:09-7]

A. Stored frozen food should be stored at a temperature of 0EF (-17.8EC) or below and shall be maintained frozen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:59 (January 2002).

§1315. Thawing
[formerly paragraph 22:09-8]

A. Potentially hazardous food shall be thawed by one of the following methods:

1. under refrigeration that maintains the food temperature at 41EF (5EC) or below;
2. completely submerged under potable running water at a temperature of 70EF (21EC) or below with sufficient water velocity to agitate and float off loose particles in an overflow;
3. for a period of time that does not allow thawed portions to rise above 41EF (5EC);
4. as part of the conventional cooking process or thawed in a microwave oven and immediately transferred to conventional cooking equipment with no interruption in the cooking process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:59 (January 2002).

§1317. Time as a Public Health Control
[formerly paragraph 22:09-9]

A. Time only, rather than time in conjunction with temperature, may be used as a public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption if:

1. the food is marked or otherwise identified with the time within which it shall be cooked, served or discarded;
2. the food is served or discarded within four hours from the point in time when the food is removed from temperature control;
3. food in unmarked containers or packages, or for which the time expires, is discarded; and
4. written procedures are maintained in the food establishment or retail food store/market and are available to the department upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:59 (January 2002).

§1319. Parasite Destruction by Freezing

A. Except as specified in Subsection B of this Section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of:

1. -4EF (-20EC) or below for 168 hours (7 days) in a freezer; or
2. -31EF (-35EC) or below for 15 hours in a blast freezer.

B. If the fish are tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern), the fish may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing as specified under Subsection A of this Section.

C. Except as specified in Subsection B of this Section, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the food establishment or retail food store/market for 90 calendar days beyond the time of service or sale of the fish.

D. If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under §1319 may substitute for the records specified under Subsection C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:60 (January 2002).

§1321. Temperature Measuring Devices

(Thermometers) [formerly paragraph 22:09-10]

A. Temperature measuring devices shall be provided and used to measure:

1. food temperatures of potentially hazardous food on a device scaled in Fahrenheit (F) accurate to a plus or minus 2EF or Celsius (C) accurate to a plus or minus 1EC and should be able to measure the internal temperature of food products that are less than 1/2 inch thick,
2. ambient air temperature of all equipment used to hold potentially hazardous food on a device scaled in Fahrenheit accurate to a plus or minus 3EF or Celsius accurate to a plus or minus 1.5EC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:60 (January 2002).

Chapter 15. Food Storage

§1501. Protected

[formerly paragraph 22:10-1]

A. Food shall be protected from contamination by storing the food:

1. in a clean, dry location;
2. where it is not exposed to splash, dust, or other contamination;
3. at least six inches (15 cm) above the floor except:
 - i. metal pressurized beverage containers and cased food packages in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture.
 - ii. containerized food may be stored on dollies, racks or pallets, provided such equipment is readily movable.
4. so that it is arranged so that cross contamination of raw animal foods of one type with another, or ready to eat foods is prevented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:60 (January 2002).

§1503. Storage

[formerly paragraph 22:10-2]

A. Food may not be stored:

1. in locker rooms;
2. in toilet rooms;
3. in dressing rooms;
4. in garbage rooms;
5. in mechanical rooms;
6. under sewer pipes;
7. under water pipes that are not adequately shielded to intercept potential drips;
8. under open stairwells;
9. in vehicles used to transfer or hold any type of waste; or
10. under other sources of contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:60 (January 2002).

§1505. Packaged Food

[formerly paragraph 22:10-3]

A. Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water through the packaging, wrapping, or container because of its positioning in the ice or water. Unpackaged food may only be stored in direct contact with drained ice; except

1. whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water;
2. raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service or sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:60 (January 2002).

§1507. Date Marking

A. Ready-to-eat, potentially hazardous foods prepared on premise and held under refrigeration for more than 24 hours shall be clearly marked at the time of preparation to indicate the date by which the food shall be consumed, which is, including the day of preparation, seven calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:60 (January 2002).

Chapter 17. Food Preparation

§1701. General

[formerly paragraph 22:11-1]

A. During preparation, unpackaged food shall be protected from environmental sources of contamination. Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served or offered for human consumption in ready to eat form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:61 (January 2002).

§1703. Hand Contact

[formerly paragraph 23:012]

A. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that have been cleaned, rinsed, and sanitized prior to use to prevent cross-contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:61 (January 2002).

§1705. Cross Contamination

[formerly paragraph 22:11-3]

A. Cross contamination shall be prevented by separating:

1. raw animal foods from ready to eat foods, including but not limited to, placing, storing, or displaying ready to eat food above raw animal food;
2. raw unprepared vegetables from ready to eat potentially hazardous foods; or
3. certain raw animal foods from each other because of different cooking temperatures except when combining as ingredients.

B. Cross contamination shall be prevented by properly washing, rinsing and sanitizing cutting boards, food preparation surfaces and other food contact surfaces following contact with raw animal foods or raw vegetables and before contact with ready to eat food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:61 (January 2002).

§1707. Reconstituted Dry Milk and Dry Milk Products

[formerly paragraph 23:015]

A. Reconstituted dry milk and dry milk products meeting the requirement of Chapter VII of the State Sanitary Code may only be used in instant desserts and whipped products, or for cooking and baking purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:61 (January 2002).

§1709. Molluscan Shellfish

[formerly paragraph 22:11-2]

A. Raw shellfish shall be handled in accordance with Chapter IX of the State Sanitary Code, except a HACCP plan is not required and raw shellfish may not be prepackaged by food establishments and retail food stores/markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:61 (January 2002).

Chapter 19. Food Display and Service

§1901. General [formerly paragraph 22:12-1]

A. Food on display shall be protected from contamination by the use of packaging, counter service line or food/sneeze guards, display cases, or other effective means except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption.

B. Proper utensils shall be used for preparation, service and dispensing of food. These utensils shall be stored in accordance with §2519 of this Part.

C. Self service consumers shall not be allowed to use soiled tableware, including single service articles, to obtain additional food from the display and serving equipment. Tableware, including single service articles, shall be made available at the serving display. A sign shall be posted at the serving display prohibiting the reuse of soiled tableware.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:61 (January 2002).

§1903. Bulk Foods

[formerly paragraph 22:12-2]

A. Bulk foods shall be handled and dispensed in a manner described in §1901 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:61 (January 2002).

§1905. Condiments

[formerly paragraph 22:12-3]

A. Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:61 (January 2002).

§1907. Ice

[formerly paragraph 22:12-4]

A. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic service ice-dispensing equipment. Ice-dispensing utensils shall be stored in accordance with §2519 of this Part.

B. Ice used as a medium for cooling food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, shall not be used as food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:61 (January 2002).

§1909. Reservice

[formerly paragraph 22:12-5]

A. Once served to a consumer, portions of left-over food shall not be reserved, except:

1. food that is not potentially hazardous, such as crackers and condiments, in an unopened original package and maintained in sound condition may be reserved or resold;

2. food that is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:62 (January 2002).

§1911. Special Requirements for Highly Susceptible Populations

A. In a food establishment that serves a highly susceptible population:

1. prepackaged juice or a prepackaged beverage containing juice must be pasteurized;

2. pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs shall be substituted for raw shell eggs in the preparation of:

a. foods such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, egg nog, ice cream, and egg-fortified beverages, and

b. recipes in which more than one egg is broken and the eggs are combined except:

i. when combined immediately before cooking for one consumer's serving at a single meal, cooked to 145°F for 15 seconds and served immediately, such as an omelet, souffle, or scrambled eggs;

ii. when combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread.

3. Food in an unopened original package may not be re-served.

4. The following foods may not be served or offered for sale in a ready to eat form:

a. raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;

b. a partially cooked animal food such as lightly cooked fish, rare meat, soft cooked eggs that are made from raw shell eggs, and meringue; and

c. raw seed sprouts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:62 (January 2002).

Chapter 21. Equipment and Utensils

§2101. General

[formerly paragraph 22:13]

A. All equipment and utensils shall be of construction approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:62 (January 2002).

§2103. Multi-Use

[formerly paragraph 22:13-1]

A. Materials that are used in the construction of utensils and food contact surfaces of equipment shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:

1. safe;

2. durable, corrosion-resistant, and non absorbent;

3. sufficient in weight and thickness to withstand repeated warewashing;

4. finished to have a smooth, easily cleanable surface; and

5. resistant to pitting, chipping, grazing, scratching, scoring, distortion, and decomposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:62 (January 2002).

§2105. Copper

[formerly paragraph 22:13-2]

A. Copper and copper alloys such as brass shall not be used in contact with a food that has a pH below 6.0, such as vinegar, fruit juice, or wine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:62 (January 2002).

§2107. Galvanized Metal

[formerly paragraph 22:13-3]

A. Galvanized metal shall not be used for utensils or food-contact surfaces or equipment that are used for acidic food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:62 (January 2002).

§2109. Lead

[formerly paragraph 22:13-4]:

A. Lead in Ceramic, China, and Crystal Utensils CUse Limitation

1. Ceramic, china, crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the following utensil categories:

Utensil Category	Description	Maximum Lead mg/L
Hot Beverage Mugs	Coffee Mugs	0.5
Large Hollowware	Bowls \$ 1.1L (1.16 qt)	1
Small Hollowware	Bowls < 1.1L (1.16 qt)	2.0
Flat Utensils	Plates, Saucers	3.0

B. Lead in Pewter Alloys Use Limitation

1. Pewter alloys containing lead in excess of 0.05 percent shall not be used as a "food-contact surface."

C. Lead in Solder and Flux Use Limitation.

1. Solder and flux containing lead in excess of 0.2 percent shall not be used as a food-contact surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:62 (January 2002).

§2111. Wood

[formerly paragraph 22:13-5]

A. Wood and wood wicker shall not be used as a food-contact surface except as follows.

1. Hard maple or an equivalently hard, close-grained wood may be used for:

a. cutting boards, cutting blocks, baker's tables; and utensils, such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

b. wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230EF (110EC) or above.

2. Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

3. If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in untreated wood containers or approved treated wood containers complying with the Code of Federal Regulations (CFR).

4. "Cedar-Plank" or "Shingles" may be used as a single-service article if;

a. the food establishment has certified that the "cedar-plank" has not been chemically treated and is in its natural state;

b. the side of the "plank" which will come in contact with the fish must be planed and sanded to a smooth finish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:63 (January 2002).

§2113. Non-Food Contact Surfaces

[formerly paragraph 22:14]

A. Surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent

cleaning shall be constructed of a corrosion-resistant, non absorbent, and smooth material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:63 (January 2002).

§2115. Single-Service and Single-Use Articles

[formerly paragraph 22:15]

A. Single-service and single-use articles shall not be reused.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:63 (January 2002).

§2117. Gloves, Use Limitations

[formerly paragraph 22:16]

A. If used, single use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

B. Except as specified in Subsection C of this Section, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under §1305 of this Part such as frozen food or a primal cut of meat.

C. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove or a single-use glove.

D. Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under §1305 of this Part such as frozen food or a primal cut of meat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:63 (January 2002).

§2119. Food Temperature Measuring Devices

[formerly paragraph 22:17]

A. Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:63 (January 2002).

Chapter 23. Requirements for Equipment

§2301. General

[formerly paragraph 22:18-1]

A. Equipment used for cooling, heating and holding cold and hot foods, shall be sufficient in number and capacity to provide food temperatures as specified in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:63 (January 2002).

§2303. Manual Warewashing, Sink Compartment Requirements [formerly paragraph 22:18-2]

A. A sink with at least three compartments shall be provided for manual washing, rinsing and sanitizing equipment and utensils, except:

1. where an approved alternative process is used as specified in Subsection C of this Section; or
2. where there are no utensils or equipment to wash, rinse and sanitize as in a facility with only prepackaged foods.

B. Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils.

C. When equipment or utensils are too large for the warewashing sink or warewashing machine, the following alternative process may include:

1. high-pressure detergent sprayers;
2. low or line-pressure spray detergent foamers;
3. other task specific cleansing equipment, such as CIP;
4. brushes or other implements.

D. Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing. Drainboards for sinks and machines shall be self-draining.

E. A warewashing sink may not be used for handwashing or dumping mop water. Sinks may be used to wash wiping cloths, wash produce and other foods or thaw foods if the sinks are properly washed and sanitized before this use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:64 (January 2002).

§2305. Warewashing Machines [formerly paragraph 22:18-3]

A. When provided, a warewashing machine shall have an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

1. temperatures required for washing, rinsing and sanitizing;
2. pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
3. conveyor speed for conveyor machines or cycle time for stationary rack machines.

B. Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

C. Warewashing machines shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. in each wash and rinse tank; and
2. as the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

D. Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine.

E. Warewashing machines shall be operated in accordance with the machine's data plate and other manufacturer's specifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:64 (January 2002).

Chapter 25. Cleaning of Equipment and Utensils

§2501. General

[formerly paragraph 22:19-1]

A. Equipment food-contact surfaces and utensils shall be clean to sight and touch.

B. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other accumulations.

C. Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:64 (January 2002).

§2503. Frequency of Cleaning

[formerly paragraph 22:19-2]

A. Equipment food contact surfaces and utensils shall be cleaned:

1. before each use with a different type of raw animal food such as beef, seafood, lamb, pork, or poultry;
2. each time there is a change from working with raw foods to working with ready to eat foods;
3. between uses with raw fruits or vegetables and with potentially hazardous food;
4. before using or storing a temperature measuring device;
5. at any time during the operation when contamination may have occurred.

B. Equipment food-contact surfaces and utensils used with potentially hazardous food shall be cleaned throughout the day at least every four hours.

C. Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

E. Warewashing equipment, including machines and the compartments of sinks, basins or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards, shall be cleaned:

1. before use;
2. throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and
3. if used, at least every 24 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:64 (January 2002).

§2505. Cleaning Agents

[formerly paragraph 22:19-3]

A. The wash compartment of a sink, mechanical warewasher, or other alternative process as specified in §2303.C of this Part, when used for warewashing, shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleanser, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:65 (January 2002).

§2507. Temperature of Wash Solution

[formerly paragraph 22:19-4]

A. The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110EF (43EC) unless a different temperature is specified on the cleaning agent manufacturer's label instruction.

B. The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

1. for a single tank, stationary rack, single temperature machine, 165EF (74EC);
2. for a single tank, conveyor, dual temperature machine, 160EF (71EC);
3. for a single tank, stationary rack, dual temperature machine, 150EF (66EC);
4. for a multitank, conveyor, multitemperature machine, 150EF (66EC).

C. The temperature of the wash solution in spray type warewashers that use chemicals to sanitize may not be less than 120EF (49EC).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:65 (January 2002).

§2509. Methods of Cleaning

[formerly paragraph 22:19-5]

A. Precleaning

1. Food debris on equipment and utensils shall be scrapped over a waste disposal unit, scupper, or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.

2. If necessary for effective cleaning, utensils and equipment shall be pre-flushed, pre-soaked, or scrubbed with abrasives.

B. Loading. Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

1. exposes the items to the unobstructed spray from all cycles and;
2. allows the items to drain.

C. Wet Cleaning

1. Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and

emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

2. The washing procedures selected shall be based on the type and purpose of equipment or utensil, and on the type of soil to be removed.

3. Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:65 (January 2002).

§2511. Rinsing Procedures

[formerly paragraph 22:19-6]

A. Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or other solutions. A distinct, separate water rinse after washing and before sanitizing shall be used with:

1. a three compartment sink;
2. an alternative manual warewashing equipment equivalent to a three compartment sink as specified in §2303.C of this Part;
3. a three-step washing, rinsing and sanitizing procedure in a warewashing system for CIP equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:65 (January 2002).

§2513. Sanitization

[formerly paragraph 22:19-7]

A. After the food-contact surfaces of all equipment and utensils are washed and rinsed, they shall be sanitized before use. Clean food-contact surfaces of all equipment and utensils shall be sanitized in:

1. hot water:
 - a. if immersion in hot water is used in manual operation, the temperature of the water shall be maintained at 171EF (77EC) or above;
 - b. in a mechanical operation, the temperature of the hot water rinse as it enters the manifold may not be more than 194EF (90EC) or less than:
 - i. for a single tank, stationary rack, single temperature machine, 165EF (74EC); or
 - ii. for all other machines, 180EF (82EC). This should achieve a utensil surface temperature of 160EF (71EC) as measured by an irreversible registering temperature indicator;
 - c. in a mechanical operation using a hot water rinse, the flow pressure may not be less than 15 pounds per square inch or more than 25 pounds per square inch as measured in the water line immediately upstream from the fresh hot water sanitizing rinse control valve;

2. chemicals:

a. only a chemical sanitizer listed in 21 CFR 178.1010, Sanitizing Solutions, shall be used in a sanitizing solution for manual or mechanical operation at the specified exposure times. These sanitizing solutions shall be used in accordance with the EPA approved manufacturer's label use instructions, and shall be used as follows.

i. A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

Minimum Concentration	Minimum Temperature	Minimum Temperature
MG/L or ppm	>pH 8 - pH 10	pH 8 or less
25 ppm	120EF (49EC)	120EF (49EC)
50 ppm	100EF (38EC)	75EF (24EC)
100 p.p.m	55EF (13EC)	55EF (13EC)

ii. An iodine solution shall have a:

- (a). minimum temperature of 75EF (24EC);
- (b). pH of 5.0 or less, unless the manufacturer's use directions included in the labeling specify a higher pH limit of effectiveness; and
- (c). concentration between 12.5 mg/L and 25 mg/L(ppm).

iii. A quarternary ammonium compound solution shall:

- (a). have a minimum temperature of 75EF (24EC);
- (b). have a concentration of 200 mg/L (ppm) or as indicated by the manufacturer's use directions included in labeling; and
- (c). be used only in water with 500 mg/L (ppm) hardness or less.

iv. Other solutions of the chemicals specified in (i), (ii), and (iii), of this Subparagraph may be used if demonstrated to the department to achieve sanitization and approved by the department; or

v. other chemical sanitizers may be used if they are applied in accordance with the manufacturer's use directions included in the labeling.

b. Chemical, manual or mechanical operations, including the applications of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified in §2513.A.2.a of this section shall be used to provide the following:

- i. an exposure time of at least 10 seconds for a chlorine solution;
- ii. an exposure time of at least 30 seconds for other chemical sanitizer solutions, or
- iii. an exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in this Part.

c. A test kit or other device that accurately measures the concentration in mg/L or parts per million (ppm) of sanitizing solution shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:65 (January 2002).

§2515. Air Drying
[formerly paragraph 22:19-8]

A. Except as specified in Subsection C of this Section, after cleaning and sanitizing, equipment and utensils may not be cloth-dried.

B. Equipment and utensils shall be air-dried or used after adequate draining as specified in paragraph (a) of 21 CFR 178.1010 Sanitizing Solutions, before contact with food.

C. Utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:66 (January 2002).

§2517. Storage of Clean Equipment and Utensils
[formerly paragraph 22:19-9]

A. Except as specified in Subsection D of this Section, cleaned equipment, utensils and single-service and single use articles shall be stored:

- 1. in a clean dry location;
- 2. where they are not exposed to splash, dust, or contamination; and
- 3. at least 6 inches (15 cm) above the floor.

B. Clean equipment and utensils shall be stored as specified under Subsection A of this Section and shall be stored:

- 1. in a self-draining position that permits air drying; and
- 2. covered or inverted.

C. Single-service and single-use articles shall be stored as specified under Subsection A of this Section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

D. Items that are kept in closed packages may be stored less than 6 inches (15 cm) above the floor on dollies, pallets, racks, or skids provided that the storage equipment is designed so that it may be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:66 (January 2002).

§2519. In Use and Between Use Utensil Storage
[formerly paragraph 22:19-10]

A. During pauses in food preparation or dispensing, food preparation dispensing utensils shall be stored:

- 1. in the food;
 - a. with their handles above the top of the food and the container;
 - b. with their handles above the top of the food within containers or equipment that can be closed, if such food is not potentially hazardous , such as bins of sugar, flour, or cinnamon;
- 2. on a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under §2503 of this Part;

3. in running water of sufficient velocity to flush particulate matter to the drain, if used with moist food such as ice cream or mashed potatoes; or

4. in a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous;

5. in a container of water if the water is maintained at a temperature of at least 140EF (60EC) and the container is

cleaned at least once every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:66 (January 2002).

Chapter 27. Water Supply

§2701. General

[formerly paragraph 22:20-1]

A. Sufficient quantities of potable water for the needs of the food establishment or retail food store/market shall be provided in accordance with Chapter XII of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:67 (January 2002).

§2703. Pressure

[formerly paragraph 22:20-2]

A. Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:67 (January 2002).

§2705. Hot Water

[formerly paragraph 22:20-3]

A. Hot water shall be provided to all fixtures, equipment and nonfood equipment as required and the generation and distribution system shall be sufficient to meet the peak hot water demands throughout the food establishment or retail food store/market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:67 (January 2002).

§2707. Steam

[formerly paragraph 22:20-4]

A. Steam used in contact with food or food contact surfaces shall be free of deleterious materials or additives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:67 (January 2002).

§2709. Bottled Water

[formerly paragraph 22:20-5]

A. Bottled and packaged potable water shall be obtained from a source that complies with Chapter VI of the State Sanitary Code and the Food, Drug and Cosmetic Law and Regulations. Bottled and packaged potable water, if used, shall be handled and stored in a way that protects it from contamination and shall be dispensed from the original container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:67 (January 2002).

Chapter 29. Sewage

§2901. General

[formerly paragraph 22:21-1]

A. All sewage from retail food establishments or retail food stores/markets shall be disposed of through an approved sewerage system/facility in accordance with Chapter XIII of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:67 (January 2002).

Chapter 31. Plumbing

§3101. General

[formerly paragraph 22:22-1]

A. Plumbing shall be sized, installed, and maintained in accordance with Chapter XIV of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:67 (January 2002).

§3103. Cross-Connection

[formerly paragraph 22:22-2]

A. There shall be no cross-connection between the potable water supply and any other source of water of lesser quality including any source of pollution from which the potable water supply might become contaminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:67 (January 2002).

§3105. Backflow

[formerly paragraph 22:22-3]

A. Backflow shall be prevented by:

1. installing an air gap in the water distribution system between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment which is at least twice the diameter of the water supply inlet (or generally, three times the diameter if affected by a nearby wall); or

2. installing an approved backflow or backsiphonage prevention device installed and maintained on a water line in accordance with Chapter XIV of the State Sanitary Code;

3. not having a direct connection between the drainage system and any drain line originating from equipment in which food, portable equipment, or utensils are placed (e.g., any sink where food is cleaned, peeled, cut up, rinsed, battered, defrosted, or otherwise prepared or handled; potato peelers; ice cream dipper wells, refrigerators; freezers; walk-in coolers and freezers; ice boxes; ice making machines; fountain type drink dispensers; rinse sinks; cooling or refrigerating coils; laundry washers; extractors; steam tables; steam kettles; egg boilers; coffee urns; or similar equipment).

Exception: A commercial dishwashing (warewashing) machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 5 feet (1.5 m) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:67 (January 2002).

§3107. Non-Potable Water System
[formerly paragraph 22:22-4]

A. A non-potable water system is permitted only for purposes such as air conditioning and fire protection, provided the system is installed in accordance with Chapter XII and Chapter XIV of the State Sanitary Code and:

1. the non potable water does not contact directly or indirectly, food, potable water equipment that contacts food, or utensils; and
2. the piping of any nonpotable water system shall be easily identified so that it is readily distinguishable from piping that carries potable water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:68 (January 2002).

§3109. Lavatory Facilities
[formerly paragraph 22:22-5]

A. All lavatory fixtures shall be installed in accordance with Chapter XIV of the State Sanitary Code and:

1. at least one handwashing lavatory shall;
 - a. be located to permit convenient use by all employees in food preparation areas and utensil washing areas including the produce, meat and seafood markets;
 - b. also be located in or immediately adjacent to toilet rooms;
2. lavatories shall be accessible to employees at all times;
3. lavatories shall be equipped to provide a flow of water at a temperature of at least 85EF (30EC) through a mixing valve or combination faucet;
4. if a self-closing, slow-closing, or metering faucet is used, it shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet;
5. steam mixing valves are prohibited;
6. a supply of hand-cleansing soap or detergents shall be available at each lavatory. A supply of individual disposable towels, a continuous towel system that supplies the user with a clean towel or a heat-air drying device shall be available at each lavatory. The use of common towels is prohibited;
7. lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair;
8. a handwashing lavatory may not be used for purposes other than handwashing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:68 (January 2002).

§3111. Toilet Facilities
[formerly paragraph 22:22-6]

A. All toilet fixtures and facilities shall be installed in accordance with Chapter XIV of the State Sanitary Code and:

1. toilet fixtures and facilities shall be the number required, shall be conveniently located, and accessible to employees at all times;

2. a toilet room located on the premises shall be completely enclosed and provided with a solid tight-fitting and self-closing door except that this requirement does not apply to a toilet room that is located outside a food establishment or retail food store/market and does not open directly into the food establishment or retail food store/market, such as but not limited to shopping malls, airports, or other places of public assembly;

3. toilet rooms shall be mechanically vented to the outside atmosphere;

4. toilet fixtures and facilities shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials with at least one covered waste receptacle in toilet rooms used by women.

B. Toilet rooms shall be provided with a properly installed floor drain. The floor shall slope towards the floor drain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:68 (January 2002).

§3113. Grease Traps
[formerly paragraph 22:22-7]

A. An approved type grease trap shall be installed in accordance with Chapter XIV of the State Sanitary Code and:

1. it shall be installed in the waste line leading from the sinks, drains and other fixtures or equipment where grease may be introduced in the drainage or sewage system in quantities that may affect line stoppage or hinder sewage treatment;

2. a grease trap, if used, shall be located to be easily accessible for cleaning and shall be serviced as often as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:68 (January 2002).

§3115. Garbage Grinders
[formerly paragraph 22:22-8]

A. If used, garbage grinders shall be installed and maintained in accordance with Chapter XIV of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:68 (January 2002).

§3117. Utility or Service Sink
[formerly paragraph 22:22-9]

A. At least one service sink or one curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste. The sink shall be located in an area to avoid food contamination.

B. The use of lavatories, utensil washing, equipment washing, or food preparation sinks as a utility or service sink is prohibited.

C. In some special applications, because of space restrictions or unique situations, when the risk of contamination is low in the opinion of the state health officer, a large utility/service sink may be used as a handwashing sink.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:68 (January 2002).

Chapter 33. Garbage, Rubbish and Refuse

§3301. General

[formerly paragraph 22:23-1]

A. All garbage, rubbish and refuse shall be handled in accordance with Chapter XXVII of the State Sanitary Code .

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:69 (January 2002).

§3303. Receptacles for Garbage, Rubbish and Refuse

[formerly paragraph 22:223-2]

A. Equipment and receptacles for refuse, recyclables, returnables, and for use with materials containing food residue shall be durable, cleanable, insect and rodent resistant, leakproof, and nonabsorbent.

B. Plastic bags and wet strength paper bags may be used to line receptacles for storage of garbage, etc., inside the retail food establishment or retail food store/market, or within closed outside receptacles.

C. Outside receptacles for garbage, etc., shall have tight-fitting lids, doors, or covers and shall be kept closed.

D. There shall be a sufficient number of receptacles to hold all the garbage and refuse that accumulates. They shall be emptied when full. All garbage, rubbish and refuse shall be disposed of in an approved manner pursuant to applicable state laws and regulations.

E. Soiled receptacles shall be cleaned at a frequency to prevent a nuisance or the attraction of insects and rodents.

F. Liquid waste from compacting shall be disposed of as sewage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:69 (January 2002).

§3305. Incineration

[formerly paragraph 22:23-3]

A. Where garbage, rubbish or refuse is burned on the premises, it shall be done by incineration in accordance with the rules and regulations of the Louisiana Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:69 (January 2002).

§3307. Cleaning and Storage

[formerly paragraph 22:23-4]

A. Indoor garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent washable materials, shall be kept clean, shall be insect and rodent proof and shall be large enough to store the garbage and refuse that accumulates.

B. Outdoor garbage or refuse storage area surfaces shall be constructed of non-absorbent material such as concrete or asphalt and shall be smooth, durable, and sloped for drainage.

C. Suitable cleaning equipment and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of equipment and receptacles.

D. Liquid waste from the cleaning operation shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from entering the sanitary sewerage system. Dumpster pads may be elevated or curbed, enclosed or covered, and the sanitary sewerage drain protected with a proper cover.

E. If approved by the state health officer, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

F. Outdoor premises used for storage of garbage, rubbish, refuse, recyclables and returnables shall be maintained clean and free of litter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:69 (January 2002).

Chapter 35. Insects and Rodent Control

§3501. General

[formerly paragraph 22:24-1]

A. Insects and rodents shall be controlled in accordance with Chapter V of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:69 (January 2002).

§3503. Insect Control Devices

[formerly paragraph 22:24-2]

A. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

B. Insect control devices shall be installed so that:

1. the devices are not located over a food preparation area, and

2. dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:69 (January 2002).

§3505. Openings

[formerly paragraph 22:24-3]

A. Openings to a portion of the building that is not part of the food establishment, or retail food store/market, or to the outdoors shall be protected against the entry of insects and rodents by:

1. filling or closing holes and other gaps along floors, walls and ceilings;

2. closed, tight-fitting windows;

3. solid, self-closing, tight-fitting doors; or

4. if windows or doors are kept open for ventilation or other purposes, the openings shall be protected against the entry of insects by:

- a. 16 mesh to the inch (25.4 mm) screens;
- b. properly designed and installed air curtains; or
- c. other effective means approved by the department.

B. Establishment location, weather or other limiting conditions may be considered as part of an overall flying insect and other pest control program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:69 (January 2002).

§3507. Premises

[formerly paragraph 22:24-2]

A. The premises shall be free of:

- 1. items that are unnecessary to the operation or maintenance of the food establishment, or retail food store/market, such as equipment that is nonfunctional or no longer used; and
- 2. litter.

B. The premises shall be kept free of pests by:

- 1. routinely inspecting the premises for evidence of pests; and
- 2. using methods of control approved by law.

C. Outdoor walking and driving areas shall be surfaced with concrete, asphalt, gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, drain properly and prevent muddy conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:70 (January 2002).

Chapter 37. Physical Facilities

§3701. Floors

[formerly paragraph 22:25]

A. Floors shall be constructed of smooth, durable, nonabsorbant and easily cleanable material.

B. Closely woven and easily cleanable carpet may be used in certain areas of the food establishment or retail food store/market except where food is prepared and processed.

C. Properly installed floor drains shall be provided in toilet rooms, seafood and meat markets and in all areas where water flush cleaning methods are used. The floor shall be sloped to the floor drain.

D. Floors shall be maintained clean and in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:70 (January 2002).

§3703. Walls and Ceilings

[formerly paragraph 22:26]

A. Walls and ceilings in the food preparation areas and equipment-utensil washing areas shall be constructed of light colored, smooth, durable and easily cleanable materials.

B. Utility service lines, pipes, exposed studs, joists, rafters and decorative items shall not be unnecessarily exposed in food preparation and processing areas. When exposed in other areas of the food establishment or retail

food store/market, they shall be installed so they do not obstruct or prevent cleaning of the walls and ceilings.

C. Walls, ceilings, and any attachments shall be maintained clean and in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:70 (January 2002).

§3705. Lighting Intensity

[formerly paragraph 22:27-1]

A. The lighting intensity:

1. in walk-in refrigeration units and dry food storage areas, and in other areas or rooms during periods of cleaning, shall be at least 110 lux (10 foot candles) at a distance of 30 inches (75 cm) above the floor.

2. in areas where there is consumer self service, areas used for handwashing, warewashing, equipment and utensil storage, and in toilet rooms, shall be at least 220 lux (20 foot candles) at a distance of 30 inches (75 cm) above the floor.

3. at a surface where a food employee is working with unpackaged potentially hazardous food or with food, utensils, and equipment such as knives, slicers, grinders, or saws where employees' safety is a factor, shall be at least 540 lux (50 foot candles) at a distance of 30 inches (75 cm) above the floor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:70 (January 2002).

§3707. Light Shielding

[formerly paragraph 22:27-2]

A. Light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food, clean equipment, utensils and linens or unwrapped single-service and single-use articles.

B. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:70 (January 2002).

§3709. Mechanical Ventilation

[formerly paragraph 22:28-1]

A. If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes, mechanical ventilation of sufficient capacity shall be provided exhausting to the outside atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:70 (January 2002).

§3711. Hood Ventilation [formerly paragraph 22:28-2]

A. Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings and should be equipped with filters to prevent grease from escaping into the outside atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:70 (January 2002).

§3713. Heating, Air Conditioning, Ventilating System Vents [formerly paragraph 22:28-3]

A. These systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food preparation surfaces, equipment and utensils.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:71 (January 2002).

Chapter 39. Poisonous or Toxic Materials

§3901. Labeling

[formerly paragraph 22:29-1]

A. Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

B. Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material. This practice is not allowed in a day-care or residential facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:71 (January 2002).

§3903. Storage and Display

[formerly paragraph 22:29-2]

A. Poisonous or toxic materials shall be stored for use in food establishments or displayed for retail sale or use in retail food stores/markets so they may not contaminate food, equipment, utensils, linens, single-service and single-use articles by:

1. separating the poisonous or toxic materials by spacing or partitioning; and

2. locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, single-service and single-use articles; and

3. storing those properly labeled medicines and first aid supplies necessary for the health of employees or for retail sale in a location or area that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles; and

4. storing medicines belonging to employees that require refrigeration (and are stored in a food refrigerator) in a package or container kept inside a covered, leakproof container that is identified as a container for the storage of medicines, or as specified for day care centers and residential facilities in Chapter XXI of this Title; and

5. storing employees' personal care items in lockers or other suitable facilities that are located in an area that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:71 (January 2002).

§3905. Use

[formerly paragraph 22:29-3]

A. Only those poisonous or toxic materials that are required for the operation and maintenance of the food establishment or retail food store/market such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in food preparation and processing areas. This does not apply to approved, packaged poisonous or toxic materials that are for retail sale stored in accordance with §3903 of this Part.

B. Poisonous or toxic materials shall be stored in accordance with §3903 of this Part, and used according to:

1. law;

2. manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions including a statement that the use is allowed in a food preparation or processing area; and

3. any additional conditions that may be established by the regulatory authority.

C. Chemical sanitizers and other chemical antimicrobials applied to food contact surfaces shall meet the requirements specified in §2513.A.2 and §2515.B of this Part.

D. Chemicals used to wash or peel raw, whole fruits and vegetables shall be used in accordance with the manufacturer's label instructions and as specified in 21 CFR 173.315.

E. Restricted use pesticides shall be applied and used according to law and in accord with the manufacturer's label instructions.

F. Rodent bait shall be contained in a covered, tamper-resistant bait station.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:71 (January 2002).

Chapter 41. Miscellaneous

§4101. Prohibitive Acts

[formerly paragraph 22:30]

A. Except as specified in Subsection B of this Section, live animals may not be allowed on the premises of food establishments or retail food stores/markets.

B. Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result; such as

1. edible fish or decorative fish in aquariums, shellfish and crustacea in display tank systems;

2. patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

3. service animals that are controlled by a disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal, in areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas;

4. pets in the common dining areas of group residences at times other than during meals if:

a. effective partitioning and self-closing doors separate the common dining areas from storage or food preparation areas;

b. condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

c. dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

C. Body Art. No employee or any other person shall engage in the practice of "Body art" within the premises of any food establishment or retail food store/market as defined in this Part.

D. Persons unnecessary to the food establishment or retail food store/market operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:71 (January 2002).

§4103. Distressed Merchandise

[formerly paragraph 22:32]

A. Products that are held by the food establishment or retail food store/market for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:72 (January 2002).

§4105. Dressing Areas, Lockers and Employee Break

Areas [formerly paragraph 22:33]

A. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

B. Lockers or other suitable facilities shall be provided and used for the orderly storage of employees' clothing and other possessions.

C. Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination. Areas where employees use tobacco should be well ventilated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:72 (January 2002).

§4107. Linen/Laundry, General

[formerly paragraph 22:35-1]

A. Clean linens shall be free from food residues and other soiled matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:72 (January 2002).

§4109. Linen/Laundry, Frequency of Cleaning

[formerly paragraph 22:35-2]

A. Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

B. Cloth gloves shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish.

C. Wet wiping cloths shall be laundered before being used with a fresh solution of cleanser or sanitizer.

D. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:72 (January 2002).

§4111. Wiping Cloths

[formerly paragraph 22:35-3]

A. Cloths that are used for wiping food spills shall be used for no other purpose.

B. Moist cloths used for wiping food spills on food contact surfaces of equipment shall be stored in an approved chemical sanitizing solution between uses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:72 (January 2002).

§4113. Storage of Soiled Linens

[formerly paragraph 22:35-4]

A. Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils and single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:72 (January 2002).

§4115. Use of Laundry Facilities

[formerly paragraph 22:35-5]

A. Laundry facilities on the premises of a food establishment or retail food store/market shall be used only for the washing and drying of items used in the operation of the establishment and located away from food preparation areas.

B. Linens which are not laundered on the premises may be sent to an off premise commercial laundry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:72 (January 2002).

§4117. Living Areas

[formerly paragraph 22:36]

A. Living or sleeping quarters such as a private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters, shall not be used for conducting food establishment or retail food store/market operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:72 (January 2002).

§4119. Maintenance Equipment
[formerly paragraph 22:37]

A. Maintenance tools such as brooms, mops, vacuum cleaners, and similar equipment shall be:

1. stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and
2. stored in an orderly manner that facilitates cleaning.

B. Mops should be hung and/or stored in a manner to facilitate air drying.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:73 (January 2002).

§4121. Reduced Oxygen Packaging Criteria
[formerly paragraph 22:39]

A. A food establishment or retail food store/market that packages food using a reduced oxygen packaging method shall have a Hazard Analysis Critical Control Point (HACCP) plan as specified in §311 of this Part, which provides the following information:

1. identifies the food to be packaged;
2. limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one of the following:
 - a. has a water activity of (a_w) of 0.91 or less;
 - b. has a pH of 4.6 or less;
 - c. is a meat product cured at a food processing plant regulated by the USDA or the Louisiana Department of Agriculture using substances specified in 9 CFR 318.7, Approval of Substances for Use in the Preparation of Products, and 9 CFR 381.147, Restrictions on the Use of Substances in Poultry Products, and is received in an intact package; or
 - d. is a food with a high level of competing organisms such as raw meat or raw poultry;
3. specifies methods for maintaining food at 41EF (5EC) or below;
4. describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
 - a. maintain the food at 41EF (5EC) or below, and
 - b. discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premise consumption;
5. limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, whichever occurs first;
6. includes operational procedures that:
 - a. prohibit contacting food with bare hands;
 - b. identify a designated area and the method by which:
 - i. physical barriers or methods of separation of raw foods and ready-to eat foods minimize cross-contamination, and
 - ii. access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and

c. delineate cleaning and sanitization procedures for food-contact surfaces; and

7. describes the training program that ensures that the individual responsible for reduced oxygen packaging (vacuum packaging) operation understands the:

- a. concepts required for a safe operation;
- b. equipment and facilities, and
- c. procedures specified in Paragraph A.6 of this

Subsection and the HACCP plan.

B. Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:73 (January 2002).

§4123. Smoked Meat Preparation, Not Fully Cooked
[formerly paragraph 22:40-1]

A. Not fully cooked smoked meats, also referred to as "partially cooked meats," shall be heated to a temperature and time sufficient to allow all parts of the meat to reach between 100EF and 140EF. This product shall be labeled on each retail package "FURTHER COOKING REQUIRED" with lettering of not less than one-half inch.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:73 (January 2002).

§4125. Smoked Meat Preparation, Fully Cooked
[formerly paragraph 22:40-2]

A. Fully cooked smoked meats shall be heated at a temperature and time sufficient to allow all parts of the meat to reach 155EF except poultry products which shall reach 165EF with no interruption of the cooking process and fish which shall reach 145EF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:73 (January 2002).

§4127. Open Air Markets

A. Markets commonly called "open air markets," "curb markets" or "open front markets" shall store all food products above the floor or ground level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:73 (January 2002).

§4129 Itinerant Food Establishments, Itinerant Retail Food Stores/Markets Permit
[formerly paragraph 22:34-1]

A. No itinerant food establishment or itinerant retail food store/market shall operate without first applying for and receiving a permit from the state health officer.

B. Seasonal permits issued to itinerant food establishments or itinerant retail food stores/markets should coincide with the legally set seasons for the products those markets plan to handle or sell and expire the last day of the season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:73 (January 2002).

§4131. Itinerant Food Establishments, Itinerant Food Stores/Markets Plans
[formerly paragraph 22:34-2]

A. Plans and specifications for all proposed itinerant food establishments or itinerant retail food stores/markets shall be submitted to the state health officer for review and approval before applying for and receiving a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:74 (January 2002).

Chapter 43. Inspections and Enforcement

§4301. Inspections, Frequency

[formerly paragraph 22:42-1]

A. Inspections of food establishments or retail food stores/markets shall be performed by the department as often as necessary for the enforcement of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:74 (January 2002).

§4303. Inspections, Access

[formerly paragraph 22:42-2]

A. Representatives of the state health officer, after proper identification, shall be permitted to enter any food establishment or retail food store/market at any time for the purpose of making inspections to determine compliance with this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:74 (January 2002).

§4305. Inspections, Records

[formerly paragraph 22:42-3]

A. The state health officer shall be permitted to examine the records of food establishments or retail food stores/markets to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed. Such records shall be maintained for a period of not less than six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:74 (January 2002).

§4307. Inspections, Reports

[formerly paragraph 22:42-4]

A. Whenever an inspection of a food establishment or retail food store/market is made, the findings shall be recorded on an inspection report form. A copy of the completed inspection report shall be furnished to the person in charge of the food establishment or retail food store/market at the conclusion of the inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:74 (January 2002).

§4309. Enforcement, General

[formerly paragraph 22:43-2]

A. Enforcement procedures shall be conducted in accordance with Part I of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:74 (January 2002).

§4311. Enforcement, Critical Violations

[formerly paragraph 22:43-2]

A. Critical items, such as, but not limited to a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water source, chemical contamination, sewage backup or improper sewage disposal, noted at the time of inspection shall be corrected immediately or by a time set by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:74 (January 2002).

§4313. Enforcement, Noncritical Violations

[formerly paragraph 22: 43-3]

A. Noncritical items noted at the time of inspection shall be corrected as soon as possible or by a time limit set by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:74 (January 2002).

§4315. Enforcement, Adulterated Food

[formerly paragraph 22:43-4]

A. Any food product that is adulterated, misbranded or unregistered is subject to seizure and condemnation by the state health officer according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:74 (January 2002).

Chapter 45. Mobile Food Establishments, Mobile Retail Food Stores/Markets and

Pushcarts [formerly paragraph 22:34-3]

§4501. Interior of Vehicles

A. The interior of vehicles where food products are prepared and stored shall be constructed of a smooth, easily cleanable surface and maintained in good repair.

B. The interior of vehicles where food products are prepared and stored shall be kept clean.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:74 (January 2002).

§4503. Packaged Food Products

[formerly paragraph 22:34-4]

A. Trucks or vendors selling packaged food products such as ice cream, frozen novelties, meats, etc. shall operate from a base of operation where leftover products may be properly stored and inspected and the vehicle serviced.

Packaged potentially hazardous foods shall be stored in accordance with §1309 and §1313 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:74 (January 2002).

§4505. Produce

[formerly paragraph 22:34-5]

A. Produce vendors shall comply with §1101, §1103, §1107, §4101 and Chapter 15 of this Part. The produce should be protected by some type of enclosure or cover on the vehicles. Any produce left at the end of the day should be properly stored and protected from insects and rodents overnight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:75 (January 2002).

§4507. General

[formerly paragraph 23:117-1]

A. Mobile food establishments, mobile retail food stores/markets or pushcarts shall comply with the requirements of this Part, except as otherwise provided in this section and in §4129 of this Part. The department may impose additional requirements to protect against health hazards related to the conduct of the food establishment or retail food store/market as a mobile operation, may prohibit the sale of some or all potentially hazardous food and when no health hazard will result, may modify requirements of this Part relating to physical facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:75 (January 2002).

§4509. Plans Submission

[formerly paragraph 22:34-2]

A. Properly prepared plans and specifications for mobile food establishments, mobile retail food stores/markets and pushcarts shall be submitted to the state health officer for review and approval before construction is begun.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:75 (January 2002).

§4511. Permit

[formerly paragraph 23:125]

A. No person shall operate a mobile food establishment, mobile retail food store/market or pushcart who does not have a valid permit issued to him by the state health officer. Only a person who complies with the requirements of this Part shall be entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be posted in every mobile food establishment, mobile retail food store/market or pushcart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:75 (January 2002).

§4513. Issuance of Permits

[formerly paragraph 23:126-1]

A. Any person desiring to operate a mobile food establishment, mobile retail food store/market or pushcart shall make written application for a permit on forms provided by the state health officer. Such application shall include the name and address of each applicant, the location and type of the proposed mobile food establishment, mobile retail food store/market or pushcart, and the signature of each applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:75 (January 2002).

§4515. Restricted Operations

[formerly paragraph 22:34-6]

A. Boiled peanuts shall be handled in accordance with guidelines set by the state health officer.

B. Hot tamales shall be handled in accordance with guidelines set by the state health officer.

C. Seafood

1. Boiled seafood shall be cooked and handled in accordance with guidelines set by the state health officer.

2. Oysters sold by the sack must be in an enclosed, mechanically refrigerated vehicle and comply with §1101, §1103, §1107, §1109 and §1117 of this Part.

3. Live crabs or crawfish sold by the bushel or sack must be stored either on ice in an enclosed, insulated vehicle or in an enclosed mechanically refrigerated vehicle and comply with §1101, §1103 and §1117 of this Part.

4. Raw shrimp vendors:

a. shall store their shrimp in containers such as ice chests which are smooth, impervious and easily cleanable. The use of styrofoam is prohibited;

b. shall maintain shrimp at a temperature of 41EF (5EC) in accordance with §1309 of this Part;

c. shall provide a minimum one gallon container of sanitizer solution at the proper strength in accordance with §2513.A.2 of this Part to rinse hands, scoops, scales, ice chests, etc., as needed; and

d. shall provide paper hand towels and a waste receptacle.

5. Waste water from any seafood vendor shall be disposed of properly in accordance with §2901 of this Part. Waste water shall be collected in an approved, covered, labeled container for proper disposal. The discharging of waste water onto the ground or into a storm drainage system is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:75 (January 2002).

§4517. Single-Service Articles

[formerly paragraph 23:119]

A. Mobile food establishments, mobile retail food stores/markets or pushcarts shall provide only single-service articles for use by the consumer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:75 (January 2002).

§4519. Water System

[formerly paragraph 23:120]

A. A mobile food establishment or a mobile retail food store/market requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing, in accordance with the requirements of this regulation. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of Chapter XIV of the State Sanitary Code. An approved gauge shall be provided to determine contents level.

B. Potable water shall come from an approved source in accord with the requirements of Chapter XII of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:76 (January 2002).

§4521. Waste Retention

[formerly paragraph 23:121]

A. If liquid waste results from operation of a mobile food establishment or mobile retail food store/market, the waste shall be stored in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food establishment or mobile retail food store/market is in motion. All connections on the vehicle for servicing mobile food establishment or mobile retail food store/market waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food establishment or mobile retail food store/market. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system. An approved gauge shall be provided to determine content levels.

B. Wastewater from mobile food establishments or mobile retail food stores/markets shall be disposed of in accord with §2901 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:76 (January 2002).

§4523. Base of Operations/Commissary

[formerly paragraphs 23:122, 23:123, 23:124]

A. Mobile food establishments, mobile retail food stores/markets and pushcarts shall operate from a commissary or other fixed food establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations.

B. The commissary or other fixed food establishments used as a base of operation for mobile food establishments, mobile retail food stores/markets, or pushcarts shall be

constructed and operated in compliance with the requirements of this Part.

C. Servicing Area

1. A servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies.

2. The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

3. Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.

4. The liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with §2901 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:76 (January 2002).

Chapter 47. Temporary Food Service

§4701. General

[formerly paragraph 23A:002]

A. The state health officer or his/her duly authorized representative may impose requirements in addition to those set forth below to protect against health hazards related to the operation of the temporary food service, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of the state sanitary code, in accordance with the Administrative Procedure Act. Nothing in this Part shall be construed to abridge the constitutional rights of the people to peaceably assemble.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:76 (January 2002).

§4703. Permits

[formerly paragraph 23A:003]

A. A temporary food service permit is not required for those fairs or festivals expressly exempted from regulation by R.S. 40:4.1 thru R.S. 40:4.6 inclusive.

B. When an organizer, promoter, or chairman of an exempted fair or festival makes written request for Office of Public Health inspections and permits and pays applicable fees, he or she shall comply with §4705 of this Part.

C. All fairs or festivals not exempted by Subsection A of this Section, shall not be allowed to operate until applying for, paying applicable fees, and receiving a valid permit to operate from the state health officer or his/her duly authorized representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:76 (January 2002).

§4705. Written Application
[formerly 23A:003-1]

A. Written application for permit (LHS-31A), signed agreement, and supplemental application (obtainable from the parish health unit) should be received by the state health officer or his/her duly authorized representative at least thirty days in advance of the proposed gathering.

B. A permit to operate shall be required of the festival, fair or other special event organizer or promoter and must be obtained from the local parish health unit. The application for permit shall include the:

1. name and location of the special event;
2. permanent mailing address and phone number;
3. name of the property owner;
4. opening date and closing date;
5. daily hours of operation;
6. size of site (square feet);
7. anticipated maximum attendance at any one time;
8. name of the event organizer or promoter;
9. home address and phone number of the organizer or promoter;
10. business address and phone number of the organizer or promoter;
11. list of each individual food operator/ responsible person, including their home address, home phone number, business phone, and food items to be sold;
12. outline map showing the location of all proposed and existing:
 - a. toilets;
 - b. lavatory facilities;
 - c. water supply sources (including storage tanks) and distribution system;
 - d. food service areas (including diagram and description of the types of booths, tents, etc. to be used for the preparation of or dispensing of any food or beverage products);
 - e. garbage and refuse storage and disposal areas;
 - f. special event command post; and
 - g. location of sewage disposal.

C. The following optional information is recommended to be included with the application for permit (on the outline map):

1. areas of assemblage;
2. camping areas (if any);
3. entrance and exits to public roadways;
4. emergency ingress and egress roads;
5. emergency medical and local enforcement command posts;
6. parking facilities;
7. written plan for dust control; and
8. written plan for emergency situations. (e.g. inclement weather, etc).

D. A permit to operate shall be required of each Individual Food Operator/Responsible Person operating a temporary food service unit/booth and must be obtained from the local parish health unit. Permits are not transferrable and shall be issued for each food and/or beverage unit/booth. Permits shall be posted in the temporary food service unit/booth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:77 (January 2002).

§4707. Ice/Wet Storage
[formerly paragraph 23A:004]

A. Ice shall be made and stored as required by §1907 of this Part and Chapter VI of the State Sanitary Code. Ice scoops must be used. The use of dry ice and/or frozen gel packs are recommended for cold storage. Storage of packaged food in contact with water or undrained ice is prohibited. Sandwiches shall not be stored in direct contact with ice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:77 (January 2002).

§4709. Equipment
[formerly paragraph 23A:004-1]

A. Equipment and food contact surfaces shall comply with Chapter 21 and Chapter 25 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:77 (January 2002).

§4711. Food Source and Protection
[formerly paragraph 23A:005-1]

A. Food shall be obtained, prepared, stored, handled and transported in accordance with Chapter 11, Chapter 13, Chapter 15, Chapter 17 and Chapter 19 of this Part. The sale of potentially hazardous home prepared food is prohibited.

B. The re-use of containers made of paper, wood, wax, or plastic coated cardboard is prohibited. Containers made of glass, metal, or hard plastic may be re-used only after they are properly washed, rinsed and sanitized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:77 (January 2002).

§4713. Personal Hygiene
[formerly paragraph 23A:007]

A. Each person working in a food booth shall comply with Chapter 7 and Chapter 9 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:77 (January 2002).

§4715. Food Stand/Booth Construction
[formerly paragraph 23A:008]

A. [formerly paragraph 23A:008-1] Indoor booths must be constructed with tables, counters, and/or walls on all sides to control patron access. Food service must be from the rear area of the booth or otherwise dispensed to prevent contamination by customers.

B. [formerly paragraph 23A:008-2] Outdoor booths must be constructed to include a roof made of wood, canvas, or other material that protects the interior of the booth from the weather and be enclosed by counters/walls to control patron access.

1. It is recommended that the booth be enclosed on three sides with the fourth, front side encompassing the

service area, so constructed as to minimize the entrance of dust, flies and vermin. The use of screen, mosquito netting, or polyurethane for this purpose is acceptable; counter-service openings shall be minimal.

2. Additional protective covering must be provided to completely enclose outer openings in the event of rain, dust storms or other inclement weather.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:77 (January 2002).

§4717. Floors

[formerly paragraph 23X:008-3]

A. Floors shall be kept clean, in good repair and level, so as not to allow the pooling of water. It is recommended that floors be constructed of concrete, asphalt, or similar material. Dirt or gravel, when graded to drain, may be used, however, clean removable pallets, duckboard, plywood, or similar material is recommended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:78 (January 2002).

§4719. Barbecue Places

[formerly paragraph 23A:008-4]

A. Places where barbecue is cooked must be provided with a cover impenetrable by rain or barbecue pits must be provided with covers. All food storage and handling must comply with §4711 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:78 (January 2002).

§4721. Seafood Boils

[formerly paragraph 23A:008-5]

A. Seafood boiling areas must be provided with a cover impenetrable to rain or a covered boiling apparatus. All food storage and handling must comply with §4711 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:78 (January 2002).

§4723. Exception

[formerly paragraph 23A:008-6]

A. Pre-packaged, pre-wrapped and properly labeled (according to the provisions of the Louisiana Food, Drug and Cosmetic Law) foods may be offered for sale in open type food stands, providing such food is properly stored and handled as described in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:78 (January 2002).

§4725. Sanitizing of Utensils and Equipment

[formerly paragraph 23A:009]

A. All utensils and equipment must be washed, rinsed and sanitized at least daily, or as required in Chapter 25 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:78 (January 2002).

§4727. Water

[formerly paragraph 23A:010]

A. Enough potable water from an approved source shall be provided for drinking, food preparation, for cleaning and sanitizing utensils and equipment, and for handwashing in accordance with Chapter 27 and Chapter 31 of this Part and Chapter XII of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:78 (January 2002).

§4729. Sewage (Toilets and Waste)

[formerly paragraph 23A:011]

A. Approved facilities shall be provided and maintained for the disposal of all sewage and liquid waste in accordance with §2901 of this Part and Chapter XIII of the State Sanitary Code.

B. Toilets shall be provided at the rate of one per 200 persons or fractional part thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:78 (January 2002).

§4731. Hand Washing

[formerly paragraph 23A:012]

A. When water under pressure is available, a hand washing facility shall be provided in accordance with §3109 of this Part.

B. When water under pressure is not available at the serving or food dispensing booth, two buckets of water shall be provided for each food concessionaire. One bucket containing potable water must be provided to remove extraneous materials or excess food particles; a second bucket containing a sanitizing solution (100 ppm chlorine, or 25 ppm iodine, or 200 ppm quaternary ammonia) must be provided as a hand dip well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:78 (January 2002).

§4733. Refuse (Garbage and Trash)

[formerly paragraph 23A:013]

A. All garbage and refuse shall be handled in accordance with Chapter 33 of this Part and Chapter XXVII of the State Sanitary Code.

B. A 50 gallon refuse container shall be provided at the rate of one for each 100 persons at peak anticipated attendance. In addition, each food vendor must have a covered refuse container for booth use.

C. Grease containers must be provided and all used grease must be deposited in these containers. Grease must not be poured down any drain.

D. The grounds and immediate surrounding properties shall be cleaned of refuse as soon as possible following the assembly, within and not exceeding 24 hours of closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:78 (January 2002).

§4735. Miscellaneous

[formerly paragraph 23A:014-1 and 23A:014-2]

A. The grounds of each fair, festival and/or temporary food service site shall be well drained and so arranged to provide sufficient space for people assembled, vehicles, sanitary facilities, and equipment.

B. All tents, cars, trailers, food stands and other appurtenances connected with the fair or festival shall at all times be kept in a clean and sanitary condition; and the grounds on which the fair or festival is located shall be kept in a clean and sanitary condition and, when vacated, left in a clean and sanitary condition.

C. The grounds shall be maintained free from accumulations of refuse, health and safety hazards, and from dust wherever possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:79 (January 2002).

§4737. Vector Control

[formerly paragraph 23A:014-2]

A. Insects, rodents, and other vermin shall be controlled by proper sanitary practices, extermination, or other safe and effective control methods in accord with applicable sections of Chapter 35 and Chapter 39 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:79 (January 2002).

§4739. Inspections/Violations/Closure

[formerly paragraph 23A:015]

A. All food operations are subject to at least daily inspections by representatives of the department.

B. Critical violations shall be corrected in accordance with §4311 of this Part.

C. Noncritical violations shall be corrected in accordance with §4313 of this Part.

D. Failure to make the necessary corrections or repeated violations will result in monetary penalties, sanctions, suspension of permit, seizure of food and/or further legal action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:79 (January 2002).

The following Table of Contents and Cross Reference listings (Item A. and Item B. respectively) are included as tools to assist staff and/or the public in locating provisions included in the preceding proposed rule which would repeal and replace Chapter XXII, Chapter XXIII, and Chapter XXIII A of the Sanitary Code. The referenced listings are as follows:

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David W. Hood
Secretary

0201#049

RULE

**Department of Health and Hospitals
Office of the Secretary**

AIDS Trust Fund (LAC 46:C.101-107)

The Department of Health and Hospitals, Office of the Secretary, has repealed the following Part in its entirety, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 46:2531. This rule is being repealed because the AIDS Trust Fund Board no longer exists. The HIV Trust Fund Board was originally established in 1987, to review the eligibility of programs to receive funding for research and educating the public regarding Acquired Immune Deficiency Syndrome. Later, the HIV Commission was established by law and assumed the powers, duties, and responsibility for all HIV related issues, however, the published rule was not repealed when the commission was established. Therefore, this rule is strictly a housekeeping measure.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part C. AIDS Trust Fund Board

Chapter 1. General Provisions

§101. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2531.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, AIDS Trust Fund Board, LR 13:239 (April 1987), repealed by the Department of Health and Hospitals, Office of the Secretary, LR 28:82 (January 2002).

§103. Powers and Duties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2531.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, AIDS Trust Fund Board, LR 13:239 (April 1987), repealed by the Department of Health and Hospitals, Office of the Secretary, LR 28:82 (January 2002).

§105. Memberships

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2531.

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§107. Officers

Repealed.

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David W. Hood
Secretary

0201#082

RULE

**Department of Natural Resources
Office of Conservation
Pipeline Division**

Pipeline Safety
Hazardous Liquids
(LAC 33:V.30105, 30112, 30129, 30135, 30149,
30292-30296, 30298, 30351)

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline

Subchapter A. General

§30105. Definitions

* * *

Unusually Sensitive Area (USA) Ca drinking water or ecological resource area that is unusually sensitive to environmental damage from a hazardous liquid pipeline release, as identified under §30112.

* * *

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 21:815 (August 1995), LR 28:83 (January 2002).

§30112. Unusually Sensitive Areas (USAs)

A. As used in this part, a USA means a drinking water or ecological resource area that is unusually sensitive to environmental damage from a hazardous liquid pipeline release.

1. A USA drinking water resource is:

a. the water intake for a Community Water System (CWS) or a Non-Transient Non-Community Water System (NTNCWS) that obtains its water supply primarily from a

surface water source and does not have an adequate alternative drinking water source;

b. the Source Water Protection Area (SWPA) for a CWS or a NTNCWS that obtains its water supply from a Class I or Class IIA aquifer and does not have an adequate alternative drinking water source. Where a state has not yet identified the SWPA, the Wellhead Protection Area (WHPA) will be used until the state has identified the SWPA; or

c. the sole source aquifer recharge area where the sole source aquifer is a karst aquifer in nature.

2. An USA ecological resource is:

a. an area containing a critically imperiled species or ecological community;

b. a multi-species assemblage area;

c. a migratory waterbird concentration area;

d. an area containing an imperiled species, threatened or endangered species, depleted marine mammal species, or an imperiled ecological community where the species or community is aquatic, aquatic dependent, or terrestrial with a limited range; or

e. an area containing an imperiled species, threatened or endangered species, depleted marine mammal species, or an imperiled ecological community where the species or community occurrence is considered to be one of the most viable, highest quality, or in the best condition as identified by an element occurrence ranking (EORANK) of A (excellent quality) or B (good quality).

3. As used in this part:

Adequate Alternative Drinking Water Source Ca source of water that currently exists, can be used almost immediately with a minimal amount of effort and cost, involves no decline in water quality, and will meet the consumptive, hygiene, and fire fighting requirements of the existing population of impacted customers for at least one month for a surface water source of water and at least six months for a groundwater source.

Aquatic or Aquatic Dependent Species or Community Ca species or community that primarily occurs in aquatic, marine, or wetland habitats, as well as species that may use terrestrial habitats during all or some portion of their life cycle, but that are still closely associated with or dependent upon aquatic, marine, or wetland habitats for some critical component or portion of their life-history (i.e., reproduction, rearing and development, feeding, etc).

Class I Aquifer Can aquifer that is surficial or shallow, permeable, and is highly vulnerable to contamination. Class I aquifers include:

i. *Unconsolidated Aquifers (Class Ia)* Cthat consist or surficial, unconsolidated, and permeable alluvial, terrace, outwash, beach, dune and other similar deposits. These aquifers generally contain layers of sand and gravel that, commonly, are interbedded to some degree with silt and clay. Not all Class Ia aquifers are important water-bearing units, but they are likely to be both permeable and vulnerable. The only natural protection of these aquifers is the thickness of the unsaturated zone and the presence of fine-grained material;

ii. *Soluble and Fractured Bedrock Aquifers (Class Ib)* CLithologies in this class include limestone, dolomite, and, locally, evaporitic units that contain documented karst features or solution channels, regardless of size. Generally these aquifers have a wide range of permeability. Also

included in this class are sedimentary strata, and metamorphic and igneous (intrusive and extrusive) rocks that are significantly faulted, fractured, or jointed. In all cases groundwater movement is largely controlled by secondary openings. Well yields range widely, but the important feature is the potential for rapid vertical and lateral ground water movement along preferred pathways, which result in a high degree of vulnerability;

iii. *Semiconsolidated Aquifers (Class Ic)* that generally contain poorly to moderately indurated sand and gravel that is interbedded with clay and silt. This group is intermediate to the unconsolidated and consolidated end members. These systems are common in the Tertiary age rocks that are exposed throughout the Gulf and Atlantic coastal states. Semiconsolidated conditions also arise from the presence of intercalated clay and caliche within primarily unconsolidated to poorly consolidated units, such as occurs in parts of the High Plains Aquifer; or

iv. *Covered Aquifers (Class Id)* that are any Class I aquifer overlain by less than 50 feet of low permeability, unconsolidated material, such as glacial till, lacustrine, and loess deposits.

Class IIA Aquifer A Higher Yield Bedrock Aquifer that is consolidated and is moderately vulnerable to contamination. These aquifers generally consist of fairly permeable sandstone or conglomerate that contain lesser amounts of interbedded fine grained clastics (shale, siltstone, mudstone) and occasionally carbonate units. In general, well yields must exceed 50 gallons per minute to be included in this class. Local fracturing may contribute to the dominant primary porosity and permeability of these systems.

Community Water System (CWS) A public water system that serves at least 15 service connections used by year-round residents of the area or regularly serves at least 25 year-round residents.

Critically Imperiled Species or Ecological Community (Habitat) An animal or plant species or an ecological community of extreme rarity, based on The Nature Conservancy's Global Conservation Status Rank. There are generally five or fewer occurrences, or very few remaining individuals (less than 1,000) or acres (less than 2,000). These species and ecological communities are extremely vulnerable to extinction due to some natural or man-made factor.

Depleted Marine Mammal Species A species that has been identified and is protected under the Marine Mammal Protection Act of 1972, as amended (MMPA) (16 U.S.C. 1361 et seq.). The term "depleted" refers to marine mammal species that are listed as threatened or endangered, or are below their optimum sustainable populations (16 U.S.C. 1362). The term "marine mammal" means "any mammal which is morphologically adapted to the marine environment (including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea), or primarily inhabits the marine environment (such as the polar bear)" (16 U.S.C. 1362). The order Sirenia includes manatees, the order Pinnipedia includes seals, sea lions, and walrus, and the order Cetacea includes dolphins, porpoises, and whales.

Ecological Community Means an interacting assemblage of plants and animals that recur under similar environmental conditions across the landscape.

Element Occurrence Rank (EORANK) Means the condition or viability of a species or ecological community occurrence, based on a population's size, condition, and landscape context. EORANKs are assigned by the Natural Heritage Programs. An EORANK of A means an excellent quality and an EORANK of B means good quality.

Imperiled Species or Ecological Community (Habitat) Means a rare species or ecological community, based on The Nature Conservancy's Global Conservation Status Rank. There are generally six to 20 occurrences, or few remaining individuals (1,000 to 3,000) or acres (2,000 to 10,000). These species and ecological communities are vulnerable to extinction due to some natural or man-made factor.

Karst Aquifer Means an aquifer that is composed of limestone or dolomite where the porosity is derived from connected solution cavities. Karst aquifers are often cavernous with high rates of flow.

Migratory Waterbird Concentration Area A designated Ramsar site or a Western Hemisphere Shorebird Reserve Network site.

Multi Species Assemblage Area An area where three or more different critically imperiled or imperiled species or ecological communities, threatened or endangered species, depleted marine mammals, or migratory waterbird concentrations co-occur.

Non-transient Non-community Water System (NTNCWS) Means a public water system that regularly serves at least 25 of the same persons over six months per year. Examples of these systems include schools, factories, and hospitals that have their own water supplies.

Public Water System (PWS) A system that provides the public water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. These systems include the sources of the water supplies, i.e., surface or ground. PWS can be community, non-transient non-community, or transient non-community systems.

Ramsar Site A site that has been designated under The Convention on Wetlands of International Importance Especially as Waterfowl Habitat program. Ramsar sites are globally critical wetland areas that support migratory waterfowl. These include wetland areas that regularly support 20,000 waterfowl; wetland areas that regularly support substantial numbers of individuals from particular groups of waterfowl, indicative of wetland values, productivity, or diversity; and wetland areas that regularly support 1 percent of the individuals in a population of one species or subspecies of waterfowl.

Sole Source Aquifer (SSA) An area designated by the U.S. Environmental Protection Agency under the Sole Source Aquifer program as the "sole or principal" source of drinking water for an area. Such designations are made if the aquifer's ground water supplies 50 percent or more of the drinking water for an area, and if that aquifer were to become contaminated, it would pose a public health hazard. A sole source aquifer that is karst in nature is one composed of limestone where the porosity is derived from connected solution cavities. They are often cavernous, with high rates of flow.

Source Water Protection Area (SWPA) Cthat the area delineated by the state for a public water supply system (PWS) or including numerous PWSs, whether the source is ground water or surface water or both, as part of the state source water assessment program (SWAP) approved by EPA under §1453 of the Safe Drinking Water Act.

Species Cspecies, subspecies, population stocks, or distinct vertebrate populations.

Terrestrial Ecological Community with a Limited Range Ca non-aquatic or non-aquatic dependent ecological community that covers less than five acres.

Terrestrial Species with a Limited Range Ca non-aquatic dependent animal or plant species that has a range of no more than five acres.

Threatened and Endangered Species (T&E) Can animal or plant species that has been listed and is protected under the Endangered Species Act of 1973, as amended (ESA73) (16 U.S.C. 1531 et seq.).

i. *Endangered Species* Cany species which is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532).

ii. *Threatened Species* Cany species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532).

Transient Non-community Water System (TNCW) Cmeans a public water system that does not regularly serve at least 25 of the same persons over six months per year. This type of water system serves a transient population found at rest stops, campgrounds, restaurants, and parks with their own source of water.

Wellhead Protection Area (WHPA) Cthe surface and subsurface area surrounding a well or well field that supplies a public water system through which contaminants are likely to pass and eventually reach the water well or well field.

Western Hemisphere Shorebird Reserve Network (WHSRN) Site Can area that contains migratory shorebirds concentrations and has been designated as a hemispheric reserve, international reserve, regional reserve, or endangered species reserve. Hemispheric reserves host at least 500,000 shorebirds annually or 30 percent of a species flyway population. International reserves host 100,000 shorebirds annually or 15 percent of a species flyway population. Regional reserves host 20,000 shorebirds annually or 5 percent of a species flyway population. Endangered species reserves are critical to the survival of endangered species and no minimum number of birds is required.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 28:83 (January 2002).

Subchapter B. Reporting Accidents and Safety-Related Conditions

§30129. Addressee for Written Reports

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), repealed LR 28:85 (January 2002).

§30135. Filing Safety-Related Condition Report

A. Each report of a safety-related condition under §30133.A must be filed (received by the commissioner) in writing within five working days (not including Saturday, Sunday, or state holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by telefacsimile (FAX), dial (202) 366-7128 and for Louisiana (225) 342-5529.

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 28:85 (January 2002).

§30149. Address for Written Reports

A. Each written report required by this subchapter must be made to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 2335, 400 Seventh Street SW, Washington, DC 20590 and concurrently to Office of Conservation, Pipeline Safety, P.O. Box 94275, Baton Rouge, LA 70804-9275. However, accident reports for intrastate pipelines subject to the jurisdiction of a state agency pursuant to a certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) may be submitted in duplicate to that state agency if the regulations of that agency require submission of these reports and provide for further transmittal of one copy within 10 days of receipt to the Information Resource Manager. Safety-related condition reports required by §30133 for intrastate pipelines must be submitted concurrently to the state agency, and if that agency acts as an agent of the secretary with respect to interstate pipelines, safety related condition reports for these pipelines must be submitted concurrently to that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 28:85 (January 2002).

Subchapter F. Operation and Maintenance

§30292. Smoking or Open Flames

A. Each operator shall prohibit smoking and open flames in each pump station area and each breakout tank area where there is a possibility of the leakage of a flammable hazardous liquid or of the presence of flammable vapors.

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629(August 1989), amended LR 28:85 (January 2002).

§30293. Public Education

A. Each operator shall establish a continuing educational program to enable the public, appropriate government organizations and persons engaged in excavation-related activities to recognize a hazardous liquid or a carbon dioxide pipeline emergency and to report it to the operator or the fire, police, or other appropriate public officials. The program must be conducted in English or in other languages commonly understood by a significant number and concentration of non-English speaking population in the operator's operating areas.

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:866 (August 1992), LR 28:85 (January 2002).

§30294. Damage Prevention Program

A. Except as provided in Subsection C of this Section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.

B. An operator may comply with any of the requirements of Subsection C of this Section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of the responsibility for compliance with this section. However, an operator must perform the duties of Paragraph C.3 of this Section through participation in a one-call system, if that one-call system is a qualified one-call-system. In areas that are covered by more than one qualified one-call system, an operator need only join one of the qualified one-call systems if there is a central telephone number for excavators to call for excavation activities, or if the one-call systems in those areas communicate with one another. An operator's pipeline system must be covered by a qualified one-call system where there is one in place. For the purpose of the Section, a one-call system is considered a "qualified one-call system" if it meets the requirements of Paragraphs B.1 or B.2 of this Section:

1. the state has adopted a one-call damage prevention program under 49 CFR 198.37; or
2. the one-call system:
 - i. is operated in accordance with 49 CFR 198.39;
 - ii. provides a pipeline operator an opportunity similar to a voluntary participant to have a part in management responsibilities; and
 - iii. assesses a participating pipeline operator a fee that is proportionate to the costs of the one-call system's coverage of the operator's pipeline.

C. The damage prevention program required by Subsection A of this Section must, at a minimum:

1. include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located;
2. provides for notification of the public in the vicinity of the pipeline and actual notification of persons identified in Paragraph C.1. of this Section of the following as often as needed to make them aware of the damage prevention program:
 - i. the program's existence and purpose; and
 - ii. how to learn the location of underground pipelines before excavation activities are begun;
3. provide a means of receiving and recording notification of planned excavation activities;
4. if the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings;

5. provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins;

6. provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:

- i. the inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and
- ii. in the case of blasting, any inspection must include leakage surveys.

D. A damage prevention program under this section is not required for the following pipelines:

1. pipelines located offshore;
2. pipelines to which access is physically controlled by the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 24:1315 (July 1998), amended LR 28:86 (January 2002).

§30295. CPM Leak Detection

A. Each computational pipeline monitoring (CPM) leak detection system installed on a hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid) must comply with API 1130 in operating, maintaining, testing, record keeping, and dispatcher training of the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 28:86 (January 2002).

§30296. High Consequence Areas Definitions

A. The following definitions apply to this section and §30297.

Emergency Flow Restricting Device or EFRDC means a check valve or remote control valve as follows.

a. *Check valve C* means a valve that permits fluid to flow freely in one direction and contains a mechanism to automatically prevent flow in the other direction.

b. *Remote Control Valve or RCVC* means any valve that is operated from a location remote from where the valve is installed. The RCV is usually operated by the supervisory control and data acquisition (SCADA) system. The linkage between the pipeline control center and the RCV may be by fiber optics, microwave, telephone lines, or satellite.

High Consequence Area C

a. *Commercially Navigable Waterway Ca* a waterway where a substantial likelihood of commercial navigation exists;

b. *High Population Area Can* an urbanized area, as defined and delineated by the Census Bureau, that contains 50,000 or more people and has a population density of at least 1,000 people per square mile;

c. *Other Populated Area Ca* a place, as defined and delineated by the Census Bureau, that contains a concentrated population, such as an incorporated or unincorporated city, town, village, or other designated residential or commercial area;

d. *Unusually Sensitive Area*, as defined in §30112.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 28:86 (January 2002).

§30298. Pipeline Integrity Management in High Consequence Areas

A. Which operators must comply? This Section applies to each operator who owns or operates a total of 500 or more miles of hazardous liquid pipeline subject to this Part.

B. What must an operator do?

1. No later than March 31, 2002, an operator must develop a written integrity management program that addresses the risks on each pipeline segment that could affect a high consequence area. An operator must include in the program:

a. an identification of all pipeline segments that could affect a high consequence area. A pipeline segment in a high consequence area is presumed to affect that area unless the operator's risk assessment effectively demonstrates otherwise. (See Appendix C of this Part for guidance on identifying pipeline segments.) An operator must complete this identification no later than December 31, 2001;

b. a plan for baseline assessment of the line pipe (see Subsection C of this Section);

c. a framework addressing each element of the integrity management program, including continual integrity assessment and evaluation (see Subsections F and J of this Section). The framework must initially indicate how decisions will be made to implement each element.

2. An operator must implement and follow the program it develops.

3. In carrying out this Section, an operator must follow recognized industry practices unless the section specifies otherwise or the operator demonstrates that an alternative practice is supported by a reliable engineering evaluation and provides an equivalent level of public safety and environmental protection.

C. What must be in the baseline assessment plan?

1. An operator must include each of the following elements in its written baseline assessment plan:

a. the methods selected to assess the integrity of the line pipe. For low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure, an operator must select integrity assessment methods capable of assessing seam integrity and of detecting corrosion and deformation anomalies. An operator must assess the integrity of the line pipe by:

i. internal inspection tool or tools capable of detecting corrosion and deformation anomalies including dents, gouges and grooves;

ii. pressure test conducted in accordance with Subchapter E of this Chapter; or

iii. other technology that the operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify the Office of Pipeline Safety (OPS) 90 days before conducting the assessment, by sending a notice to the address specified in §30147;

b. a schedule for completing the integrity assessment;

c. an explanation of the assessment methods selected and evaluation of risk factors considered in establishing the assessment schedule.

2. An operator must document, prior to implementing any changes to the plan, any modification to the plan, and reasons for the modification.

D. When must the baseline assessment be completed?

1. Time Period. An operator must establish a baseline assessment schedule to determine the priority for assessing the pipeline segments. An operator must complete the baseline assessment by March 31, 2008. An operator must assess at least 50 percent of the pipe subject to the requirements of this section, beginning with the highest risk pipe, by September 30, 2004.

2. Prior assessment. To satisfy the requirements of Subparagraph C.1.a of this Section, an operator may use an integrity assessment conducted after January 1, 1996, if the integrity assessment method meets the requirements of this section. However, if an operator uses this prior assessment as its baseline assessment, the operator must re-assess the line pipe according to the requirements of Paragraph J.3 of this Section.

3. Newly-Identified Areas

a. When information is available from the information analysis (See Subsection G of this Section), or from Census Bureau maps, that the population density around a pipeline segment has changed so as to fall within the definition in §30296 of a high population area or other populated area, the operator must incorporate the area into its baseline assessment plan as a high consequence area within one year from the date the area is identified. An operator must complete the baseline assessment of any line pipe that could affect the newly-identified high consequence area within five years from the date the area is identified.

b. An operator must incorporate a new unusually sensitive area into its baseline assessment plan within one year from the date the area is identified. An operator must complete the baseline assessment of any line pipe that could affect the newly-identified high consequence area within five years from the date the area is identified.

E. What are the risk factors for establishing an assessment schedule (for both the baseline and continual integrity assessments)?

1. An operator must establish an integrity assessment schedule that prioritizes pipeline segments for assessment (see Paragraphs D.1 and J.3 of this Section). An operator must base the assessment schedule on all risk factors that reflect the risk conditions on the pipeline segment. The factors an operator must consider include, but are not limited to:

a. results of the previous integrity assessment, defect type and size that the assessment method can detect, and defect growth rate;

b. pipe size, material, manufacturing information, coating type and condition, and seam type;

c. leak history, repair history and cathodic protection history;

d. product transported;

e. operating stress level;

f. existing or projected activities in the area;

g. local environmental factors that could affect the pipeline (e.g., corrosivity of soil, subsidence, climatic);

h. geo-technical hazards; and

i. physical support of the segment such as by a cable suspension bridge.

2. Appendix C of this Part provides further guidance on risk factors.

F. What are the elements of an integrity management program? An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at a minimum, each of the following elements in its written integrity management program:

1. a process for identifying which pipeline segments could affect a high consequence area;
2. a baseline assessment plan meeting the requirements of Subsection C of this Section;
3. an analysis that integrates all available information about the integrity of the entire pipeline and the consequences of a failure (See Subsection G of this Section);
4. criteria for repair actions to address integrity issues raised by the assessment methods and information analysis (See Subsection H of this Section);
5. a continual process of assessment and evaluation to maintain a pipeline's integrity (See Subsection J of this Section);
6. identification of preventive and mitigative measures to protect the high consequence area (See Subsection I of this Section);
7. methods to measure the program's effectiveness (See Subsection K of this Section);
8. a process for review of integrity assessment results and information analysis by a person qualified to evaluate the results and information (see Paragraph H.2 of this Section).

G. What is an information analysis? In periodically evaluating the integrity of each pipeline segment (Subsection J of this Section), an operator must analyze all available information about the integrity of the entire pipeline and the consequences of a failure. This information includes:

1. information critical to determining the potential for, and preventing, damage due to excavation, including current and planned damage prevention activities, and development or planned development along the pipeline segment;
2. data gathered through the integrity assessment required under this Section;
3. data gathered in conjunction with other inspections, tests, surveillance and patrols required by this Part, including, corrosion control monitoring and cathodic protection surveys; and
4. information about how a failure would affect the high consequence area, such as location of the water intake.

H. What actions must be taken to address integrity issues?

1. General Requirements. An operator must take prompt action to address all pipeline integrity issues raised by the assessment and information analysis. An operator must evaluate all anomalies and repair those anomalies that could reduce a pipeline's integrity. An operator must comply with §30281 in making a repair.

2. Discovery of a Condition. Discovery of a condition occurs when an operator has adequate information about the condition to determine the need for repair. Depending on circumstances, an operator may have adequate information

when the operator receives the preliminary internal inspection report, gathers and integrates information from the other inspections or the periodic evaluation, excavates the anomaly, or when an operator receives the final internal inspection report. The date of discovery can be no later than the date of the integrity assessment results or the final report.

3. Review of Integrity Assessment. An operator must include in its schedule for evaluation and repair (as required by Paragraph H.4 of this Section), a schedule for promptly reviewing and analyzing the integrity assessment results. After March 31, 2004, an operator's schedule must provide for review of the integrity assessment results within 120 days of conducting each assessment. The operator must obtain and assess a final report within an additional 90 days.

4. Schedule for Repairs. An operator must complete repairs according to a schedule that prioritizes the conditions for evaluation and repair. An operator must base the schedule on the risk factors listed in Paragraph E.1 of this Section and any pipeline-specific risk factors the operator develops. If an operator cannot meet the schedule for any of the conditions addressed in Subparagraphs H.5.a through d of this Section, the operator must justify the reasons why the schedule cannot be met and that the changed schedule will not jeopardize public safety or environmental protection. An operator must notify OPS if the operator cannot meet the schedule and cannot provide safely though a temporary reduction in operating pressure until a permanent repair is made. An operator must send a notice to the address specified in §30147 or to the facsimile number specified in §30135.

5. Special Requirements for Scheduling Repairs

a. Immediate Repair Conditions. An operator's evaluation and repair schedule must provide for immediate repair conditions. To maintain safety, an operator will need to temporarily reduce operating pressure or shut down the pipeline until the operator can complete the repair of these conditions. An operator must base the temporary operating pressure reduction on remaining wall thickness. An operator must treat the following conditions as immediate repair conditions:

- i. metal loss greater than 80 percent of nominal wall regardless of dimensions;
- ii. predicted burst pressure less than the maximum operating pressure at the location of the anomaly. Burst pressure has been calculated from the remaining strength of the pipe, using a suitable metal loss strength calculation, e.g., ASME/ANSI B31G ("Manual for Determining the Remaining Strength of Corroded Pipelines" (1991)) or AGA Pipeline Research Committee Project PR-3-805 ("A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (December 1989)). These documents are available at the addresses listed at §30107;
- iii. dents on the top of the pipeline (above 4 and 8 o'clock position) with any indicated metal loss;
- iv. significant anomaly that in the judgment of the person evaluating the assessment results requires immediate action.

b. 60-Day Conditions. Except for conditions listed in Subparagraph H.5.a of this Section, an operator must schedule for evaluation and repair all dents, regardless of size, located on the top of the pipeline (above the 4 and 8

o'clock position) within 60 days of discovery of the condition:

c. Six-Month Conditions. Except for conditions listed in Subparagraphs H.5.a or b of this Section, an operator must schedule evaluation and repair of the following within six months of discovery of the condition:

- i. dents with metal loss or dents that affect pipe curvature at the girth or seam weld;
- ii. dents with reported depths greater than 6 percent of the pipe diameter;
- iii. remaining strength of the pipe results in a safe operating pressure that is less than the current established MOP at the location of the anomaly using a suitable safe operating pressure calculation method (e.g., ASME/ANSI B31G ("Manual for Determining the Remaining Strength of Corroded Pipelines" (1991)) or AGA Pipeline Research Committee Project PR-3-805 ("A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (December 1989)). These documents are available at the addresses listed at §30107;
- iv. areas of general corrosion with a predicted metal loss of >50 percent of nominal wall;
- v. predicted metal loss of >50 percent of nominal wall at crossings of another pipeline;
- vi. weld anomalies with a predicted metal loss >50 percent of nominal wall;
- vii. potential crack indications that when excavated are determined to be cracks;
- viii. corrosion of or along seam welds;
- ix. gouges or grooves greater than 12.5 percent of nominal wall.

d. Other Conditions. An operator must schedule evaluation and repair of the following conditions:

- i. data that reflect a change since last assessed;
- ii. data that indicates mechanical damage that is located on the top half of the pipe;
- iii. data that indicate anomalies abrupt in nature;
- iv. data that indicate anomalies longitudinal in orientation;
- v. data that indicate anomalies over a large area;
- vi. anomalies located in or near casings, crossings of another pipeline, and areas with suspect cathodic protection.

I. What preventive and mitigative measure must an operator take to protect the high consequence area?

1. General Requirements. An operator must take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. Those measures include conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on the pipeline segment, modifying the systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls.

2. Risk Analysis Criteria. In identifying the need for additional preventive and mitigative measures, an operator must evaluate the likelihood of a pipeline release occurring

and how a release could affect the high consequence area. This determination must consider all relevant risk factors, including, but not limited to:

- a. terrain surrounding the pipeline segment, including drainage systems such as small streams and other smaller waterways that could act as a conduit to the high consequence area;
- b. elevation profile;
- c. characteristics of the product transported;
- d. amount of product that could be released;
- e. possibility of a spillage in a farm field following the drain tile into a waterway;
- f. ditches along side a roadway the pipeline crosses;
- g. physical support of the pipeline segment such as by a cable suspension bridge;
- h. exposure of the pipeline to operating pressure exceeding established maximum operating pressure.

3. Leak Detection. An operator must have a means to detect leaks on its pipeline system. An operator must evaluate the capability of its leak detection means and modify, as necessary, to protect the high consequence area. An operator's evaluation must, at least, consider, the following factors-length and size of the pipeline, type of product carried, the pipeline's proximity to the high consequence area, the swiftness of leak detection, location of nearest response personnel, leak history, and risk assessment results.

4. Emergency Flow Restricting Devices (EFRD). If an operator determines that an EFRD is needed on a pipeline segment to protect a high consequence area in the event of a hazardous liquid pipeline release, an operator must install the EFRD. In making this determination, an operator must, at least, consider the following factors-the swiftness of leak detection and pipeline shutdown capabilities, the type of commodity carried, the rate of potential leakage, the volume that can be released, topography or pipeline profile, the potential for ignition, proximity to power sources, location of nearest response personnel, specific terrain between the pipeline segment and the high consequence area, and benefits expected by reducing the spill size.

J. What is a continual process of evaluation and assessment to maintain a pipeline's integrity?

1. General. After completing the baseline integrity assessment, an operator must continue to assess the line pipe at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area.

2. Evaluation. An operator must conduct a periodic evaluation as frequently as needed to assure pipeline integrity. An operator must base the frequency of evaluation on risk factors specific to its pipeline, including the factors specified in Subsection E of this Section. The evaluation must consider the past and present integrity assessment results, information analysis (Subsection G of this Section), and decisions about repair, and preventive and mitigative actions (Subsections H and I of this Section).

3. Assessment Intervals. An operator must establish intervals not to exceed five years for continually assessing the line pipe's integrity. An operator must base the assessment intervals on the risk the line pipe poses to the high consequence area to determine the priority for assessing the pipeline segments. An operator must establish the

assessment intervals based on the factors specified in Subsection E of this Section, the analysis of the results from the last integrity assessment, and the information analysis required by Subsection G of this Section.

4. Variance from the Five-Year Intervals in Limited Situations

a. Engineering Basis. An operator may be able to justify an engineering basis for a longer assessment interval on a segment of line pipe. The justification must be supported by a reliable engineering evaluation combined with the use of other technology, such as external monitoring technology, that provides an understanding of the condition of the line pipe equivalent to that which is obtainable under Paragraph J.2 of this Section. An operator must notify OPS nine months before the end of the intervals of five years or less of the reason why the operator intends to justify a longer interval. An operator must send a notice to the address specified in §30147 or to the facsimile number specified in §30135. The notice must state a proposed alternative interval.

b. Unavailable Technology. An operator may require a longer assessment period for a segment of line pipe (for example, because sophisticated internal inspection technology is not available). An operator must justify the reasons why it cannot comply with the required assessment period and must also demonstrate the actions it is taking to evaluate the integrity of the pipeline segment in the interim. An operator must notify OPS 180 days before the end of the intervals of the five years or less that the operator may require a longer assessment interval. An operator must send a notice to the address specified in §30147 or to the facsimile number specified in §30135. The operator may have up to an additional 180 days to complete the assessment.

5. Assessment Methods. An operator must assess the integrity of the line pipe by:

a. internal inspection tool or tools capable of detecting corrosion and deformation anomalies including dents, gouges and grooves;

b. pressure test conducted in accordance with Subchapter E of this Chapter; or

c. other technology that the operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify OPS 60 days before conducting the assessment, by sending a notice to the address specified in §30147 or to the facsimile number specified in §30135.

6. However, for low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure, an operator must select integrity assessment methods capable of assessing seam integrity and of detecting corrosion and deformation anomalies.

K. What methods to measure program effectiveness must be used? An operator's program must include methods to measure whether the program is effective in assessing and evaluating the integrity of each pipeline segment and in protecting the high consequence areas. See Appendix C of this Part for guidance on methods that can be used to evaluate a program's effectiveness.

1. What records must be kept? An operator must maintain for review during an inspection:

a. a written integrity management program in accordance with Subsection B of this Section;

b. documents to support the decisions and analyses, including any modifications, justifications, variances, deviations, and determinations made, and actions taken, to implement and evaluate each element of the integrity management program listed in Subsection F of this Section.

2. See Appendix C of this Part for examples of records an operator would be required to keep.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 28:87 (January 2002).

§30351. Appendix C to Part VC Guidance for Implementation of Integrity Management Program

A. This Appendix gives guidance to help an operator implement the requirements of the integrity management program rule in §§30296 and 30298. Guidance is provided on:

1. information on operator may use to identify a high consequence area and factors an operator can use to consider the potential impacts of a release on an area;

2. risk factors an operator can use to determine an integrity assessment schedule;

3. safety risk indicator tables for leak history, volume or line size, age of pipeline, and product transported, an operator may use to determine if a pipeline segment falls into a high, medium or low risk category;

4. types of internal inspection tools an operator could use to find pipeline anomalies;

5. measure an operator could use to measure an integrity management program's performance; and

6. types of records an operator will have to maintain.

B. Identifying a high consequence area and factors for considering a pipeline segment's potential impact on a high consequence area.

1. The rule defines High Consequence Area as a high population area, an other populated area, an unusually sensitive area, or a commercially navigable waterway. The Office of Pipeline Safety (OPS) will map these areas on the National Pipeline Mapping Service (NPMS). An operator, member of the public, or other government agency may view and download the data from the NPMS home page <http://www.npms.rspa.dot.gov>. OPS will maintain the NPMS and update it periodically. However, it is an operator's responsibility to ensure that it has identified all high consequence areas that could be affected by a pipeline segment. An operator is also responsible for periodically evaluating its pipeline segments to look for population or environmental changes that may have occurred around the pipeline and to keep its program current with this information. (Refer to §30298.D.3) For more information to help in identifying high consequence areas, an operator may refer to:

a. Digital Data on populated areas available on U.S. Census Bureau maps;

b. Geographic Database on the commercial navigable waterways available on <http://www.bts.gov/gis/ntatlas/networks.html>;

c. the Bureau of Transportation Statistics database that includes commercially navigable waterways and non-commercially navigable waterways. The database can be downloaded from the BTS website at <http://www.bts.gov/gis/ntatlas/networks/html>.

d. the Rule requires an operator to include a process in its program for identifying which pipeline segments could affect a high consequence area and to take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. (See §30298.F and I) Thus, an operator will need to consider how each pipeline segment could affect a high consequence area. The primary source for the listed risk factors is a US DOT study on instrumental Internal Inspection devices (November 1992). Other sources include the National Transportation Safety Board, the Environmental Protection Agency and the Technical Hazardous Liquid Pipeline Safety Standards, Committee. The following list provides guidance to an operator on both the mandatory and additional factor:

1. terrain surrounding the pipeline. An operator should consider the contour of the land profile and if it could allow the liquid from a release to enter a high consequence area. An operator can get this information from topographical maps such as U.S. Geological Survey quadrangle maps;
2. drainage systems such as small streams and other smaller waterways that could serve as a conduit to a high consequence area;
3. crossing of farm tile fields. An operator should consider the possibility of a spillage in the field following the drain tile into a waterway;
4. crossing of roadways with ditches along the side. The ditches could carry a spillage to a waterway;
5. the nature and characteristics of the product the pipeline is transporting (refined products, crude oils, highly volatile liquids, etc.) Highly volatile liquids becomes gaseous when exposed to the atmosphere. A spillage could create a vapor cloud that could settle into the lower elevation of the ground profile;
6. physical support of the pipeline segment such as by a cable suspension bridge. An operator should look for stress indicators on the pipeline (strained supports, inadequate support at towers), atmospheric corrosion, vandalism, and other obvious signs of improper maintenance;
7. operating condition of pipeline (pressure, flow rate, etc.) Exposure of the pipeline to operating pressure exceeding established maximum operating pressure;
8. the hydraulic gradient of pipeline;
9. the diameter of pipeline, the potential release volume, and the distance between the isolation points;
10. potential physical pathways between the pipeline and the high consequence area;
11. response capability (time to respond, nature of response);
12. potential natural forces inherent in the area (flood zones, earthquakes, subsidence areas, etc.).

C. Risk factors for Establishing Frequency of Assessment

1. By assigning weights or values to the risk factors, and using the risk indicator tables, an operator can determine the priority for assessing pipeline segments, beginning with those segments that are of highest risk, that have not previously been assessed. This list provides some guidance

on some of the risk factors to consider (See §30298.E). An operator should also develop factors specific to each pipeline segment it is assessing, including:

- a. populated areas, unusually sensitive environmental areas, National Fish Hatcheries, commercially navigable waters, areas where people congregate;
- b. results from previous testing/inspection. (See §30298.H);
- c. leak history. (See leak history risk table.)
- d. known corrosion or condition of pipeline. (See §30298.G)
- e. cathodic protection history;
- f. type and quality of pipe coating (disbonded coating results in corrosion);
- g. age of pipe (older pipe shows more corrosion-may be uncoated or have an ineffective coating) and type of pipe seam (See Age of Pipe risk table);
- h. product transported (highly volatile, highly flammable and toxic liquids present a greater threat for both people and the environment) (See Product Transported risk table);
- i. pipe wall thickness (thicker walls give a better safety margin);
- j. size of pipe (higher volume release if the pipe ruptures);
- k. location related to potential ground movement (e.g., seismic faults, rock quarries, and coal mines); climatic (permafrost causes settlement-Alaska); geologic (landslides or subsidence);
- l. security of throughput (effects on customers if there is failure requiring shutdown);
- m. time since the last internal inspection/pressure testing;
- n. with respect to previously discovered defects/anomalies, the type, growth rate, and size;
- o. operating stress levels in the pipeline;
- p. location of the pipeline segment as it relates to the ability of the operator to detect and respond to a leak. (e.g., pipelines deep underground, or in locations that make leak detection difficult without specific sectional monitoring and/or significantly impede access for spill response or any other purpose);
- q. physical support of the segment such as by a cable suspension bridge;
- r. non-standard or other than recognized industry practice on pipeline installation (e.g., horizontal directional drilling).

2. Example. This example illustrates a hypothetical model used to establish an integrity assessment schedule for a hypothetical pipeline segment. After we determine the risk factors applicable to the pipeline segment, we then assign values or numbers to each factor, such as, high (5), moderate (3), or low (1). We can determine an overall risk classification (A, B, C) for the segment using the risk tables and a sliding scale (values 5 to 1) for risk factors for which tables are not provided. We could classify a segment as C if it fell above 2/3 of maximum value (highest overall risk value for any one segment when compared with other segments of a pipeline), a segment B if it fell between 1/3 to 2/3 of maximum value, and the remaining segments as A.

a. For the baseline assessment schedule, we would plan to assess 50 percent of all pipeline segments covered by the rule, beginning with the highest risk segments, within the first 3 1/2 years and the remaining segments within the seven-year period. For the continuing integrity assessments, we could plan to assess the C segments within the first two years of the schedule, the segments classified as moderate risk no later than year three or four and the remaining lowest risk segments no later than year five.

b. For our hypothetical pipeline segment, we have chosen the following risk factors and obtained risk factor values from the appropriate table. The values assigned to the risk factors are for illustration only.

Age of Pipeline:	Assume 30 years old (refer to AAge of Pipeline@ risk table)	Risk Value = 5
Pressure Tested:	Tested once during construction	Risk Value = 5
Coated:	(yes/no) - yes	
Coating Condition:	Recent excavation of suspected areas showed holidays in coating (potential corrosion risk)	Risk Value = 5
Cathodically Protected:	(yes/no) - yes	Risk Value = 1
Date Cathodic Protection Installed:	Five years after pipeline was constructed (Cathodic protection installed within one year of the pipeline's construction is generally considered low risk.)	Risk Value = 3
Close Interval Survey:	(yes/no) - no	Risk Value = 5
Interval Inspection Tool Used:	(yes/no) - yes	
Date of Pig Run?	In last five years	Risk Value = 1
Anomalies Found:	(yes/no) - yes, but do not pose an immediate safety risk or environment hazard	Risk Value = 3
Leak History:	yes, one spill in last 10 years. (refer to ALeak History@ risk table)	Risk Value = 2
Product Transported:	Diesel fuel. Product low risk. (refer to AProduct@ risk table)	Risk Value = 1
Pipe Size:	16 inches. Size presents moderate risk (refer to ALine Size@ risk table)	Risk Value = 3

c. Overall risk value for this hypothetical segment of pipe is 34. Assume we have two other pipeline segments for which we conduct similar risk rankings. The second pipeline segment has an overall risk value of 20, and the third segment, 11. For the baseline assessment we would establish a schedule where we assess the first segment (highest risk segment) within two years, the second segment within five years and the third segment within seven years. Similarly, for the continuing integrity assessment, we could establish an assessment schedule where we assess the highest risk segment no later than the second year, the second segment no later than the third year, and the third segment no later than the fifth year.

D. Safety risk indicator tables for leak history, volume or line size, age of pipeline, and product transported.

Leak History	
Safety Risk Indicator Leak History (Time-dependent defects)	
High	>3 Spills in last 10 years
Low	<3 Spills in last 10 years
Time-dependent defects are those that result in spills due to corrosion, gouges, or problems developed during manufacture, construction or operation, etc.	

Line Size Or Volume Transported	
Safety Risk Indicator	Line Size
High	18"
Moderate	10" -16" nominal diameters
Low	8" nominal diameter

Age Of Pipeline	
Safety Risk Indicator	Age Pipeline Condition Dependent
High	25 years
Low	25 years
Depends on pipeline's coating and corrosion condition, and steel quality, toughness, welding.	

Product Transported		
Safety Risk Indicator	Considerations	Product Examples
High	(Highly volatile and flammable)	(Propane, butane, Natural Gas Liquid [NGL], ammonia)
	Highly toxic	(Benzene, high Hydrogen Sulfide content crude oils).
Medium	Flammable-flashpoint <100F	(Gasoline, JP4, low flashpoint crude oils.
Low	Non-flammable-flashpoint 100+ F	(Diesel, fuel oil, kerosene, JP5, most crude oils.
The degree of acute and chronic toxicity to humans, wildlife and aquatic life; reactivity; and, volatility, flammability, and water solubility determine the Product Indicator. Comprehensive Environmental Response, Compensation and Liability Act Reportable Quantity values may be used as an indication of chronic toxicity. National Fire Protection Association health factors may be used for rating acute hazards.		

E. Types of Internal Inspection Tools to Use. An operator should consider at least two types of internal inspection tools for the integrity assessment from the following list. The type of tool or tools an operator selects will depend on the results from previous internal inspection runs, information analysis and risk factors specific to pipeline segment:

1. geometry internal inspection tools for detecting changes to ovality; e.g., bends, dents, buckles or wrinkles, due to construction flaws or soil movement, or other outside force damage;
2. metal loss tools (ultrasonic and magnetic flux leakage) for determining pipe wall anomalies, e.g., wall loss due to corrosion;
3. crack detection tools for detecting cracks and crack-like features, e.g., stress corrosion cracking (SCC), fatigue cracks, narrow axial corrosion, toe cracks, hook cracks, etc.

F. Methods to Measure Performance

1. General

a. This guidance is to help an operator establish measures to evaluate the effectiveness of its integrity

management program. The performance measures required will depend on the details of each integrity management program and will be based on an understanding and analysis of the failure mechanisms or threats to integrity of each pipeline segment.

b. An operator should select a set of measurements to judge how well its program is performing. An operator's objectives for its program to ensure public safety, prevent or minimize leaks and spills and prevent property and environmental damage. A typical integrity management program will be an ongoing program and it may contain many elements. Therefore, several performance measure are likely to be needed to measure the effectiveness of an ongoing program.

2. Performance Measures. These measures show how a program to control risk on pipeline segments that could affect a high consequences area is progressing under the integrity management requirements. Performance measures generally fall into three categories.

a. Selected Activity Measures. Measures that monitor the surveillance and preventive activities the operator has implemented. These measure indicate how well an operator is implementing the various elements of its integrity management program.

b. Deterioration Measures. Operation and maintenance trends that indicate when the integrity of the system is weakening despite preventive measures. This category of performance measure may indicate that the system condition is deteriorating despite well executed preventive activities.

c. Failure Measures. Leak History, incident response, product loss, etc. These measures will indicate progress towards fewer spills and less damage.

3. Internal vs. External comparisons. These comparisons show how a pipeline segment that could affect a high consequence area is progressing in comparison to the operator's other pipeline segment that are not covered by the integrity management requirements and how that pipeline segment compares to other operator's pipeline segments.

a. Internal. Comparing data from the pipeline segment that could affect the high consequence area with data from pipeline in other areas of the system may indicate the effects from the attention given to the high consequence area.

b. External. Comparing data external to the pipeline segment (e.g., OPS incident data) may provide measures on the frequency and size of leaks in relation to other companies.

4. Examples. Some examples of performance measures an operator could use include:

a. a performance measurement goal to reduce the total volume from unintended releases by __ percent (to be determined by operator) with an ultimate goal of zero;

b. a performance measurement goal to reduce the total number of unintended releases (based on a threshold of five gallons) by __ percent (to be determined by operator) with an ultimate goal of zero;

c. a performance measurement goal to document the percentage of integrity management activities completed during the calendar year;

d. a performance measurement goal to track and evaluate the effectiveness of the operator's community outreach activities;

e. a narrative description of pipeline system integrity, including a summary of performance improvements, both qualitative and quantitative, to an operator's integrity management program prepared periodically;

f. a performance measure based on internal audits of the operator's pipeline system per LAC 33:V;

g. a performance measure based on external audits of the operator's pipeline system per LAC 33:V;

h. a performance measure based on operational events (for example: relief occurrences, unplanned valve closure, SCADA outages, etc.) that have the potential to adversely affect pipeline integrity;

i. a performance measure to demonstrate that the operator's integrity management program reduces risk over time with a focus on high risk items;

j. a performance measure to demonstrate that the operator's integrity management program for pipeline stations and terminals reduces risk over time with a focus on high risk items.

G Examples of Types of Records an Operator Must Maintain. The rules requires an operator to maintain certain records. (See §30298.L) This Section provides examples of some records that an operator would have to maintain for inspection to comply with the requirement. This is not an exhaustive list:

1. a process for identifying which pipeline segments that could affect a high consequence area and a document identifying all pipeline segments that could affect a high consequence area;

2. a plan for baseline assessment of the line pipe that includes each required plan element;

3. modifications to the baseline plan and reasons for the modification;

4. use of and support for an alternative practice;

5. a framework addressing each required element of the integrity management program, updates and changes to the initial framework and eventual program;

6. a process for identifying a new high consequence area and incorporating it into the baseline plan, particularly, a process for identifying population changes around a pipeline segment;

7. an explanation of methods selected to assess the integrity of line pipe;

8. a process for review of integrity assessment results and data analysis by a person qualified to evaluated the results and data;

9. the process and risk factors for determining the baseline assessment interval;

10. the results of the baseline integrity assessment;

11. the process used for continual evaluation, and risk factors used for determining the frequency of evaluation.

12. process for integrating and analyzing information about the integrity of a pipeline, information and data used for the information analysis;

13. results of the information analyses and periodic evaluations;

14. the process and risk factors for establishing continual re-assessment intervals;

15. justification to support any variance from the required re-assessment intervals;

16. integrity assessment results and anomalies found, process for evaluating and repairing anomalies criteria for repair actions and actions taken to evaluate and repair the anomalies;

17. other remedial actions planned or taken;

18. schedule for reviewing and analyzing integrity assessment results;

19. schedule for evaluation and repair of anomalies, justification to support deviation from required repair times.

20. risk analysis used to identify additional preventive or mitigative measures, records of preventive and mitigative actions planned or taken.

21. criteria for determining EFRD installation;

22. criteria for evaluating and modifying leak detection capability;

23. methods used to measure the program's effectiveness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 28:90. (January 2002).

Philip N. Asprodites
Commissioner of Conservation

0201#018

RULE

**Department of Public Safety and Corrections
Corrections Services**

Disciplinary Rules for Adult Offenders
Schedule C Disciplinary Report (LAC 22:I.359)

In accordance with the Administrative Procedure Act, R.S. 49:953(A), the Department of Public Safety and Corrections, Corrections Services, has amended regulations dealing with the Disciplinary Rules for Adult Offenders.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter B. Disciplinary Rules for Adult Offenders

§ 359. Penalty Schedule C Disciplinary Report (Heard by Disciplinary Board)

A.1. - A.2.k. ...

l. loss of incentive wages for up to one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Corrections Services, LR 7:6 (January 1981), repromulgated by Corrections Services, LR 17:605 (June 1991),

LR 17:670 (July 1991), amended LR 19:653 (May 1993), LR 25:1876 (October 1999), LR 28:94 (January 2002).

Richard L. Stalder
Secretary

0201#075

RULE

**Department of Public Safety and Corrections
Corrections Services**

Louisiana Risk Review Panel (LAC 22:I.107)

In accordance with the Administrative Procedure Act, R.S. 49:953.A and B, and in order to comply with the legislative mandate of Act 403 of the 2001 Regular Session of the Louisiana Legislature, the Department of Public Safety and Corrections, Corrections Services has adopted rules and regulations for the operation of the Louisiana Risk Review Panel.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 1. Secretary's Office

§107. Louisiana Risk Review Panel

A. Purpose. To establish the secretary's policy regarding the formation of the Louisiana Risk Review Panel pursuant to legislative intent and the provisions R.S. 15:574.22 (Act 403 of the 2001 Regular Session of the Louisiana Legislature).

B. Applicability. Deputy Secretary, Undersecretary, Assistant Secretary of the Office of Adult Services, Wardens of Adult Institutions, Director of Probation and Parole -Adult, Chairman/Board of Parole, Chairman/Board of Pardons and administrators of local jail facilities.

C. Panel Composition and Guidelines

1. The secretary hereby creates three regional Risk Review Panels to be known as the North Louisiana Panel, (supported by David Wade Correctional Center serving as the regional state facility), the Central Louisiana Panel, (supported by David Wade Correctional Center with the Work Training Facility-North serving as the regional state facility), and the South Louisiana Panel, supported by the Elayn Hunt Correctional Center as the regional state facility.) The secretary shall designate the parishes which comprise each panel and shall appoint a chairman and a Coordinator for each panel.

2. Each Risk Review Panel shall consist of five members as follows:

a. the secretary, or his designee, who shall be chairman;

b. a psychologist (either licensed or working directly under the supervision of a licensed psychologist), who shall be authorized and approved by the secretary;

c. the warden (or his deputy) at the state facility where the inmate is housed or the regional state facility warden (or his deputy) for inmates housed in local jail facilities;

d. a retired judge with criminal law experience, who shall be appointed by the governor; and

e. a probation and parole officer with a minimum of ten years experience, who shall be appointed by the governor.

3. A majority of members present constitutes a quorum. All official actions of the panel shall require an affirmative vote of a majority of members present.

4. Each panel or panel member may work in any region. A panel shall meet on the call of the chairman or upon the request of any three members.

5. Panel members, other than departmental employees, may receive a per diem for each hearing they attend. The amount of the per diem shall be fixed by the secretary in accordance with R.S. 15:574.22(D.) All members shall receive travel reimbursement in accordance with Department Regulation Number A-03-002 "Travel" and PPM Number 49.

6. Panels shall follow the provisions of R.S. 42:1 et seq. (Public Policy for Open Meetings Law) and *Robert's Rules of Order*.

7. Official results shall be maintained on a docket sheet results form.

8. Recommendations made by individuals other than those employed by the Department of Public Safety and Corrections or the local jail facility where the inmate is housed shall be made in writing.

D. Selection Criteria

1. Pursuant to R.S. 15:574.22 G(1), (2), and (3), the following inmates are ineligible to apply for Risk Review Panel consideration:

a. an inmate convicted of a crime of violence as defined or enumerated in R.S. 14:2(13);

b. an inmate convicted of a sex offense as defined in R.S. 15:540 et seq. when the victim was under the age of 18 at the time of commission of the offense;

c. an inmate convicted of a violation of the Uniform Controlled Dangerous Substances Law except for any of the following:

i. possession as defined in R.S. 40:966(C), 967(C), 968(C), 969(C) or 970(C);

ii. distribution or possession with the intent to distribute cocaine where the offense of conviction involved less than 28 grams of cocaine;

iii. distribution or possession with the intent to distribute marijuana where the offense of conviction involved less than one pound of marijuana.

d. an inmate sentenced as a habitual offender under R.S. 15:529.1 where one or more of the crimes was a crime of violence defined or enumerated in R.S. 14:2(13).

2. Pursuant to this regulation, the following inmates are also ineligible to apply for Risk Review Panel consideration:

a. participating in or recommended for participation in the IMPACT program;

b. 180 days or less until earliest release date;

c. felony detainer(s) or open warrant(s).

d. an inmate sentenced as a habitual offender under R.S. 15:529.1 where one or more of the crimes was a sex offense as defined in R.S. 15:540 et seq.

3. An application will be ineligible for Risk Review Panel referral to the appropriate board in the following circumstances:

a. a poor disciplinary record, to include habitual and compulsive violent behavior, consistent signs of bad work habits, lack of cooperation or good faith and/or other undesirable behavior;

b. maximum custody status;

i. exception: inmates assigned to maximum custody solely based upon classification criteria and not for disciplinary reasons are eligible;

c. low level of program activity. Inmates should demonstrate initiative, participation in self help programs and good work habits (where available);

d. extensive criminal history, to include habitual or compulsive use of violence against the person;

e. probation and parole revocation history;

f. prior history of mental illness that would lead to the conclusion that the individual is a danger to society;

g. communicable or contagious disease for which inmate has not been receptive to or is non-compliant with treatment (e.g., tuberculosis, hepatitis A, B, and C, human immunodeficiency virus (HIV) and sexually transmitted diseases);

h. found guilty of being in possession or under the influence of a controlled dangerous substance during the current term of incarceration;

i. poor restitution payment history.

E. Application Procedures

1. All requests for consideration must be submitted on the department's official Risk Review Panel Application Form.

2. State inmates in state facilities will apply to the warden at the facility in which they are housed. The application will be reviewed by appropriate staff and a recommendation concerning the inmate's statutory and technical eligibility pursuant to this regulation for Risk Review Panel review will be made. Facilities located in the geographical area of the North Louisiana and Central Louisiana Panels will forward the application with recommendation to the appropriate executive staff officer (ESO) at David Wade Correctional Center and those in the geographical area of the South Louisiana Panel will forward the application with recommendation to the ESO at Elayn Hunt Correctional Center.

3. State inmates in local jail facilities in the geographical area of the North Louisiana and Central Louisiana Panels will apply directly to the appropriate ESO at David Wade Correctional Center and those in the geographical area of the South Louisiana Panel will apply directly to the ESO at Elayn Hunt Correctional Center.

4. The ESO will then prepare a preliminary report. This will include confirmation of statutory, technical, and subjective eligibility pursuant to this regulation and a docketing recommendation. A recommendation for docketing is not necessarily a qualification or disqualification, as the Risk Review Panel may take such action as it deems appropriate regarding each application. Docketing is determined solely at the discretion of the panel. Applications which are determined to be ineligible for consideration will be returned to the inmate.

5. Applications will be recommended for docketing as follows:

a. defer docketCthe inmate is a poor candidate for consideration. A live review is not recommended. However, the panel may move the inmate from the defer docket to the hearing docket at its discretion;

b. hearing docketCa live review is recommended.

6. Inmates placed on the hearing docket shall participate in risk assessment utilizing an instrument determined by the department.

7. If a preliminary recommendation for referral to the appropriate board is made, then a psychological evaluation or assessment, if recommended by the panel, shall be conducted.

F. Panel Review

1. A decision relative to the location of Risk Review Panels for state inmates housed in local jail facilities will be made based upon volume:

a. if the volume is high, the Risk Review Panel may go on-site locally to conduct reviews;

b. if the volume is low, the inmate may be brought to the closest state facility or other designated site to conduct reviews.

2. The relevance of witness testimony will be determined solely at the discretion of the Risk Review Panel.

3. Panel review may be conducted either live, by file review, review of staff assessments, telephone or video conferencing, or by other conferencing methods at the discretion of the panel.

4. Panel decisions will be recorded by individual vote on a docket results sheet. The panel may recommend that the inmate be considered for clemency by the Board of Pardons or the panel may recommend that the person be considered for parole by the Board of Parole. The panel may also recommend to the appropriate board such conditions for clemency or parole as may be deemed appropriate. Any recommendation of the panel shall not be binding on either board.

5. The panel may also make recommendations for referral to programs within the department, such as IMPACT or work release.

6. The panel's decision shall be disseminated to the inmate by letter from the chairman with a copy to the appropriate warden or local jail administrator. In the event the inmate is denied a favorable recommendation, the letter will include instructions concerning the inmate's ability to reapply for consideration. Re-application frequency shall be a minimum of six months and shall be determined at the discretion of the panel.

7. Risk Review Panel recommendations are not appealable through the Administrative Remedy Procedure.

G Other Considerations for Panel Deliberations

1. Panels shall consider any other pertinent information during deliberations. Such information may include, but shall not be limited to the following:

a. presentence reports, master prison records, medical and psychological records;

b. comments submitted by the sentencing judge, the district attorney, assistant district attorney, the Board of Parole, the Board of Pardons, the victim or victim's family or the inmate;

c. the age of the inmate (to include consideration of chronological age and length of confinement where such contributes to a reduction in danger to the public);

d. current medical condition (where such contributes to a reduction in danger to the public);

e. damage or injury occasioned by the crime committed;

f. resources available to the inmate in the event of release (job and housing, family or other support, skill level); and

g. the extent to which the sentence for the instant offense exceeded the minimum sentence in effect at the time of sentencing.

2. Registered victims shall receive a letter advising them of the purpose of the Risk Review Panel review at the time the inmate is placed on a docket.

H. The effective date of this regulation is October 10, 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.22 (as enacted by Act Number 403 of the 2001 Regular Session of the Louisiana Legislature).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 28:94 (January 2002).

Richard L. Stalder
Secretary

0201#076

RULE

**Department of Public Safety and Corrections
Board of Private Security Examiners**

Company Licensure (LAC 46:LIX.201 and 203)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the executive secretary has amended the Louisiana State Board of Private Security Examiners Regulations, LAC 46:LIX:201 and 203, as follows.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIX. Private Security Examiners

Chapter 2. Company Licensure

§201. Qualifications and Requirements for Company Licensure

A. - E.8. ...

F. It shall be unlawful for any individual to make an application to the board as qualifying agent unless that person intends to maintain and continues to maintain that supervisory position on a regular, full-time basis, or on a part-time basis if requested in writing by the applicant and approved by the board. A person may not be a qualifying agent for more than one licensee.

G. - L.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:752 (December 1987), amended LR 15:847 (October 1989), LR

18:190 (February 1992), LR 23:588 (May 1997), LR 26:1068 (May 2000), LR 28:96 (January 2002).

§203. Application Procedure

A. - A.9. ...

10. general liability insurance:

a. the general liability policy as required by R.S. 37:3276 shall name the state of Louisiana as an additional insured and, at a minimum, shall contain coverage provisions for hiring, training and retention; errors and omissions; firearms; care, custody and control, with minimum limits equal to those set forth in R.S. 37:3276 for general liability coverage and with contractual liability exclusive of sole negligence. The policy shall not void coverage for all insureds based upon the exclusion of one insured;

b. a copy of the entire policy shall be submitted to the board upon issuance or renewal of the policy;

c. investigators acting on behalf of the Louisiana State Board of Private Security Examiners shall be empowered to investigate and report on the financial health of insurance companies authorized to issue such policies in Louisiana;

d. all companies issuing policies as required by R.S. 37:3276 shall certify policy compliance with the provisions of this chapter;

A.11. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:752 (December 1987), amended LR 15:12 (January 1989), LR 15:847 (October 1989), LR 26:1070 (May 2000), LR 28:97 (January 2002).

Wayne R. Rogillio
Executive Secretary

0201#079

RULE

**Department of Revenue
Policy Services Division**

**Corporation Franchise Tax Due Date
(LAC 61:I.309)**

Under the authority of R.S. 47:609 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.309 to conform the regulation to the current statute.

This regulation was last amended in February 1985. Two significant changes have been made to the statute since the regulation was last amended. The date upon which the corporation franchise tax is payable, which is set forth in R.S. 47:609, was changed by Acts 1986, No. 59, §1. The statute was further amended by Acts 1991, No. 368, §1 in

which the term "accrual" or "accrues" was changed to "due date" or "is due." This amendment reflects the changes in the statute made in 1986 and 1991.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 3. Corporation Franchise Tax

§309. Due Date, Payment, and Reporting of Tax

A. The corporation franchise tax becomes due on the first day of each calendar or fiscal year in which a corporation is subject to the tax, and is based on its entire issued and outstanding capital stock, surplus, and undivided profits, and borrowed capital determined as of the close of the previous calendar or fiscal year. There is no proration of the tax for a portion of the year in the case of dissolution of a domestic corporation, withdrawal from the state by a foreign corporation, or where a corporation otherwise ceases to be subject to the tax. The tax is payable to the secretary of Revenue on or before the fifteenth day of the third month following the month in which the tax becomes due; in the case of a calendar year taxpayer, the tax becomes due on January 1 and is payable to the secretary on or before April 15. If the day on which the tax is payable falls on a Saturday, Sunday, or legal holiday the tax is payable on the next business day. For purposes of this section, fiscal or calendar year shall be determined by reference to the annual accounting period regularly used by the corporation in keeping its books.

B. Payment of the tax shall be accompanied by a full, accurate, and complete report prepared on forms furnished by the secretary of Revenue, which shall be signed by a duly authorized official of the corporation.

C. Whenever the secretary has granted permission to a corporation to change its accounting period under the provisions of R.S. 47:613, the tax to be paid for the period from the end of the last period for which the tax had already become due until the end of the new accounting period shall be determined by multiplying the ratio that the number of such months bears to 12, times the tax computed for an annual period based on the previous period's closing. All subsequent returns shall be prepared on the basis of the new accounting period.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:609 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, Office of Group III, LR 6:25 (January 1980), amended LR 11:108 (February 1985), amended by the Department of Revenue, Policy Services Division, LR 28:97 (January 2002).

Cynthia Bridges
Secretary

0201#023

RULE

**Department of Revenue
Policy Services Division**

**Income Tax Schedule Requirements for Certain Nonresident
Professional Athletes and Professional Sports Franchises
(LAC 61:I.1305)**

Under the authority of R.S. 39:99, R.S. 47:295, and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.1305 relative to the attribution of Louisiana individual income tax from nonresident professional athletes and professional sports franchises to the Sports Facility Assistance Fund.

Act 1203 of the 2001 Regular Session of the Louisiana Legislature enacted R.S. 39:99, which creates a fund in the state treasury called the Sports Facility Assistance Fund (the Fund). Each year, the treasurer must pay into the Fund an amount equal to the income tax collected by the state from nonresident professional athletes and professional sports franchises on income earned in Louisiana. The monies in the Fund are appropriated dollar-for-dollar to the owners of the facilities at which the money that generated the income tax was earned. The purpose of this regulation is to enable the Department of Revenue to accurately attribute the income tax collected from nonresident professional athletes and professional sports franchises to the Fund.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 13. Income: Individuals

**§1305. Income Tax Schedule Requirement for Certain
Nonresident Professional Athletes and
Professional Sports Franchises**

A. If the Louisiana income tax of a nonresident professional athlete or professional sports franchise is attributable to the Sports Facility Assistance Fund, created by R.S. 39:99, the following schedule must be attached to any income tax return filed, including individual, corporate, fiduciary, trust, or composite income tax returns. Each nonresident professional athlete and professional sports franchise with Louisiana source income must attach a schedule to the required Louisiana income tax return, including a team composite return, that includes the following information:

1. the name of each facility, course, stadium, or arena at which they earned income in Louisiana;
2. the location of each facility, course, stadium, or arena at which they earned income in Louisiana; and
3. the number of duty days, as defined in LAC 61:I.1304.I, spent at each facility, course, stadium, or arena at which they earned income in Louisiana.

B. For purposes of this section only, these terms are defined as follows.

Professional Athlete—means an athlete that either plays for a professional sports franchise or who is a member of a professional sports association or league.

Professional Sports Franchise—means a member team of a professional sports association or league.

Professional Sports Association or League—means any of the following:

- a. Professional Golfers Association of America;
- b. National Football League;
- c. National Basketball Association;
- d. National Hockey League;
- e. East Coast Hockey League;
- f. Pacific Coast League.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:99, R.S. 47:295, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 28:98 (January 2002).

Cynthia Bridges
Secretary

0201#022

RULE

**Department of Revenue
Policy Services Division**

**Nonresident Apportionment of Compensation
from Personal Services Rendered (LAC 61:I.1304)**

Under the authority of R.S. 47:290, R.S. 47:293, R.S. 47:295, and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.1304 relative to the collection of Louisiana individual income tax from nonresidents who perform personal services in Louisiana, including nonresident professional athletes and entertainers.

Under Subsection 47:290.B of the Louisiana Revised Statutes, nonresident individuals who have income earned within or derived from Louisiana sources are taxed on their Louisiana income. Compensation for personal services rendered within Louisiana is income earned within or derived from Louisiana sources. Nonresident professional athletes and entertainers who perform in Louisiana are among the nonresident service providers who are taxed on their Louisiana income. House Concurrent Resolution 208 of the 2001 Regular Session of the Louisiana Legislature urged and requested the Department of Revenue to take all actions that are reasonable and necessary to collect all income taxes owed to the state by nonresident professional athletes.

The purpose of this Rule is to apportion to the state, in a fair and equitable manner, the income of certain nonresident personal service providers who render services in this state. This Rule includes guidance that will enable nonresident professional athletes, who are members of a professional athletic team, to fairly apportion to Louisiana their compensation for services rendered as a member of a professional athletic team that was earned in this state. In addition, the Rule will provide for an optional team composite return and composite payment to allow professional athletic teams to report Louisiana individual income tax on behalf of all nonresident team members.

Title 61
REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 13. Income: Individuals

**§1304. Nonresident Apportionment of Compensation
from Personal Services Rendered in Louisiana**

A. For purposes of this Section, nonresident means any individual not domiciled, residing in, or having a permanent place of abode in Louisiana.

B. Nonresidents are taxed on all income from sources within Louisiana. Income from sources within Louisiana includes compensation for personal services rendered within Louisiana.

C. The purpose of this Rule is to apportion to Louisiana, in a fair and equitable manner, a nonresident's total compensation for personal services performed in the state. It is presumed that application of the provisions of this Rule will result in a fair and equitable apportionment of that compensation.

1. When the department demonstrates that the method provided under this Rule does not fairly and equitably apportion that compensation, the department may require the nonresident service provider to apportion that compensation under an alternative method the department prescribes, as long as the prescribed method results in a fair and equitable apportionment.

2. If a nonresident service provider demonstrates that the method provided under this Rule does not fairly and equitably apportion compensation, the nonresident may submit a proposal for an alternative method to apportion compensation. If approved, the proposed method must be fully documented and explained in the nonresident service provider's nonresident personal income tax return for the state.

3. Nonresident service providers shall keep adequate records to substantiate their determination or to permit a determination by the department of the part of their adjusted gross income that was derived from or connected with sources in this state.

D. Compensation of Salaried Employees with a Constant Rate of Pay. The Louisiana income from personal services is the proportion of total compensation from services rendered, which the total number of working days in the state bears to the total number of working days both within and without the state.

1. The total number of working days is determined by subtracting all nonworking days from the total number of days in the year or contract period, if the contract period is less than a year.

2. Nonworking days include, but are not limited to, Saturdays and Sundays not worked, holidays, days off for religious observance, days of absence due to illness or personal injury, vacation days, days of leave without pay, days off for any personal reason, and sabbatical days.

3. Days spent in travel, if the travel is at the direction of the employer, are considered working days even if the travel is on a day that would usually be considered a nonworking day.

E. Compensation Based on Volume of Business. The Louisiana income from commissions earned by a nonresident traveling salesman, agent or other employee for

services performed or sales made, whose compensation depends directly on the volume of business transacted by him, includes that proportion of the compensation received which the volume of business transacted by such employee within Louisiana bears to the total volume of business transacted by him within and without the state.

F. Compensation from Continuous Employment in Louisiana for Part of the Year. If a nonresident employee (including officers of corporations, but excluding employees, mentioned in Subsection D above) is employed continuously in this state for a definite portion of any taxable year, that employee's Louisiana income includes the total compensation for the period employed in this state.

G. Compensation from Transportation Services. If a nonresident employee is employed in this state at intervals throughout the year, as would be the case if employed in operating trains, boats, planes, motor buses, trucks, etc., between this state and other states and foreign countries, and is paid on an hourly, daily, weekly or monthly basis, that employee's Louisiana income includes that portion of the total compensation for personal services which the total number of working days, as defined in Subsection C above, employed within the state bears to the total number of working days both within and without the state. If the employee is paid on a mileage basis, that employee's Louisiana income includes that portion of the total compensation for personal services which the number of miles traversed in Louisiana bears to the total number of miles traversed within and without the state. If the employee is paid on some other basis, the total compensation for personal services must be apportioned between this state and other states and foreign countries in such a manner as to allocate to Louisiana that portion of the total compensation which is reasonably attributable to personal services performed in this state. This subsection is not intended to attribute to Louisiana any income that is exempted from state taxation by federal law.

H. Compensation of Nonresident Entertainers and Athletes Who are not Members of a Professional Athletic Team. Compensation earned by a nonresident entertainer is considered earned where the services are performed, regardless of where the nonresident entertainer lives, enters into the contract, or receives payment. Entertainers include, but are not limited to, actors, singers, musicians, performers, and professional athletes who are not members of a professional athletic team.

1. Entertainers must include the gross amount received for performances in this state in their Louisiana income.

2. Ordinary and necessary business expenses directly attributable to the income earned in Louisiana and a pro-rata share of indirect business expenses not directly attributable to income from any particular source are "adjustments to income." These "adjustments to income" are subtracted from Louisiana income to arrive at "total Louisiana income."

I. Nonresident Athletes who are Members of a Professional Athletic Team

1. The Louisiana income of a nonresident individual who is a member of a professional athletic team includes that portion of the individual's total compensation for services rendered as a member of a professional athletic team during the taxable year which, the number of duty days

spent within the state rendering services for the team in any manner during the taxable year, bears to the total number of duty days spent both within and without the state during the taxable year.

2. Definitions. These terms are defined as follows. Unless otherwise indicated, these definitions apply only to this subsection.

Duty Days Call days during the taxable year from the beginning of the professional athletic team's official preseason training period through the last game in which the team competes or is scheduled to compete.

i. Duty days shall also include days on which a member of a professional athletic team renders a service for a team on a date that does not fall within the period described in the general definition of duty days above, for example, participation in instructional leagues, the Pro Bowl, or other promotional caravans. Rendering a service includes conducting training and rehabilitation activities, but only if conducted at the facilities of the team.

ii. Included within duty days shall be game days, practice days, days spent at team meetings, promotional caravans, and preseason training camps, and days served with the team through all postseason games in which the team competes or is scheduled to compete.

iii. Duty days for any person who joins a team during the season shall begin on the day that person joins the team, and for a person who leaves a team shall end on the day that person leaves the team. If a person switches teams during a taxable year, a separate duty day calculation shall be made for the period that person was with each team.

iv. Days for which a member of a professional athletic team is not compensated and is not rendering services for the team in any manner, including days when the member of a professional athletic team has been suspended without pay and prohibited from performing any services for the team, shall not be treated as duty days.

v. Days for which a member of a professional athletic team is on the disabled list shall be presumed not to be duty days spent in the state. They shall, however, be included in total duty days spent within and without the state.

vi. Travel days that do not involve either a game, practice, team meeting, promotional caravan or other similar team event are not considered duty days spent in the state, but shall be considered duty days spent within and without the state.

Member of a Professional Athletic Team shall include those employees who are active players, players on the disabled list, and any other persons required to travel and who do travel with and perform services on behalf of a professional athletic team on a regular basis. This includes, but is not limited to, coaches, managers, and trainers.

Professional Athletic Team includes, but is not limited to, any professional baseball, basketball, football, soccer, or hockey team.

Total Compensation includes salaries, wages, bonuses, and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed in that year.

i. Total compensation shall not include strike benefits, severance pay, termination pay, contract or option-year buyout payments, expansion or relocation payments, or

any other payments not related to services rendered to the team.

ii. For purposes of this Rule, "bonuses" subject to the allocation procedures described in this Subsection, are:

(a) bonuses earned as a result of play during the season, including performance bonuses, bonuses paid for championship, playoff or bowl games played by a team, or for selection to all-star league or other honorary positions; and

(b) bonuses paid for signing a contract, unless all of the following conditions are met:

(i) the payment of the signing bonus is not conditional upon the signee playing any games for the team, or performing any subsequent services for the team, or even making the team;

(ii) the signing bonus is payable separately from the salary and any other compensation; and

(iii) the signing bonus is nonrefundable.

Total Compensation for Services Rendered as a Member of a Professional Athletic Team the total compensation received during the taxable year for services rendered:

i. from the beginning of the official preseason training period through the last game in which the team competes or is scheduled to compete during that taxable year; and

ii. during the taxable year on a date that does not fall within the period in Clause i. above, for example, participation in instructional leagues, the Pro Bowl, or promotional caravans.

J. Optional team composite return for professional athletic teams. Professional athletic teams may file a composite return, on a form prescribed by the secretary, on behalf of its nonresident professional athletes.

1. Resident professional athletes may not be included on a composite return.

2. A schedule shall be included with the return, listing all nonresident professional athletes included in the composite filing. The schedule shall list all of the following information for each nonresident professional athlete:

a. name;

b. address;

c. social security number;

d. Louisiana income attributable to that nonresident professional athlete.

3. Nonresidents who are members of a professional athletic team who have any other Louisiana source income may be included in the composite return, however, inclusion in the composite return does not relieve these team members of the responsibility of filing any other required Louisiana tax return. If the other Louisiana source income is properly reportable on a Louisiana income tax return, that return must include the income from compensation as a member of a professional athletic team. Any amount paid with the team composite return on a nonresident professional athlete's behalf may be used as a credit against that team member's Louisiana individual income tax liability for the same tax period.

4. Nonresidents who are included in a properly filed and accurate team composite return, and who have no Louisiana income other than compensation for services rendered as a member of a professional athletic team, will be

deemed to have filed a Louisiana individual income tax return. Except that any underpayment by the team with the team composite return shall be the personal responsibility of the members of the professional athletic team included in the composite return.

5. The tax due on the composite return shall be computed using either of the following methods:

a. the sum of the actual tax liability from total compensation for services rendered as a member of a professional athletic team for each member of the team included in the composite return;

b. alternative method of computing the tax due on the composite return;

i. add the Louisiana income attributable to all nonresident professional athletes included in the composite return;

ii. subtract a deduction equal to 30 percent of the Louisiana income attributable to all nonresident professional athletes included in the composite return. This deduction is allowed in place of the combined standard deduction and personal exemption, excess itemized deductions, and federal tax deduction for the same period;

iii. the tax shall be computed using the maximum individual tax rate applied to Louisiana income after the 30-percent deduction.

6. Each professional athletic team will be issued an identification number by the department upon the filing of its first composite return. This identification number shall be used on all subsequent composite returns filed by that team.

7. A team making a composite return and payment must furnish the following information to all team members included in the composite return:

a. the team's taxpayer identification number;

b. the amount of the payment made on the team member's behalf;

c. a statement that the amount paid on the team member's behalf can be used as a credit against that team member's Louisiana individual income tax liability for the same tax period, if the team member files an individual return with the Department of Revenue that declares the income from compensation as a member of a professional athletic team;

d. the mailing address of the Louisiana Department of Revenue; and

e. the internet address of the Louisiana Department of Revenue.

K. Nothing in this regulation shall restrict the Secretary's authority to otherwise provide for efficient administration of the individual income tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:290, R.S. 47:293, R.S. 47:295, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Service Division LR 28:99 (January 2002).

Cynthia Bridges
Secretary

0201#021

RULE

Department of Revenue Policy Services Division

Nonresident Net Operating Losses (LAC 61:I.1302)

Under the authority of R.S. 47:293, R.S. 47:295, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.1302 relative to nonresident individuals and Louisiana net operating losses.

The purpose of this regulation is to inform all taxpayers that nonresident individuals are allowed to carry back and carry over their Louisiana net operating losses. This regulation also provides guidance to taxpayers about the procedures for carrying these losses.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 13. Income: Individuals

§1302. Nonresident Net Operating Losses

A. Nonresident individuals may carry back or carry over Louisiana net operating losses. Louisiana net operating losses may be carried and used in the same manner that would be allowed for federal purposes if the nonresident individual's federal returns consisted of only the Louisiana items of income and loss.

B. Application

1. The years to which Louisiana net operating losses may be carried are the same as they are for federal personal income tax purposes.

2. Net operating loss carrybacks and carryovers are considered an adjustment to Louisiana income and must be applied against total Louisiana income before applying any deductions.

3. When a net operating loss carryback or carryover is used a schedule must be attached to the return in which it is used for each carryback or carryover showing:

a. the taxable year in which each loss that is being carried back or carried over occurred; and

b. the amount of each loss applied to each taxable year to which it was carried over or carried back.

4. A separate schedule showing how each Louisiana net operating loss was determined may also be required.

C. Limitations

1. A Louisiana net operating loss carryback or carryover cannot include any amount that has already been deducted for Louisiana purposes.

2. Nothing in this section authorizes a federal income tax deduction for income that did not bear Louisiana personal income tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:293, R.S. 47:295, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:101 (January 2002).

Cynthia Bridges
Secretary

0201#020

RULE

**Department of Social Services
Office of Community Services**

**Child Protection Investigation Report Acceptance
(LAC 67:V.1301)**

The Department of Social Services, Office of Community Services, amends the following Rule relative to "Child Protection Investigation Report Acceptance."

This Rule regards the receipt of reports of abuse/neglect in family day care homes by the Office of Community Services. Reports received and with no allegations of culpability in the abuse/neglect by parents or legal custodians will be assigned a level of risk based on the information provided by the reporter and referred to law enforcement and, when appropriate to the case circumstances, to other agencies.

Title 67

SOCIAL SERVICES

**Part V. Office of Community Services
Subpart 3. Child Protective Services**

Chapter 13. Intake

**§1301. Child Protection Investigation Report
Acceptance**

A. - B. ...

C. Response Time. The reports classified as presenting low risk of immediate substantial harm alleged will be assigned a response time of from 24 hours up to 5 calendar days from the date the report was received.

D. - G ...

H. Reports of abuse/neglect in family day care homes with no allegations of culpability in the abuse/neglect by parents or legal custodians will be assigned a level of risk based on the information provided by the reporter and referred to law enforcement and, when appropriate to the case circumstances, other agencies.

AUTHORITY NOTE: Promulgated in accordance with Articles 610 and 612 G. of the Louisiana Children's Code and R.S. 46:1441.6.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:387 (April 1991), amended LR 18:1246 (November 1992), repromulgated LR 19:165 (February 1993), LR 19:503 (April 1993), amended LR 25:1654 (September 1999), LR 28:102 (January 2002).

Gwendolyn P. Hamilton
Secretary

0201#067

RULE

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

**Family Independence Work Program
(FIND Work)CSupport Services
Transportation (LAC 67:III.2913)**

The Department of Social Services, Office of Family Support, has amended LAC 67:III.2913.

Pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature and in order to further the goals and

intentions of the federal Temporary Assistance for Needy Families Block Grant to promote job preparation and to better facilitate entry into the workplace, the agency has increased the amount allowed for transportation services from \$60 to \$120 per month for participants who are or become ineligible for cash assistance due to earned income. This change was effected by Emergency Rule October 1, 2001.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 5. Family Independence Work Program
(FIND Work)**

Chapter 29. Organization

Subchapter C. Activities and Services

§2913. Support Services

A.1. - 2.a. ...

b. Effective October 1, 2001, participants who are or become ineligible for cash assistance due to earned income shall be eligible for a transportation payment of \$120 per month beginning with the first month of FITAP ineligibility and continuing through the twelfth month of ineligibility or through the last month of employment, whichever comes first.

3.a. - c. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:451 (April 1997), LR 24:356 (February 1998), LR 24:1135 (June 1998), LR 25:526 (March 1999), LR 25:2456 (December 1999), LR 26:1343 (June 2000), LR 28:102 (January 2002).

Gwendolyn P. Hamilton
Secretary

0201#065

RULE

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

**FITAP/KCSP/TANF Initiatives CEnergy Assistance
(LAC 67:III.1290, 5390, and 5503)**

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, Family Independence Temporary Assistance Program (FITAP), and Subpart 13, Kinship Care Subsidy Program (KCSP), and has adopted Subpart 15, Temporary Assistance to Needy Families (TANF) Initiatives.

In order to offset the rising costs of home energy which may be excessive in relation to the income of FITAP and KCSP households, the agency made energy assistance available to these households in August 2001 through an Emergency Rule. Additional funding for energy assistance is also made possible by Act 12 of the 2001 Regular Session of the Louisiana Legislature.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter D. Special Initiatives

§1290. Energy Assistance

A. Based on the availability of funding and a determination of need by OFS, all households receiving a FITAP grant may also be eligible to receive an energy assistance grant effective August 20, 2001, to apply towards the cost of utility service. OFS will establish a specific date of eligibility in order to determine when households will receive a grant, and only those households certified as of that date will be eligible for energy assistance.

B. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:103 (January 2002).

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter D. Special Initiatives

§5390. Energy Assistance

A. Based on the availability of funding and a determination of need by OFS, all households receiving a KCSP grant may also be eligible to receive an energy assistance grant effective August 2001 to apply towards the cost of utility service. OFS will establish a specific date of eligibility in order to determine when households will receive a grant, and only those households certified as of that date will be eligible for energy assistance.

B. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:103 (January 2002).

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

Chapter 55. TANF Initiatives

§5503. Emergency Energy Assistance

A. Effective September 28, 2001, in the event of an agency-declared energy emergency based on the availability of funding and a determination of need by OFS, needy families may receive a grant to apply toward the cost of utility service.

B. Services meet the TANF goal of providing assistance to needy families so that children may be properly cared for

in their own homes or in the homes of relatives by providing funds to help pay the costs of cooling and heating the homes.

C. A needy family is defined as a family in which any member receives Food Stamp benefits, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch. However, any of the preceding eligibles also receiving FITAP or KCSP grants are not eligible.

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

E. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity and eligibility as defined for a @needy family@ as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:103 (January 2002).

Gwendolyn P. Hamilton
Secretary

0201#064

RULE

Department of Social Services
Office of Family Support

Food Stamp ProgramC Semi-Annual Reporting Household
(LAC 67.III.2013 and 2015)

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 3, Food Stamps.

At the agency's request, a waiver has been granted by the U.S. Department of Agriculture, Food and Nutrition Service, which allows the agency to process all interim changes reported by a semi-annual reporting household, including those that result in a decrease in food stamp benefits. The approved waiver eliminates inequities that exist in current policy and provides for a more consistent application of policy. The change was effected August 7, 2001, by a Declaration of Emergency.

In addition, the agency has repealed §2015 as the transition from quarterly reporting to semi-annual reporting will be complete when this Rule becomes final.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support
Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter S. Semi-Annual Reporting

§2013. Semi-Annual Reporting

A. - G ...

H. Effective August 7, 2001, other changes will be processed in accordance with §1999, Reduction or Termination of Benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:1633 (August 2000), LR 27:867 (June 2001), LR 28:103 (January 2002).

§2015. Quarterly Reporting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a) and 273.3(c)(1)(ii).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:1633 (August 2000), amended LR 27:868 (June 2001), repealed LR 28:104 (January 2002).

Gwendolyn P. Hamilton
Secretary

0201#063

RULE

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

Black Bass Daily Take and Size Limits (LAC 76:VII.149)

The Wildlife and Fisheries Commission has amended the following Rule on black bass (*Micropterus spp.*) harvest restrictions on Concordia Lake located east of Ferriday in Concordia Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§149. Black Bass Regulations Daily Take and Size Limits

A. The Wildlife and Fisheries Commission establishes a statewide daily take (creel limit) of 10 fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

B. In addition, the commission establishes special size and daily take regulations for black bass on the following water bodies:

1. Caney Creek Reservoir (Jackson Parish)

a. Size limit: 15-inch to 19-inch slot. A 15 to 19-inch slot limit means that it is illegal to keep or possess a black

bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive.

b. Daily take: 8 fish of which no more than 2 fish may exceed 19 inches maximum total length.*

c. Possession limit:

- i. on water-same as daily take;
- ii. off water-twice the daily take.

2. Black Bayou Lake (Bossier Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), John K. Kelly-Grand Bayou Reservoir (Red River Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

a. Size Limit: 14-inch to 17-inch slot. A 14- to 17-inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

b. Daily Take: eight fish of which no more than four fish may exceed 17 inches maximum total length.*

c. Possession limit:

- i. on water-same as daily take;
- ii. off water-twice the daily take.

3. False River (Pointe Coupee Parish)

a. Size limit: 14-inch minimum size limit.

b. Daily Take: 5 fish.

c. Possession limit:

- i. on water-Same as daily take;
- ii. off water-twice the daily take.

*Maximum total length-the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C), R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000), LR 28:104 (January 2002).

Thomas M. Gattle, Jr.
Chairman

0201#030