# Notices of Intent

## NOTICE OF INTENT

**Department of Civil Service**
**Civil Service Commission**

Establishment of Promotion Score Range

The State Civil Service Commission will hold a public hearing on April 10, 2002 to consider the following rule proposals. The hearing will begin at 9:00 a.m. and be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana. The Rules below will be considered for adoption at the meeting. Individuals who wish to comment on these proposals may do so at the public hearing or by writing to the Director of State Civil Service at Post Office Box 94111, Baton Rouge, LA 70804-9111. If special accommodations are needed, please notify us prior to this meeting.

This rule expands the concept embodied in the certifiable score rule 8.4(d) which authorizes probational and job appointments of applicants who attain scores in a specified range in lieu of requesting and working a certificate of eligibles to use in promotional situations. The purpose is to shorten the time to fill a vacancy and improve efficiency by streamlining administrative processes and reducing paperwork. The certifiable score concept has worked quite successfully for probational and job appointments. This new promotion score rule will greatly benefit Civil Service and all Departments.

**Proposed New Rule**

**8.20(g).** The Director may establish a range of promotion scores for certain jobs and, without issuing a certificate, permit competitive promotion of permanent state employees who have attained a score within that range.

**Proposed Rule Amendment**

If proposed new rule 8.20(g) is adopted, rule 8.20(a) must be amended by adding a phrase ( indicated in bold below ) to accommodate the new rule.

**Current Rule**

**8.20 Promotion**

Subject to the provisions of Rules 8.9(a) and 8.9(c), each promotion shall be made by appointing one of the eligibles within the five highest final grade groups on a promotional certificate issued by the director following competitive examination; or by the designation of a permanent employee for noncompetitive promotion and authorization thereof by the director.

**Proposed Amended Rule**

**8.20(a)** Except as provided in paragraph (g) below, and subject to the provisions of Rules 8.9(a) and 8.9(c).

**Explanation**

This rule is similar to the certifiable score rule 8.4 (d) which authorizes probational and job appointments of applicants who attain scores in a specified range in lieu of requesting and working a certificate of eligibles. The purpose is to shorten the time to fill a vacancy and improve efficiency by streamlining administrative processes and reducing paperwork. The certifiable score concept has worked quite successfully for probational and job appointments. This new promotion score rule will greatly benefit Civil Service and all departments.

Allen H. Reynolds
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Establishment of Promotion Score Range**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only direct costs associated with implementing these rules are the costs of publishing them which total $204. There are no other significant costs or savings to state or local governmental units as a result of these Rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

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| Allen H. Reynolds | Robert E. Hosse |
| Director | General Government Section Director |
| 0203#051 | Legislative Fiscal Office |

## NOTICE OF INTENT

**Board of Elementary and Secondary Education**

Bulletin 741**C**Louisiana Handbook for School Administrators**C**Business and Marketing Course Offerings (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901, promulgated by the Board of Elementary and Secondary Education in LR l:483 (November 1975). The proposed changes of the Business and Marketing course offerings contained in Bulletin 741, *Louisiana Handbook for School Administrators***C**Standards 2.105.26, 2.105.27, and 2.105.32**C**will revise current course offerings, bringing them in-line with current industry standards.

## Title 28
## EDUCATION
### Part I. Board of Elementary and Secondary Education
### Chapter 9. Bulletins, Regulations, and State Plans
### Subchapter A. Bulletins and Regulations
### §901. School Approval Standards and Regulations

A. Bulletin 741

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), (15); R.S. 17:7.(5), (7), (11); R.S. 17:10, 11; R.S. 17:22.(2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 27:694, 695 (May 2001), LR 27:815 (June 2001), LR 27:1005 (July 2001), LR 27:1181, 1182, 1183 (August 2001), LR 27:1512 (September 2001), LR 27: 1674 (October 2001), LR 27:1832, 1833 1840 (November 2001), LR 27:2086, 2095 (December 2001), LR 28:269, 272 (February 2002), LR 28:

### Proposed Policy

### Business Education

**2.105.26** Business Education course offerings shall be as follows:

| Course Title | Recommended Grade Level | Unit(s) |
|---|---|---|
| Accounting I | 10-12 | 1 |
| Accounting II | 11-12 | 1 |
| Administrative Support Occupations | 11-12 | 1 |
| Business Communications | 10-12 | 1 |
| Business Computer Applications | 10-12 | 1 |
| Business English | 12 | 1 |
| Business Law | 11-12 | 1/2 |
| Computer Multimedia Presentations | 11-12 | 1/2 |
| Cooperative Office Education (COE) | 12 | 3 |
| Desktop Publishing | 11-12 | 1 |
| Economics | 11-12 | 1 |
| Entrepreneurship | 11-12 | 1 |
| Financial Math | 9-12 | 1 |
| Keyboarding | 9-12 | 1/2 |
| Keyboarding Applications | 9-12 | 1/2 |
| Lodging Management I | 10-12 | 1-3 |
| Lodging Management II | 11-12 | 1-3 |
| Principles of Business | 9-12 | 1 |
| Telecommunications | 10-12 | 1/2 |
| Word Processing | 11-12 | 1 |

Keyboarding and Keyboarding Applications shall be a prerequisite to Administrative Support Occupations, Business Computer Applications, Business Communications, Business English, Computer Multimedia Presentations, Telecommunications and Word Processing. Level I courses shall be prerequisite to Level II courses.

Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding/Keyboarding Applications and one of the following: ASO or Word Processing or BCA, and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may berequired by the individual school system.

English I, II, III are prerequisites to Business English. BCA or Word Processing is prerequisite to Computer Multimedia Presentations. Computer Literacy or Computer Technology is prerequisite to Telecommunications.

### General Cooperative Education

**2.105.27** General cooperative education course offerings shall be as follows:

| Course Title | Recommended Grade Level | Unit(s) |
|---|---|---|
| General Cooperative Education I | 11-12 | 3 |
| General Cooperative Education II | 12 | 3 |

General Cooperative Education courses shall be limited to students who meet the specific prerequisites and requirements of one of the specialized cooperative education programs.

### Marketing Education

**2.105.32** Marketing education course offerings shall be as follows:

| Course Title | Recommended Grade Level | Unit(s) |
|---|---|---|
| Advertising and Sales Promotion | 11-12 | 1 |
| Cooperative Marketing Education I | 11-12 | 3 |
| Cooperative Marketing Education II | 12 | 3 |
| Entrepreneurship | 11-12 | 1 |
| Marketing Management | 11-12 | 1 |
| Marketing Research | 11-12 | 1 |
| Principles of Marketing I | 9-12 | 1 |
| Principles of Marketing II | 10-12 | 1 |
| Retail Marketing | 11-12 | 1 |
| Tourism Marketing | 11-12 | 1 |

Keyboarding or being enrolled in Keyboarding simultaneously is a prerequisite for Advertising and Sales Promotion, Entrepreneurship, Research Marketing and Tourism Marketing. Principles of Management I and II and another advanced Marketing class is a prerequisite for Marketing Management. English I and II is a prerequisite for Marketing Research. Principles of Marketing or one other marketing course is a prerequisite for Cooperative Marketing Education I.

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Interested persons may submit written comments until 4:30 p.m., May 9, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Business and Marketing Course Offerings

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision will change business and marketing course offerings. This change will bring them up-to-date with current industry standards. There will be no implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes are being requested to bring current Business and Marketing course offerings in-line with industry demands. In aligning our course offerings with national standards, it will strengthen the link between secondary and postsecondary institutions. It will assist business and marketing students in attaining vocational skills for the workplace.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employers could have a larger, trained qualified pool from which to select employees.

Marlyn J. Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0203#028

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators Attendance—Compulsory School Age (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Legislation was enacted during the 2001 Regular Session of the Legislature that changes the compulsory school attendance age in Louisiana from 7 to 17 years of age to 7 to 18 years of age. Students who have attained the age of 7 years shall attend a public or private day school or participate in an approved home study program until they reach the age of 18 years. However, a student between the ages of 17 and 18 years of age may withdraw from school prior to graduation with the written consent of his parent, tutor, or legal guardian.

**Title 28**
**EDUCATION**
**Part I. Board of Elementary and Secondary Education**
**Chapter 9. Bulletins, Regulations, and State Plans**
**Subchapter A. Bulletins and Regulations**
**§901. School Approval Standards and Regulations**

A. Bulletin 741

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), (15); R.S. 17:7.(5), (7), (11); R.S. 17:10, 11; R.S. 17:22.(2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 27:694, 695 (May 2001), LR 27:815 (June 2001), LR 27:1005 (July 2001), LR 27:1181, 1182, 1183 (August 2001), LR 27:1512 (September 2001), LR 27: 1674 (October 2001), LR 27:1832, 1833 1840 (November 2001), LR 27:2086, 2095 (December 2001), LR 28:269, 272 (February 2002), LR 28:

**Attendance**

**1.055.00** Students who have attained the age of 7 years shall attend a public or private day school or participate in an approved home study program until they reach the age of 18 years. However, a student between the ages of 17 and 18 years of age may withdraw from school prior to graduation with the written consent of his parent, tutor, or legal guardian.

Refer to R.S. 17:221.

* * *

Interested persons may submit written comments until 4:30 p.m., May 9, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators Attendance Compulsory School Age**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Students are required to remain in school one year longer, until the age of 18. The estimated costs to state and local governmental units to keep these students in school one year longer is approximately $36,230,345. The effect to the local education agencies would be an increase in state funding through the MFP. In addition, the locals would have to provide local funds to pay the local portion of the cost of educating these students

The long-term effects of providing increased education could offset some of the costs incurred through the MFP. To the extent that this policy reduces the number of dropouts, it is possible that these students may not end up in the custody of the Department of Corrections and there could be a reduction of state general fund expenditures in that given year. Also, further educating a student may reduce the chances of that person's depending on state federal assistance programs such as welfare and the receipt of food stamps.

At this time it is not known how much of the total costs will be borne by the state or by the local education agencies. Also, it cannot be determined how much of these costs will be offset by the possible savings mentioned above. The cost to print and mail the rule change is approximately $500.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collection as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Students will be required to stay in school until the age of 18 rather than being allowed to drop out by the age of 17. Long-term economic benefits could accrue as a result of having a more highly educated workforce. An exact fiscal impact cannot be determined at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

A more highly educated and highly skilled workforce may result from the rule change. Students who stay in school one year longer may become more employable than they would be had they dropped out of school. This would result in fewer low wage jobs and fewer citizens who are dependent on social services.

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| Marlyn J. Langley | H. Gordon Monk |
| Deputy Superintendent | Staff Director |
| Management and Finance | Legislative Fiscal Office |

0203#026

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901, promulgated by the Board of Elementary and Secondary Education in LR l:483 (November 1975). At its January 2002 meeting, the State Board of Elementary and Secondary Education revised the Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems: Participation in the LEAP 21. These guidelines provide guidance and clarification to Bulletin 741, Standards 2.026.06, 2.026.08, and 2.026.09 as they relate to the participation of students transferring into the public schools from nonpublic schools and home schooling. Specific language was added to clarify the transfer policy as it relates to students with disabilities and their requirements to be eligible for special education waivers, appeals, and override as outlined in the High Stakes Testing Policy.

**Title 28**
**EDUCATION**
**Part I. Board of Elementary and Secondary Education**
**Chapter 9. Bulletins, Regulations, and State Plans**
**Subchapter A. Bulletins and Regulations**
**§901. School Approval Standards and Regulations**

A. Bulletin 741

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), (15); R.S. 17:7.(5), (7), (11); R.S. 17:10, 11; R.S. 17:22.(2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 27:694, 695 (May 2001), LR 27:815 (June 2001), LR 27:1005 (July 2001), LR 27:1181, 1182, 1183 (August 2001), LR 27:1512 (September 2001), LR 27: 1674 (October 2001), LR 27:1832, 1833 1840 (November 2001), LR 27:2086, 2095 (December 2001), LR 28:269, 272 (February 2002), LR 28:

**Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems: Participation in the LEAP 21**

Students in grades 5 and 9 transferring to the public school system from any in-state nonpublic school or any home schooling program, or any Louisiana resident transferring from any out-of-state school shall be required to take the 4th or 8th grade LEAP 21 English Language Arts and Mathematics Tests and score at the *approaching basic* or above achievement level. The following guidelines shall apply:

1. Students may take LEAP 21 at either the spring or summer administration prior to enrollment. It is the responsibility of the parent to contact the district test coordinator to register for the test.

2. The nonpublic school and parent (or home schooling parent) is responsible for providing the district test coordinator, at least 10 working days prior to the testing date, any documentation required for requested standard testing accommodations.

3. Students with disabilities who have a current 1508 evaluation will participate in on-level LEAP 21 testing. Promotion decisions for these students will adhere to those policies as outlined in the High-Stakes Testing Policy for students with disabilities participating in on-level testing.

4. School systems may charge a fee for the testing of nonpublic and home schooling students. This testing fee shall be refunded upon the student's enrollment in that public school system the semester immediately following the testing.

5. Students who participate in the Spring administration and score at the *unsatisfactory* achievement level are eligible to retake the LEAP 21 at the summer administration.

6. Local school systems shall offer LEAP 21 summer remediation to nonpublic/home schooling 4th and 8th grade students who score at the *unsatisfactory LEAP 21* achievement level. School systems may charge a fee, not to exceed $100 per student, for this attendance. This summer remediation fee shall be refunded upon the student's enrollment in that public school system the semester immediately following summer remediation.

7. Students who score at the *unsatisfactory* achievement level are not required to attend summer school offered by the local school system to be eligible to take the Summer retest (Refer to the High-Stakes Testing Policy for exceptions.)

8. Only those students who score at the *unsatisfactory* achievement level after participation in both the Spring and Summer administration of the LEAP 21 and who attend the summer school offered by the local school system are eligible for the appeals process or the policy override, provided all criteria are met. (Refer to the High-Stakes Testing Policy.)

9. Students with disabilities who have a current 1508 evaluation are eligible for a special education waiver only if they have attended summer remediation and taken the summer retest.

10. Students who participate in the spring administration only or summer administration only and score at the *unsatisfactory* achievement level are not eligible for the appeals process, special education waiver, or the policy override. These students are not eligible to take The Iowa Tests for placement purposes.

11. Students transferring into local school systems after the LEAP 21 Summer retest but prior to February 15 are required to take the state selected form of The Iowa Tests for grade placement, if the student has not taken LEAP 21.

12. Students taking The Iowa Tests are not eligible for either a retest, special education waiver, or the appeals process. These students may be eligible for the policy override based upon a decision by the School Building Level Committee (SBLC).

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Interested persons may submit written comments until 4:30 p.m., May 9, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 741C Louisiana Handbook for School AdministratorsC Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There should be no additional implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There should be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0203#031

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School AdministratorsC Passing Score on the GED
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The new GED 2002 will have a different scoring system from the present score referenced in Bulletin 741. The standard for passage is not changed; only the reference to a specific score as the minimum standard for passage of the GED.

**Title 28**
**EDUCATION**
**Part I. Board of Elementary and Secondary Education**
**Chapter 9. Bulletins, Regulations, and State Plans**
**Subchapter A. Bulletins and Regulations**
**§901. School Approval Standards and Regulations**
A. Bulletin 741

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), (15); R.S. 17:7.(5), (7), (11); R.S. 17:10, 11; R.S. 17:22.(2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 27:694, 695 (May 2001), LR 27:815 (June 2001), LR 27:1005 (July 2001), LR 27:1181, 1182, 1183 (August 2001), LR 27:1512 (September 2001), LR 27: 1674 (October 2001), LR 27:1832, 1833 1840 (November 2001), LR 27:2086, 2095 (December 2001), LR 28:269, 272 (February 2002), LR 28:

**Passing Score on the GED**

**1.124.0**. To complete the General Educational Development (GED) Test successfully, a student must earn the minimum standard score approved by the governing bodies of the American Council on Education.

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Interested persons may submit written comments until 4:30 p.m., May 9, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 741C Louisiana Handbook for School AdministratorsC Passing Score on the GED**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The estimated implementation costs to State and local government units is the cost to print the advertisement in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no costs and/or economic benefits to directly affected persons or non-governmental groups. The standard for passing the GED has not changed, but a student must earn the minimum standard score approved by the governing bodies of the American Council on Education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment.

Marilyn J. Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0203#025

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel Policy for Add-On of Secondary Certification (Grades 7-12) to an Existing Certificate at Another Level (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903. The new certification structure provided conditions under which Early Childhood (PK-3), Elementary (Grades 1-6), and Middle School (Grades 4-8) could be added to certificates at another level, but did not address Secondary (Grades7-12) endorsements. This policy provides the conditions under which Secondary (Grades 7-12) certification can be added to an existing certificate at another level.

**Title 28**
**EDUCATION**
**Part I. Board of Elementary and Secondary Education**
**Chapter 9. Bulletins, Regulations, and State Plans**
**Subchapter A. Bulletins and Regulations**
**§903. Teacher Certification Standards and Regulations**

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002),LR 28:

**Policy for Add-On of Secondary Certification (Grades 7-12) to an Existing Certificate at Another Level**

A person certified to teach up to and including Grade 8 may add secondary certification (grades 7-12) by meeting the following requirements:

1. content coursework to equal 31 semester hours of credit for a primary certification area; and
2. three semester hours of credit in a methodology course in the primary area of certification.

Once certified at the secondary level, a teacher has the following options for adding additional secondary (Grades 7-12) endorsements.

1. For certification areas designated as primary and/or secondary teaching focus areas, pass the designated PRAXIS exam or complete 19 semester hours.
2. For all other secondary certification areas, adhere to Bulletin 746 guidelines.

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Interested persons may submit comments until 4:30 p.m., May 9, 2002, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel Policy for Add-On of Secondary Certification (Grades 7-12) to an Existing Certificate at Another Level**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy will decrease testing expenses for undergraduate program elementary education certification candidates by requiring one less PRAXIS exam.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The policy will have no effect on competition and employment.

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|---|---|
| Marlyn J. Langley | H. Gordon Monk |
| Deputy Superintendent | Staff Director |
| Management and Finance | Legislative Fiscal Office |

0203#022

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Policy for All-Level (K-12) Certification Areas (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903. The proposed policy provides a new certification structure for the All-Level (K-12) certification areas.

## Title 28
## EDUCATION
### Part I. Board of Elementary and Secondary Education
### Chapter 9. Bulletins, Regulations, and State Plans
### Subchapter A. Bulletins and Regulations
### §903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002),LR 28:

**Policy for All-Level (K-12) Certification Areas**

There are five All-Level (K-12) certification areas. The following requirements for certification apply to these five certification areas, as follows.

1. Art K-12. The Art K-12 undergraduate education program adheres to the All-level Certification Structure, requiring a specialty of 36 semester hours of coursework in Art.

For admission to an alternate program for Art K-12 certification, candidates must have successfully completed a minimum of 36 semester hours of coursework in Art.

For an Art K-12 endorsement (add-on) to an existing certificate, the candidate must successfully complete 36 semester hours of coursework in Art.

2. Dance K-12. The Dance K-12 undergraduate education program adheres to the All-level Certification Structure, requiring a specialty of 36 semester hours of coursework in Dance.

For admission to an alternate program for Dance K-12 certification, candidates must have successfully completed a minimum of 36 semester hours of coursework in Dance.

For a Dance K-12 endorsement (add-on) to an existing certificate, the candidate must successfully complete 36 semester hours of coursework in Dance.

3. Foreign Language K-12. The Foreign Language K-12 undergraduate education program adheres to the All-Level Certification Structure, requiring a specialty of 36 semester hours of coursework in a foreign language. If the language is French, at least 12 hours must be earned through a two-semester residence in a university abroad or through two summers of intensive immersion study on a Louisiana university campus, an out-of-state university, or abroad.

For admission to an alternate program for Foreign Language K-12 certification, candidates must have successfully completed a minimum of 36 semester hours of coursework in a foreign language. If the language is French, at least 12 semester hours must be earned through a two-semester residence in a university abroad or through two summers of intensive immersion study on a Louisiana university campus, an out-of-state university, or abroad.

For a Foreign Language K-12 endorsement (add-on) to an existing certificate, the candidate must successfully complete 36 semester hours of coursework in a foreign language. If the language is French, at least 12 hours must be earned through a two-semester residence in a university abroad or through two summers of intensive immersion study on a Louisiana university campus, an out-of-state university, or abroad.

4. Health and Physical Education K-12. The Health and Physical Education K-12 undergraduate education program adheres to the All-level Certification Structure, requiring a specialty of 37 semester hours of coursework in Health and Physical Education.

For admission to an alternate program for Health and Physical Education K-12 certification, candidates must have successfully completed a minimum of 37 semester hours of coursework in Health and Physical Education.

For a Health and Physical Education K-12 endorsement (add-on) to an existing certificate, the candidate must successfully complete 37 semester hours of coursework in Health and Physical Education.

5. Vocal Music and/or Instrumental Music K-12. The Vocal Music and/or Instrumental Music K-12 undergraduate education program adheres to the All-level Certification Structure, requiring a specialty of 50 semester hours of coursework in Vocal Music and/or Instrumental Music.

For admission to an alternate program for Vocal Music and/or Instrumental Music K-12 certification, candidates must have successfully completed a minimum of 50 semester hours of coursework in Vocal Music and/or Instrumental Music.

There is no option for a Vocal Music and/or Instrumental Music K-12 endorsement (add-on) to an existing certificate.

**All-Level (K-12) Certification Areas (Approved for Notice of Intent January 2002)**

| All-Level Undergraduate Program Structure | | Art | Dance | Foreign Language | Health and Physical Education | Vocal and/or Instrumental Music |
|---|---|---|---|---|---|---|
| **General Education Coursework** | **English** | 6 hours | 6 hours | 6 hours | 6 hours | 6 hours |
| | **Mathematics** | 6 hours | 6 hours | 6 hours | 6 hours | 6 hours |
| | **Sciences** | 9 hours | 9 hours | 9 hours | 9 hours | 9 hours |
| | **Social Studies** | 6 hours | 6 hours | 6 hours | 6 hours | 6 hours |
| | **Arts** | 3 hours | 3 hours | 3 hours | 3 hours | 3 hours |
| **FOCUS AREA** | | 36 semester hours of Art Coursework | 36 semester hours Dance Coursework | 36 semester hours Foreign Language Coursework* | 37 semester hours H&PE Coursework | 50 hours Vocal Music and/or Instrumental Music |
| **Knowledge of the Learner and the Learning Environment** (These hours may be integrated into other areas when developing new courses) | **Child Development, Adolescent Psychology, Educational Psychology, The Learner with Special Needs, Classroom Organization and Management, and Multicultural Education** NOTE: All areas should address needs of the regular and the exceptional child and should be provided across all certification categories (PK-3, 1-6, 4-8, and 7-12) | 18 hours Emphasis across all certification categories | 18 hours Emphasis across all certification categories | 18 hours Emphasis across all certification categories | 18 hours Emphasis across all certification categories | 18 hours Emphasis across all certification categories |
| **Methodology and Teaching** | **Reading** | 3 hours | 3 hours | 3 hours | 3 hours | 3 hours |
| | **Teaching Methodology** | 6 hours | 6 hours | 6 hours | 6 hours | 6 hours |
| | **Student teaching**** | 9 hours | 9 hours | 9 hours | 9 hours | 9 hours |
| **Flexible Hours for the University's Use***** | | 22 hours | 22 hours | 22 hours | 21 hours | 8 hours |
| **TOTAL HOURS** | | 124 hours | 124 hours | 124 hours | 124 hours | 124 hours |

*If foreign language is French, at least 12 hours must be earned through a two-semester residence in a university abroad or through two summers of intensive immersion study on a Louisiana university campus, an out-of-state university, or abroad.

**Students must spend a minimum of 270 clock hours in student teaching, with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis.

***In addition to the student teaching experience, students should be provided actual teaching experience (in addition to observations) in classroom settings during the sophomore, junior, and senior years within schools with varied socioeconomic and cultural characteristics. It is recommended that pre-service teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

Interested persons may submit comments until 4:30 p.m., May 9, 2002, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Policy for All-Level (K-12) Certification Areas**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy will not change costs and/or economic benefits for directly affected persons or non-government groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0203#019

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Policy for Secondary (Grades 7-12) Certification: Primary and Secondary Teaching Focus Areas with No PRAXIS Exam (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903. This policy prescribes conditions under which candidates can enter alternate programs and/or add endorsements if pursuing primary and/or secondary teaching focus areas (Grades 7-12) for which no PRAXIS exam has been validated for use in Louisiana.

**Title 28**
**EDUCATION**
**Part I. Board of Elementary and Secondary Education**
**Chapter 9. Bulletins, Regulations, and State Plans**
**Subchapter A. Bulletins and Regulations**
**§903. Teacher Certification Standards and Regulations**

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002),LR 28:

**Policy for Secondary (Grades 7-12) Certification: Primary/Secondary Teaching Focus Areas with No PRAXIS Exam**

There are six Primary and/or Secondary Teaching Focus Areas for Grades 7-12, certification for which there is no PRAXIS examination. The following requirements for certification apply to these six certification areas, as follows.

1. Vocational Agriculture. This has been approved as an undergraduate program primary teaching focus area.

For admission to an alternate program for secondary (grades 7-12) certification, candidates must have successfully completed a minimum of 31 semester hours in technical agriculture courses.

There is no endorsement (add-on) option for Vocational Agriculture.

2. Distributive Education. For undergraduate programs, this has been approved as both a primary and a secondary teaching focus area.

For admission to an alternate program for secondary (grades 7-12) certification, candidates must have successfully completed a minimum of 31 semester hours in technical courses, to include marketing, merchandising, management, accounting, and business law, but not to exceed 3 semester hours each of accounting and business law. For certification purposes, candidates must also have a minimum of 2000 hours (one year) of work experience in distributive occupations, a portion of which can be satisfied through a university-sponsored practicum or supervised work experience, for credit.

For an endorsement (add-on) of Distributive Educative to a valid secondary teaching certificate, candidate must have 19 semester hours of technical coursework; and 2,000 hours of work experience in distributive occupations, a portion of which can be satisfied through a university-sponsored practicum or supervised work experience, for credit.

3. Earth Science. For undergraduate programs, this has been approved as both a primary and a secondary teaching focus area.

For admission to an alternate program for secondary (grades 7-12) certification, candidates must have successfully completed a minimum of 31 semester hours of science coursework, to include at least 19 hours in earth science, 3 hours in physical geology, and 3 hours in historical geology.

For an endorsement (add-on) of Earth Science to a valid secondary teaching certificate, a candidate must have 19 semester hours of earth science coursework.

4. Environmental Science. For undergraduate programs, this has been approved as both a primary and a secondary teaching focus area.

For admission to an alternate program for secondary (grades 7-12) certification, candidates must have successfully completed a minimum of 31 semester hours in science courses, to include at least 12 hours of biology, 6 hours of chemistry, and 3 hours of geology or earth science.

For an endorsement (add-on) of Environmental Science to a valid secondary teaching certificate, a candidate must have 19 semester hours of science coursework, to include 12 hours of biology and 6 hours of chemistry.

5. Industrial Arts Education. For undergraduate programs, this has been approved as a primary teaching focus area.

For admission to an alternate program for secondary (grades 7-12) certification, candidates must have successfully completed a minimum of 31 semester hours of technical coursework.

There is no endorsement (add-on) option for Industrial Arts Education.

6. Journalism. For undergraduate programs, this has been approved as a secondary teaching focus area.

There is no alternate program option for Journalism.

For an endorsement (add-on) of Journalism to a valid secondary teaching certificate, a candidate must have 19 semester hours of journalism coursework.

* * *

Interested persons may submit comments until 4:30 p.m., May 9, 2002, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel Policy for Secondary (Grades 7-12) Certification: Primary and Secondary Teaching Focus Areas with No PRAXIS Exam**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy will not change costs and/or economic benefits for directly affected persons or non-government groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The policy will have no effect on competition and employment.

| | |
|---|---|
| Marlyn J. Langley | H. Gordon Monk |
| Deputy Superintendent | Staff Director |
| Management and Finance | Legislative Fiscal Office |

0203#020

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—PRAXIS Examination Requirements for all Elementary Education Certification Candidates (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746—*Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903. Effective October 1, 2002, the content PRAXIS examination requirement for both undergraduate and alternate program elementary education candidates (Grades 1-6) is Test #0014 (Elementary School: Content Knowledge). This requirement replaces the prior combination requirement of Tests #0011 (Elementary Education Curriculum, Instruction, and Assessment) and #0012 (Elementary Education: Content Area Exercises) for undergraduate program completers.

**Title 28**
**EDUCATION**
**Part I. Board of Elementary and Secondary Education**
**Chapter 9. Bulletins, Regulations, and State Plans**
**Subchapter A. Bulletins and Regulations**
**§903. Teacher Certification Standards and Regulations**

Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002),LR 28:

**PRAXIS Examination Requirement**

For All Elementary Education Certification Candidates

Effective October 1, 2002, the content PRAXIS examination requirement for both undergraduate and alternate program elementary education candidates (Grades 1-6) is Test #0014 (Elementary School: Content Knowledge). This requirement replaces the prior combination requirement of Tests #0011 (Elementary Education Curriculum, Instruction, and Assessment) and #0012 (Elementary Education: Content Area Exercises).

In addition, the PRAXIS Pre-Professional Skills Tests plus Test #0522 (Principles of Learning and Teaching: Grades K-6) continue as requirements for all elementary education certification candidates.

Elementary education certification candidates who, prior to October 1, 2002, successfully completed either Test #0011 or #0012, but failed to complete the combined requirement of both tests, may opt for either of the following:

(1) Complete the combination requirement of #0011 and #0012 by passing the missing test; or

(2) Complete the #0014 PRAXIS requirement.

* * *

Interested persons may submit comments until 4:30 p.m., May 9, 2002, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—PRAXIS Examination Requirements for all Elementary Education Certification Candidates**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy will decrease testing expenses for undergraduate program elementary education certification candidates by requiring one less PRAXIS exam.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The policy will have no effect on competition and employment.

| | |
|---|---|
| Marlyn J. Langley | H. Gordon Monk |
| Deputy Superintendent | Staff Director |
| Management and Finance | Legislative Fiscal Office |

0203#021

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 996—Louisiana Standards for Approval of Teacher Education Programs (LAC 28:XLV.Chapter 1-11)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is herby given that the Board of Elementary and Secondary Education approved for advertisement the repeal of all existing rules pertaining to Bulletin 996, Louisiana Standards for Approval of Teacher Education Programs, and the adoption of new rules governing the accreditation policies and procedures for teacher education units in the state. Although the changes to Bulletin 996 are extensive, the intent of the law has not changed. Because teacher education units in the state are going through a redesign process to verify evidence of student learning, changes to Bulletin 996 will reflect the redesign efforts.

### Title 28
### EDUCATION
### PART XLV. Bulletin 996—Standards for Approval of Teacher Education Programs

### Chapter 1. Introduction

#### §101. Guidelines

A. Bulletin 996 is intended to guide higher education institutions in their development and review of teacher education programs, to guide visiting committees in their evaluations, and to inform all interested persons of the Louisiana standards for teacher preparation programs and the procedures for program evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### §103. The Partnership Agreement

A. In September 1999, the State Board of Elementary and Secondary Education (SBESE) authorized Cecil J. Picard, State Superintendent of Education, to sign the partnership agreement between the State and the National Council for Accreditation of Teacher Education (NCATE). Implementation began in 2000 with visits to Louisiana institutions of higher education. Binding until 2004, the NCATE/State Partnership Agreement formalizes current practice and provides the State greater input into the review process. The State Board of Elementary and Secondary Education and the State Department of Education are committed to ensuring that the teachers in Louisiana meet high standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### §105. Protocol

A. Bulletin 996 contains three parts that are vital to the Teacher Preparation Program Approval Process. Part One includes the Protocol and the Protocol Addendum for First/Probation/Continuing Accreditation for Professional Education Units in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### §107. NCATE 2000 Standards C May 11, 2000

A. Bulletin 996 contains the National Council for Accreditation of Teacher Education standards (NCATE 2000 Standards: May 11, 2000). The standards selected for state program approvals are identical to the standards prescribed by the National Council for the Accreditation of Teacher Education (NCATE 2000 Standards: May 11, 2000). These standards focus on the overall quality of the professional education unit, with emphases on policies, procedures, candidates, assessment, field experiences, clinical practice, governance, administration, staffing, and resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### §109. State Supplement

A. Bulletin 996 contains the Louisiana State Supplement Standards for Teacher Preparation Program Approval, standards that are unique to Louisiana education initiatives. Although particular sections of this Bulletin are addressed specifically to the institution or to the visiting committee, it is important for the visiting committee to be familiar with the directions given to the institution, and vice versa. Study and observance of Bulletin 996 by all concerned will greatly facilitate the state program approval and national unit accreditation processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### Chapter 3. Protocol C State Requirements

#### §301. Adoption of NCATE Standards by Reference

A. The state has adopted the standards prescribed by the National Council for the Accreditation of Teacher Education (NCATE 2000 Standards: May 11, 2000). These standards are available on the NCATE website (www.ncate.org) and from the National Council for the Accreditation of Teacher Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### §303. First/Continuing/Probation Accreditation for State Program Approval for Professional Education Units in the State of Louisiana

A. Dates of Visit

1. First/Continuing

a. Institutions receive copies of the regulations governing the approval of teacher preparation programs. The regulations require the institution to notify the department of intent to seek approval not less than one year prior to the year in which current state approval will end.

b. Visits are scheduled from Saturday through Wednesday noon. The Louisiana Department of Education must agree upon the date of the visit.

B. Timelines

1. First/Continuing

a. In Accordance to NCATE Timelines

b. All teacher preparation programs have received the current approval regulations and certification regulations.

C. Preconditions

1. First

a. For state-only visits, preconditions #1-10 are sent to the LSDE approximately 18 months prior to the on-site visit.

2. First/Continuing/Probation

a. For state approval preconditions #11 and #12 must be met.

D. Program Review Documents (Program review documents required)

1. First/Probation

a. Two copies of each program review must be submitted to the LSDE at the same time they are submitted to NCATE. For a state-only visit, two copies should be submitted to LSDE.

b. The state coordinates program reviews by national professional education associations with guidelines that have been approved by the Specialty Area Studies Board.

c. A copy of the national review also must be sent to the LSDE. The information will be made available to the Louisiana State Board of Elementary and Secondary Education for review, if requested.

2. Continuing

a. Two copies of each program review and one copy of the national review should be sent to the LSDE. This information will be made available to the Louisiana State Board of Elementary and Secondary Education for review, if requested.

E. Standards

1. First/Continuing/Probation

a. NCATE standards and the Louisiana State Supplement Standards apply to the professional education unit, as per Louisiana State Board of Elementary and Secondary Education.

F. Institutional Report

3. First/Probation

a. The institution responds to NCATE/state standards. For state only visits, a copy of the institutional report, undergraduate and graduate catalog are sent to each member of the State team and to the state consultant.

b. The institutional report must address, in addition to NCATE requirements, the specific Louisiana requirements.

4. Continuing

a. The institution must send one copy of the institutional report to each member of the state team and to the state consultant. The institutional report must address NCATE requirements (if applicable) and the specific Louisiana requirements.

G. Previsit

1. First/Continuing/Probation

a. The state chair meets with LSDE consultants and the institution's unit head and/or designee to plan for the visit. This previsit occurs at the institution within 60 days of the visit.

b. The state chair and state consultant should have received a copy of the institution's report(s) prior to the previsit.

H. Team Members (Joint)

1. First/Continuing/Probation

a. A team is selected from Louisiana's Board of Examiners (BOE) by the coordinator of teacher preparation program approval and the Section Administrator of Teacher Certification and Higher Education. Louisiana regulations require that team members represent a broad background and experience in education. The team must include representatives of Louisiana Education Authorities (LEAs), higher education, and the LSDE and must represent geographic, gender and racial diversity. The institution is given the opportunity to request the withdrawal of any team member for good cause. The Department approves or denies the request.

I. Team Size

1. First/Continuing/Probation

a. The total number of team members will be determined jointly by NCATE, (if applicable) and/or by the LSDE, based on the number of programs to be reviewed. All Louisiana members will be voting members of the team. The state consultant will not vote but will have full rights otherwise.

J. Team Chairs

1. First/Continuing/Probation

a. The coordinator for teacher preparation program approval and the Section Administrator of Certification and Higher Education appoints the state co-chair. The state co-chair will be responsible for coordinating the writing of the section of the report on Louisiana requirements, based on information provided by Louisiana team members. The written report will be submitted to the NCATE chair and to the state consultant.

K. Team Decisions

1. First/Continuing/Probation

a. For NCATE/State visits, the Louisiana team members will determine if the specific Louisiana standards have been met and will determine the weaknesses to be cited and recorded for each standard. The team generally uses a consensus process.

b. For state-only visits, the Louisiana team members will vote on both NCATE and state standards to determine if the unit has met standards and if not, the weaknesses to be cited.

L. Team Expenses

1. First /Continuing/Probation

a. The institution is required to cover all travel and maintenance expenses for the members of the Louisiana BOE.

M. Team Training

1. First/Continuing/Probation

a. Louisiana members have successfully completed an LBOE training session in the past six years.

N. Other Team Participants

1. First/Continuing/Probation

a. The state consultant's expenses are covered by the LSDE.

O. On-Site Visit

1. First/Continuing/Probation

a. The NCATE template for on-site visits guides the conduct of the visit as outlined in the *Handbook for First Accreditation Visits* and the *Handbook for Continuing Accreditation Visits.*

b. The state format for an exit interview includes providing information on the rating of the standards with weaknesses cited. This is done to alert institution officials as to what the written report will contain. The exit interview is not a time for discussion or debate on the rating of standards.

c. For a state-only visit, an exit conference is held before the team departs on Wednesday. The state chair and the state consultant from the LSDE conduct it. The unit head, unit visit coordinator and the president and/or provost may also attend.

P. BOE Team Report

1. First/Continuing/Probation

a. For NCATE/state visits, the state co-chair will compile the state section of the report. A draft of the state report will be mailed to each state member and the state consultant for review and to the institution for its review of any factual errors.

b. For state-only visits, the state chair will compile the entire report. A draft of the team report will be mailed to each team member and the state consultant for review and to the institution for its review of any factual errors. The unit has approximately five days to respond in writing.

c. After receiving the unit's response and making appropriate changes, if necessary, the chair submits the final report, including state standards if joint visit, to LSDE, which then sends two copies of the report to the institution and NCATE (if applicable).

Q. Institutional Rejoinder

1. First/Continuing/Probation

a. The institution must submit two copies of its BOE report rejoinder, addressing all applicable standards, to the LSDE. The institution may, as appropriate, send a written state report rejoinder to the LSDE.

R. Final Action Report

1. First/Continuing/Probation

a. The LSBESE reviews the institutional report and any institutional rejoinders and/or responses. The LSBESE makes the final decision on the approval of the teacher preparation programs (unit) at that institution. The Louisiana Unit Accreditation Board (LUAB) meets to recommend the action to be taken, based on the report and the rejoinder, and LSDE staff takes the action recommendation to LSBESE. The actions that the Board can take include full approval, provisional approval, probationary approval, or denial of approval for the unit. A letter from the Section Administrator of Teacher Certification and Higher Education to the head of the education unit conveys final Board action, with a copy to the president of the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### §305. Protocol Addendum for Change in State Status of NCATE Accredited Teacher Education Units in Louisiana

A. As a result of action taken by the NCATE Executive Board in October of 1999, an addendum has been included with the State of Louisiana's Partnership Protocol, to reflect actions to be taken by NCATE and the state when a "change in state status" occurs for an NCATE accredited teacher education unit.

1. Notification

a. The state will provide to NCATE a copy of the teacher education standards that describe how status of programs will be determined.

b. Within 30 days, the state will provide NCATE notification of a "change in state status" affecting a Louisiana NCATE-accredited institution.

c. Supporting documentation, pertaining to the decision that leads to a "change in state status," will be provided to NCATE, pending approval by the State Board of Elementary and Secondary Education.

d. As with all institutional actions by the Louisiana State Board of Elementary and Secondary Education, public notice will be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

## Chapter 5. Preconditions for Teacher Preparation Program Approval

### §501. Requirements of Preconditions

A. The preconditions for teacher preparation program approval are required to assure that any education unit undergoing review has met fundamental criteria that undergird the State's and NCATE's standards for accreditation. An education unit should submit its preconditions report to the Louisiana Department of Education and to NCATE office, if simultaneously pursuing national accreditation, within 18 months of its planned program approval visit. State Department personnel and, in the case of national approval, NCATE staff will advise the unit if any additional documentation is required to complete the preliminary process for program approval. Once the preconditions process is complete with notification from the Louisiana Department of Education and/or NCATE, the institution should begin its preparation toward State and/or national accreditation of its teacher preparation program.

B. The state entered into a partnership agreement with the National Council for Accreditation of Teacher Education (NCATE) effective through Fall 2004 to conduct joint state program approval and NCATE unit accreditation reviews. The state has adopted and is incorporating by reference preconditions 1-9 prescribed by NCATE. These standards are available from the NCATE website (www.ncate.org) or from the National Council for Accreditation of Teacher Education.

C. Preconditions #10, #11, and #12 must be met by education units seeking approval.

1. Precondition #10. The institution is an equal opportunity employer and does not discriminate on the basis of race, sex, color, religion, age or handicap (consistent with Section 702 of Title VII of the Civil Rights Act of 1964, which deals with exemptions for religious corporations, with respect to employment of individuals with specific religious convictions).

a. Documentation required:

i. A copy of the institution's official action pledging compliance with nondiscriminatory laws and practice.

2. Precondition #11. Under state legislative authority R.S. 17:7(6), as amended, the unit complies with the

qualifications and requirements for the certification of teachers established by the State Board of Elementary and Secondary Education.

a. Documentation required:

i. teacher education handbooks (faculty and student) or university catalog that publishes the unit's policies and procedures regarding but not limited to the following:

(a). procedures for student evaluation and counseling upon First entry into the institution;

(b). 2.20 average on a 4.00 scale as a condition for entrance into a teacher education program;

(c). passage of standardized test for entry into teacher education;

(d). experiences in schools of varied socioeconomic and cultural characteristics;

(e). instruction on child discipline and the prevention of disruptive behavior in schools;

(f). reading courses (three hours for secondary and nine hours for elementary);

(g). a minimum of 270 clock hours in student teaching with 180 hours of actual teaching;

(h). a substantial part of 180 hours of actual student teaching on an all day basis;

(i). 2.50 cumulative grade point average at graduation; and

(j). evaluation criteria of faculty and timeframes.

3. Precondition #12. The teacher education unit must meet the BESE requirements for certification for each program area offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

## Chapter 7. NCATE 2000 Unit Standards

### §701. Partnership Agreement

A. The state entered into a partnership agreement with the National Council for Accreditation of Teacher Education (NCATE) effective through Fall 2004 to conduct joint state program approval and NCATE unit accreditation reviews. The state has adopted and is incorporating by reference the standards prescribed by NCATE. These standards are available from the NCATE website (www.ncate.org) or from the National Council for Accreditation of Teacher Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

## Chapter 9. Louisiana State Supplement for Teacher Preparation Program Approval

### §901. Introduction

A. Each teacher preparation program seeking approval from the Louisiana State Board of Elementary and Secondary Education (LSBESE) is required to incorporate and adhere to the NCATE standards and to track closely the NCATE accreditation process. Each Louisiana university is required to develop a report describing how the unit is addressing the six key state initiatives as identified and delimited in the Louisiana State Supplement for Teacher Preparation Program Approval. It is the responsibility of the teacher preparation program to prepare and present a clear description of how it is responding to each of the Louisiana Standards.

B. The rubrics, as listed, develop a continuum of quality regarding a beginning teacher's ability to meet effectively the requirements of the five domains in *The Louisiana Components of Effective Teaching*. The integration of the Louisiana Content Standards is to be evidenced in the teacher education curricula of each teacher education unit. Each teacher education program must show evidence of integration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

## Chapter 11. The Components of Effective Teacher Preparation

### Subchapter A. Standard AC Candidates Provide Effective Teaching for All Students

### §1101. Planning

A. Candidates and/or Graduates of the Teacher Education Program Provide Effective Instruction and Assessment for All Students

1. The teacher education program provides candidates [1] and/or graduates [2] with knowledge and skills in the following planning processes: specifying learner outcomes, developing appropriate activities which lead to the outcomes, planning for individual differences, identifying materials and media for instruction, specifying evaluation strategies for student achievement, and developing Individualized Education Plans (IEPs) as needed.

| Unacceptable | Acceptable | Target |
|---|---|---|
| Candidates recognize the components of planning and know that they are expected to meet the learning needs of each student. | Candidates demonstrate knowledge of the steps in developing plans to meet the learning needs of each student. | Candidates and/or graduates develop and implement plans as needed to meet the learning needs of each student. |

[1]Candidates. Individuals admitted to or enrolled in programs for the First preparation of teachers. Candidates are distinguished from students in P-12 school.

[2]Graduates. Individuals admitted to or enrolled in programs for the advanced preparation of teachers, teachers continuing their professional development, or other professional school personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### §1103. Management

A. The teacher education program provides candidates and graduates with knowledge and skills in the management component, which includes maintaining an environment conducive to learning, maximizing instructional time, and managing learner behavior.

| Unacceptable | Acceptable | Target |
|---|---|---|
| Candidates understand various approaches to classroom/behavior management. | Candidates create a positive learning environment, maximize instructional time, and manage learner behavior. | Candidates and graduates create a positive learning environment, maximize instructional time, and manage learner behavior, making adjustments as necessary to meet the learning needs of each student. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§1105. Instruction**

A. The teacher education program provides candidates and graduates with skills for delivering effective instruction, presenting appropriate content, providing for student involvement, and assessing and facilitating student growth.

| Unacceptable | Acceptable | Target |
|---|---|---|
| Candidates recognize the components of instruction that meet the learning needs of each student. | Candidates demonstrate use of instructional components that meet the learning needs of each student. | Candidates and graduates demonstrate effective instruction that results in positive learning outcomes for each student. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2., R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§1107. Curriculum**

A. The teacher education curricula provide candidates and graduates with knowledge and skills to effectively incorporate the Louisiana Content Standards in instructional delivery.

| Unacceptable | Acceptable | Target |
|---|---|---|
| Candidates understand the basic components of the Louisiana Content Standards. | Candidates demonstrate knowledge of the Louisiana Content Standards in lessons for each content area they are preparing to teach. | Candidates and graduates implement instruction and assessment reflective of content standards, local curricula, and each student's needs. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§1109. Curriculum–Reading (Specifically but not Exclusively for K - 3 Teachers)**

A. The teacher education program provides candidates and graduates with knowledge and skills in the curriculum process.

| Unacceptable | Acceptable | Target |
|---|---|---|
| Candidates understand the elements of a balanced approach to reading instruction. | Candidates use a balanced approach to reading instruction and assessment in K-3 classrooms. | Candidates and graduates effectively use a balanced approach to reading instruction and assessment in K-3 classrooms to impact learning. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§1111. Curriculum–Mathematics (Specifically but not exclusively for K- 3 teachers)**

A. The teacher education program provides candidates and graduates with knowledge and skills in the curriculum process.

| Unacceptable | Acceptable | Target |
|---|---|---|
| Candidates understand the elements of reform mathematics. | Candidates use reform mathematics content and pedagogy in providing instruction. | Candidates and graduates effectively use reform mathematics content and pedagogy in instruction and assessment, including the use of manipulatives and/or the application of content to real life situations, resulting in improved student learning. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§1113. Technology**

A. The teacher education program provides candidates with skills to plan and deliver instruction that integrates a variety of software, applications, and related technologies appropriate to the learning needs of each student.

| Unacceptable | Acceptable | Target |
|---|---|---|
| Candidates understand how to use technology. | Candidates create and use instruction and assessment that integrate technology into the curriculum. | Candidates and graduates effectively integrate technology into the curriculum with instruction and assessment that result in improved student learning. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§1115. Professional Development**

A. The teacher education program provides candidates and/or graduates with information and skills for planning professional self-development.

| Unacceptable | Acceptable | Target |
|---|---|---|
| No evidence exists that candidates were exposed to the need for ongoing professional development. | Candidates plan and pursue professional development activities required by the university and/or First employing school system. | Graduates develop an individualized professional development plan based upon their self-assessment, reflection, and long term professional goals. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§1117. School Improvement**

A. The teacher education program provides candidates and/or graduates with preparatory experiences in school improvement that includes taking an active role in school decision-making and creating relevant partnerships.

| Unacceptable | Acceptable | Target |
|---|---|---|
| Candidates understand the processes of school improvement. | Candidates review and are familiar with school improvement efforts at the school and district levels. | Graduates participate in school improvement efforts by serving on committees and forming partnerships with community groups. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**Subchapter B. Standard B: Candidates and/or Graduates of Teacher Education Programs Participate in the Accountability and Testing Process**

**§1119. School and District Accountability System**

A. The Teacher Education Program provides candidates and/or graduates with knowledge and skills regarding the utilization of the Louisiana School and District Accountability System (LSDAS).

| Unacceptable | Acceptable | Target |
|---|---|---|
| Candidates understand the basic components of the LSDAS. | Candidates investigate documents, data, and procedures used in LSDAS. | Graduates take an active role in the school growth process as related to the LSDAS. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§1121. Testing**

A. The teacher education program provides candidates and/or graduates with information on the Louisiana Educational Assessment Program (LEAP 21) to enhance their testing and measurement practices related to learning and instruction.

| Unacceptable | Acceptable | Target |
|---|---|---|
| Candidates understand the basic components of the Louisiana Educational Assessment Program (LEAP 21). | Candidates plan and implement instruction that correlates with LEAP 21. | Graduates interpret LEAP 21 test data and apply results to impact student achievement positively. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**Subchapter C. Standard C -- The Teacher Education Unit Engages in Program Development**

**§1123. Plans and Goals**

A. The long-range strategic plans and goals of the teacher education unit are consistent with and are an integral part of the institution's long-range strategic plans and goals.

| Unacceptable | Acceptable | Target |
|---|---|---|
| The long-range strategic plans and goals of the teacher education program are consistent with the institution's long range plans and goals. | The institution's long-range plans and goals support the long-range strategic plans and goals of the teacher education program. | The long-range strategic plans and goals of teacher education are an integral part of the institution's long range plans and goals. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**Subchapter D. Standard D: The Teacher Education Unit Adheres to Faculty Load Policies and Assignments**

**§1125. Faculty Teaching Workload**

A. The load for faculty teaching each semester/quarter generally does not exceed 12 semester/quarter hours for undergraduate courses, 9 semester/quarter hours for graduate courses, and an appropriate proration for a combination of undergraduate and graduate courses.

| Unacceptable | Acceptable | Target |
|---|---|---|
| The workload policy of the institution allows faculty to participate in teaching (including P-12 teaching), scholarship, advisement, and service. | The workload policy of the institution encourages faculty involvement in teaching (P-12), scholarship, advisement, and service. | The workload policy of the institution provides incentives for faculty to make significant contributions to the schools (P-12), scholarly literature, and service to the university and community. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**Subchapter E. Standard E: The Teacher Education Unit has Appropriate Instructional Support and Facilities for Quality Operation**

**§1127. Teacher Education Unit**

A. Teacher education programs are conducted in a physical plant designed and appropriately maintained for efficient delivery of instruction.

| Unacceptable | Acceptable | Target |
|---|---|---|
| The Teacher Education Unit has insufficient resources, facilities, and equipment (when compared to other professional units on campus or similar units at other universities) making it difficult to meet standards and deliver instruction. | The Teacher Education Unit has sufficient resources and facilities to prepare candidates to deliver instruction effectively, and to meet standards. | The Teacher Education Unit has exemplary resources, facilities, and equipment. For example, the Unit has an outstanding physical facility to accommodate state-of-the-art teaching and learning. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**Subchapter F. Standard F: The Teacher Education Unit Offers a Program of Collaborative Field Services**

**§1131. Collaboration**

A. The Unit collaborates with higher education faculty, school personnel, and other members of the professional community to design, deliver, and revise effective programs

for the preparation of school personnel and to improve the quality of instruction in the schools.

| Unacceptable | Acceptable | Target |
|---|---|---|
| The Teacher Education Unit works with the LEAs. | The Teacher Education Unit develops collaborative relationships with the LEAs. | The Teacher Education Unit maintains collaborative, diversified, and sustained working relationships with the LEAs. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**Chapter 13. Identifications of Acronyms**

**§1301. Acronyms**

A. Listed below are the full identifications of acronyms used in this publication:

*ACT*C American College Test;

*AFT*C American Federation of Teachers;

*BOE*C Board of Examiners;

*BOR*C Board of Regents;

*CEO*C Chief Executive Officer;

*K-3*C Kindergarten through 3rd Grade;

*LEAP 21*C Louisiana Educational Assessment Program for the 21st century;

*LSBESE*C Louisiana State Board of Elementary and Secondary Education;

*LSDAS*C Louisiana School and District Accountability System. *LSDAS*'s intent is to establish a systematic approach to assessing instructional effectiveness of schools and districts based primarily upon student achievement;

*LSDE*C Louisiana State Department of Education;

*LUAB*C Louisiana Unit Accreditation Board;

*NCATE*C National Council for the Accreditation of Teacher Education;

*NEA*C National Education Association;

*P-12*C Pre-kindergarten through 12th Grades;

*UAB*C Unit Accrediting Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Interested persons may submit comments until 4:30 p.m., May 9, 2002, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 996—Louisiana Standards for Approval of Teacher Education Programs**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy will not change costs and/or economic benefits for directly affected persons or non-government groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0203#029

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation
(LAC 28:XLIX.101, 349, 2523, 2911, 3307, 3309, 3313, and Chapter 34)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to §§101, 349, 2523, 2911, 3307, 3309, 3313, and Chapter 34 of Bulletin 1196, *Louisiana Food and Nutrition Programs, Policies of Operation*. Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. These revisions to Bulletin 1196: 1. incorporate the major Federal and State policy changes as a result of the Federal revision of the Child and Adult Care Food Program Financial Management Instruction 796-2, Revision 3, effective May 14, 2001; 2. add audit requirements in the Bulletin for the Summer Food Service Program and the Child and Adult Care Food Program (omitted through oversight); 3. strengthen Louisiana Department of Education (LDE) administrative procedures for compliance with federal audit requirements; and 4. transfer the Child Nutrition Program Appeals Procedures from LAC 28:I.943, where initially adopted, to Part XLIX, Chapter 34 of the LAC.

**Title 28**
**EDUCATION**
**Part XLIX. Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation**

**§101. Responsibility**

A. The board adopted rules and regulations for the operation of the Louisiana Child Nutrition Program. The purpose of the program is to enable child care institutions to integrate a nutritious food service with organized child care services for enrolled children. The rules and regulations are the same as those established in 7 CFR Parts 210-245 for the operation of the Child Nutrition Program.

B. The responsibility for the administration, operation, and supervision of Child Nutrition Programs (CNP) is vested in the educational authorities that are responsible for all other phases of the school program. A CNP must be well planned, organized, and administered on national, state, and local levels if it is to function as an integral part of the total school program. It is important to operate an efficient, high-quality food service unit that meets the nutritional needs of children and provides an educational activity center for the school and community. The goals of the CNP will be met when these principles are applied by those in authority. The responsibilities of administrators are discussed below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2100 (December 2001), LR 28:

**§349. Recordkeeping for RCCIs and Boarding Schools**

A. - B.12.a. …

b. If a participating RCCI or boarding school has Federal expenditures of less than $300,000 in a fiscal year, it shall annually report the amount expended, as a recipient or a subrecipient, in each federal award to the Louisiana Department of Education, to ensure compliance with federal audit requirements. The report will include, at a minimum, the name of each federal award for which the RCCI or boarding school expended funds, the Catalog of Federal Domestic Assistance (CFDA) Number for each award, if known, and the total expenditures in each award for the fiscal year. The report is to be submitted on a form that can be obtained from the Louisiana Department of Education and is due within 60 calendar days from the close of the RCCI or boarding school's fiscal year.

c. Circular A-133 Subpart A §105 defines recipient or subrecipient. The main criteria for determining if an RCCI or boarding school is a recipient or a subrecipient of Federal funds is compliance with federal program requirements as a criteria of receiving and expending the Federal funds.

13. - 14.a. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2120 (December 2001), amended LR 28:

**§2523. Audit Requirements for the Summer Food Service Program**

A. Refer to §333 for specific audit requirements that also apply to approved, participating sponsoring institutions.

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's federal expenditures are less than $300,000 in a fiscal year, that sponsoring institution shall annually report the amount expended, as a recipient or a subrecipient, in each federal award to the Louisiana Department of Education, to ensure compliance with federal audit requirements. The report will include, at a minimum, the name of each federal award for which the sponsoring institution expended funds, the Catalog of Federal Domestic Assistance (CFDA) Number for each award, if known, and the total expenditures in each award for the fiscal year. The report is to be submitted on a form that can be obtained from the Louisiana Department of Education and is due within 60 calendar days from the close of the sponsoring institution's fiscal year.

1. Circular A-133 Subpart A §105 defines recipient or subrecipient. The main criteria for determining if a sponsoring institution is a recipient or a subrecipient of federal funds is compliance with federal program requirements as a criteria of receiving and expending the federal funds.

C. While a sponsoring institution that does not meet the annual expenditure threshold of $300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§2911. Audit Requirements for the Child and Adult Care Food Program**

A. Refer to §333 for specific audit requirements that also apply to approved, participating sponsoring institutions.

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's federal expenditures are less than $300,000 in a fiscal year, that sponsoring institution shall annually report the amount expended, as a recipient or a subrecipient, in each federal award to the Louisiana Department of Education, to ensure compliance with federal audit requirements. The report will include, at a minimum, the name of each federal award for which the sponsoring institution expended funds, the Catalog of Federal Domestic Assistance (CFDA) Number for each award, if known, and the total expenditures in each award for the fiscal year. The report is to be submitted on a form that can be obtained from the Louisiana Department of Education and is due within 60 calendar days from the close of the sponsoring institution's fiscal year.

1. Circular A-133 Subpart A §105 defines recipient or subrecipient. The main criteria for determining if a sponsoring institution is a recipient or a subrecipient of Federal funds is compliance with Federal program requirements as a criteria of receiving and expending the federal funds.

C. While a sponsoring institution that does not meet the annual expenditure threshold of $300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§3307. Management Plan and Administrative Budget Approval**

A. - B.8. …

C. Deferred Compensation Plan Approval. In order to pay less than the budgeted salary for any FDCH sponsor employee as approved by the State Agency in the sponsor's current application/agreement, the sponsor must submit a written deferred compensation plan to the State Agency and receive written state agency approval.

1. The following items shall be included in the requested deferred compensation plan:

a. purpose of the deferral;

b. procedures to accrue the salary and/or fringe benefits;

c. beginning and ending dates;
d. date payment(s) are to be made;
e. names of affected employees;
f. maximum amount to be deferred per individual;
g. tax liability acknowledgement for the individual and the sponsor;
h. a compliance assurance statement; and
i. written employee agreement.

2. If a deferred compensation plan is approved, the funds for each salary and/or benefits being deferred must be deposited, at the time of deferral, into a restricted account and can be used only to liquidate the deferred compensation for the specific employee whose compensation or benefits were deferred.

3. If compensation is not given by the sponsor for program labor, the labor is a donation and cannot be charged to the FDCH program.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 27:2209 (December 2001), amended LR 28:

**§3309. Sponsor Administrative Operations**

A. - A.1.f. …

2. Salary may not be accrued unless the sponsor has a deferred compensation plan approved by the State Agency.

B. - H.1.a. …

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 27:2210 (December 2001), amended LR 28:

**§3313. Audit/Review**

A. - A. 1. …

2. Reporting to the Louisiana Department of Education. If a participating sponsor's federal expenditures are less than $300,000 in a fiscal year, that sponsor shall annually report the amount expended, as a recipient or a subrecipient, in each federal award to the Louisiana Department of Education. The report will include, at a minimum, the name of each federal award for which the sponsor expended funds, the Catalog of Federal Domestic Assistance (CFDA) number for each award, if known, and the total expenditures in each award for the fiscal year. The report is to be submitted on a form that can be obtained from the Louisiana Department of Education and is due within 60 calendar days from the close of the sponsor's fiscal year.

a. Circular A-133 Subpart A §105 defines recipient or subrecipient. The main criteria for determining if a sponsor is a recipient or a subrecipient of federal funds is compliance with federal program requirements as a criteria of receiving and expending the Federal funds.

b. While a sponsoring institution that does not meet the annual expenditure threshold of $300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 27:2213 (December 2001), amended LR 28:

## Chapter 34. Louisiana Child Nutrition Programs Appeals Procedures

**§3401. Purpose**

A. The rules and regulations contained in this Subpart shall govern and control procedures used by the Louisiana Department of Education, Division of Nutrition Assistance (hereafter referred to as state agency) for taking action against a school food authority or a child and adult care food program sponsor (hereafter referred to as institution).

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§3403. Service**

A. The service of the Notice of Proposed Action, Request for Appeal and Decision shall be made personally or by official U.S. postal certified mail, return receipt requested.

B. Service upon an institution's authorized representative, officer, or agent constitutes service upon that institution.

C. Service by certified mail is complete upon the date of receipt. An official U.S. postal receipt from the certified mailing constitutes prima facie evidence of service. Any other orders, notices, or documents served or exchanged pursuant to these rules shall be done through personal service or the U.S. mail, all postage prepaid.

1. For purposes of determining whether services have been timely made, if the last day of any deadline established by these rules falls on a weekend or a state holiday, service is considered timely made if received on or before the close of business of the next business day. If the deadline for service falls on a business day, service must be made before close of business that day.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§3405. Notice of Proposed Action**

A. The state agency shall notify the institution, in writing, of the actions being taken through a "Notice of Proposed Action." This notice shall contain the following information:

1. a list of specific violations of program rules and regulations alleged to have been committed by the institution;

2. the specific amount of the fiscal sanction assessed against the institution, if any;

3. a statement specifying what action the institution must take to correct the violation(s) to avoid further proceedings;

4. a statement of the time lines related to the proposed action;

5. a statement as to the consequences for failing to timely take corrective actions, make payments, or make a Request for Appeal;

6. a statement of the institution's right to appeal the proposed action.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§3407. Request for Appeal**

A. Institutions wishing to appeal proposed actions shall serve a Request for Appeal upon the agency designated in the Notice of Proposed Action within 15 calendar days from the date of receipt of the Notice of Proposed Action.

B. The Request for Appeal shall contain the following information:

1. a listing of what specific violations set forth in the Notice of Proposed Action are being appealed together with a short and plain statement of each contested issue of fact or law concerning each violation;

2. a statement specifying which of the following two forms of appeal an institution seeks:

a. a review of the records with the right to submit additional written information to dispute the proposed action; or

b. a hearing. Appeals will be conducted by a fair and impartial hearing officer. The institution may be represented by legal counsel or another designated individual;

3. a statement as to the relief or remedy the institution seeks from the appeal.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§3409. Appeals on the Record; Submissions**

A. Institutions opting to appeal proposed actions by a review of the record shall submit all documents and information, in written form, that they wish to have considered in the appeal to the hearing officer within 30 calendar days from the state agency's receipt of the Request for Appeal.

B. The state agency shall submit all documents and written information it wishes to have considered to the hearing officer within 30 calendar days from the state agency's receipt of the Request for Appeal.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§3409. Notice and Time of Hearing**

A. If a hearing is requested, the hearing officer shall schedule a hearing to be held within 90 calendar days from the date of receipt of the Request for Appeal by the designated agency. The hearing officer shall notify the institution in writing of the time, date, and place of the hearing, at least 10 calendar days in advance of the date of the hearing.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§3411. Effect of Appeal Upon Agency Actions**

A. The Notice of Proposed Action issued to the institution shall remain in effect until the decision is rendered in the appeal. Participating institutions may continue to operate under the program during an appeal of a proposed action, unless the state agency action is based on imminent dangers to the health or welfare of children and that basis is stated in the Notice of Proposed Action. Institutions who continue to operate while appealing a termination shall not be reimbursed for any meals served from the date of service of the Notice of Proposed Action to the date of receipt of the appeal decision, if the decision upholds the termination.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§3413. Default**

A. The hearing officer may declare any party in default who, without good cause shown:

1. fails to file brief or memorandums or exchange information and evidence as may be required by the hearing officer or these rules;

2. fails to appear at or participate in any pre-hearing conference;

3. fails to appear at or to participate in the hearing.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§3415. EvidenceC Order of Hearing**

A. Evidence that is material and relevant to an issue or inquiry before the hearing officer is admissible, unless objected to on grounds set forth herein. The introduction of evidence may be limited or barred upon objection of any party, or by the hearing officer upon his own motions. Hearings conducted under this rule are not bound by the formal rules of evidence prescribed for civil actions in district or higher courts, and in this connection, the following rules apply.

1. Hearsay evidence may be introduced if it corroborates competent evidence found in the record. The hearing officer will determine how much weight, if any, to give to hearsay evidence. Evidence concerning the reliability and probative value of any introduced hearsay evidence may also be admitted.

2. Unduly repetitious evidence, whether testimonial or documentary, shall be excluded when such exclusion will not materially prejudice the rights of a party.

3. The hearing officer may allow oral testimony to be given under direct examination by narration rather than through question and answer. The hearing officer may allow or require any oral testimony to be submitted in written form upon agreement of both parties.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§3417. Hearing Conduct and Decorum**

A. At any hearing or meeting, the hearing officer shall have the authority to regulate the course of the proceedings and the conduct of all persons present, including the right to have any person, for misconduct or refusal to obey orders, removed from the hearing, banned from further participation or introduction of evidence, dismissed as a party or subjected to such other sanctions or restrictions he deems appropriate. The hearing officer may, at any time, continue the meeting or hearing to another time and/or location and/or terminate the meeting or hearing to preserve order and decorum. The hearing officer is responsible for insuring that the hearing and/or review of records is conducted in an orderly, fair, and expeditious manner.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**§3419. Decision, Judicial Review, Records**

A. The hearing officer shall render a decision which shall include findings of fact, conclusions, and a statement as to the reasons for the decision. The decision shall be rendered within 120 days from the receipt of the Request for Appeal by the state agency. The decision shall be served to the institution by the hearing officer and shall constitute the final state agency action for purposes of judicial or other review. The decision of the hearing officer can be appealed as provided by law.

B. The appeal record, where the institution chooses to submit written information to dispute the state agency action taken against it, shall consist of that written information together with such written information as the state agency chooses to likewise submit to support its Notice of Proposed Action and the decision thereon.

C. The appeal record of a hearing shall consist of the evidence submitted at the hearing, a statement of any matter officially noticed, offers of proof, objections and rulings thereon, a recording of the hearing procedures, and the hearing officer's decision. A verbatim transcript of the recorded proceedings shall not be accomplished unless requested by one of the parties, at its cost, or in the event of a judicial appeal.

D. The hearing officer shall be the custodian of the records. The appeal record shall be maintained for a period of not less than three years from the date the decision is mailed to the institution or the date of the submission of the final claim for reimbursement of the action involving the appeal or resolving of the action, whichever comes later.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Interested persons may submit comments until 4:30 p.m., May 9, 2002 to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated costs (savings) to state or local governmental units. This is a revision of *Bulletin 1196*, which has incorporated all federal and state policy changes that have already been implemented by the approved participating sponsoring institutions. There will be no costs due to the fact that the amended documents will be on the website and can be downloaded.

The State Board of Elementary and Secondary Education estimated cost for printing this policy change and first page of fiscal and economic impact statement in the Louisiana Register is approximately $108. Funds are currently budgeted for this purpose.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affect persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

| | |
|---|---|
| Marlyn J. Langley | H. Gordon Monk |
| Deputy Superintendent | Staff Director |
| Management and Finance | Legislative Fiscal Office |

0203#027

## NOTICE OF INTENT

**Board of Elementary and Secondary Education**

Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation—Procurement Systems
(LAC 28:XLIX.1503 and 2515)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to §1503 and §2515 of Bulletin 1196, *Louisiana Food and Nutrition Programs, Policies of Operation*. Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. These revisions will incorporate all federal and state policy changes which have already been implemented by the School Food Authorities.

**Title 28**
**EDUCATION**
**Part XLIX. Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation**

**§1503. Procurement Systems**

A. - A.5.f.i.(b). ...

(c). The financial and technical resources of the bidder are not adequate.

(d). There is evidence of noncompliance with public policy (EEO, EPA, etc.).

A.5.f.ii. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2183 (December 2001), LR 28:

**§2515. Records**

A. ...

B. The annual deadline for Summer Food Service Program sponsor applications is April 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2203 (December 2001), amended LR 28:

Interested persons may submit comments until 4:30 p.m., May 9, 2002 to: Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation—Procurement Systems**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated costs (savings) to state or local governmental units. This is a revision of *Bulletin 1196*, which has incorporated all federal and state policy changes that have already been implemented by the school food authorities. There will be no costs due to the fact that the Bulletin will be on the website and can be downloaded.

The State Board of Elementary and Secondary Education estimated cost for printing this policy change and first page of fiscal and economic impact statement in the Louisiana Register is approximately $108. Funds are currently budgeted for this purpose.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affect persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

| | |
|---|---|
| Marlyn J. Langley | H. Gordon Monk |
| Deputy Superintendent | Staff Director |
| Management and Finance | Legislative Fiscal Office |

0203#030

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 1963—Louisiana State Arts Content Standards
(LAC 28:LI.Chapters 1-9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revision of Bulletin 1963, *Louisiana Arts Content Standards*. The revised Bulletin 1963 will be printed in codified format as Part LI of the *Louisiana Administrative Code* and reference to this bulletin will be repealed from LAC 28:I.930.C. The *Louisiana Arts Content Standards* will align the curriculum with desired changes to promote a more relevant arts education curriculum for all students. The *Louisiana Arts Content Standards* will be disseminated to local school districts following publication. The standards and benchmarks therein will be used to guide curriculum development for all arts education courses. Implementation of the guidelines set forth in the *Louisiana Arts Content Standards* will improve educational practices and coherence in the local art education programs.

**Title 28**
**EDUCATION**
**Part LI. Louisiana Arts Content Standards**
**Chapter 1. General Provisions**
**§101. Introduction**

A. The arts, dance, theatre arts, visual arts, and music are fundamental to the intellectual, social, emotional, and physical development of Louisiana students for the twenty-first century. The arts draw on a range of intelligence and learning styles not addressed in most educational environments.

B. Students of the arts are encouraged to use their imaginations, to develop personal discipline, and to find multiple solutions to problems. They learn to respond to events and experiences with confidence and to communicate their feelings and viewpoints through appropriate creative outlets.

C. Business demands workers who possess an ability to communicate, to be flexible, and to diagnose problems and find creative solutions. The arts preceded speech as man's first language; they assist in the development of the skills of communication and the integration of basic skills of reading, writing, science, and mathematics. These skills help students shape their lives, their communities, and their nation. The arts make all subjects come alive.

D. The Louisiana Arts Content Standards bring together the basic content of the four disciplines of dance, theatre arts, visual arts, and music into one common set of standards essential for a comprehensive arts education. The twenty-first century, the age of information, will require more from the next generation of students. The relevance of education in a rapidly changing society will depend on converging the aims of education and the workforce for well-rounded, educated students who will be productive members of society. The arts will assist in the achievement of these aims with the implementation of these rigorous and challenging content standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§103. Standards of Arts Education**

A. Creative Expression. Creative expression is the ability to imagine, organize and interpret ideas for expression in the process of creating and producing art forms which involve inspiration, analysis, and problem solving.

1. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organization abilities and imagination.

B. Aesthetic Perception. Aesthetic perception is the ability to observe, understand, and respond to ideas, experiences and the unique characteristics of natural and created environments, and to make informed judgments about the meaning of the arts.

1. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for commonalties and differences.

C. Historical Perspective and Cultural Perception. Historical perspective and cultural perception is the ability to recognize the arts as a reflection of individual and cultural expression and to appreciate the aspects of history and human experience.

1. Standard. Students develop historical perspective and cultural perception by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

D. Critical Analysis. Critical analysis is the ability to interpret, analyze and synthesize the performing and visual arts to form judgments based on sufficient and appropriate criteria.

1. Standard. Students make informed verbal and written observations about the arts by developing critical analysis skills through the study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR

**§105. Definitions**

*Assessment*—a process through which evidence is gathered in a range of content areas to determine both a student's understanding and the ability to apply that understanding.

*Benchmark*—a broad statement of process and/or content that is used as a reference to develop curricula and to assess student progress.

*Content Area*—a field of study or branch of knowledge formally referred to as a subject area or discipline.

*Content Standard*—a description of what students should know and be able to do through subject matter, knowledge, proficiencies, etc., gained as a result of their education.

*Focus*—a statement describing the importance of a content strand.

*Foundation Skills*—processes that are common to all areas and levels of education and are intended to suggest methods and objectives of instructional strategies.

*Framework*—a document for a content area that reflects national standards and provides a guiding vision of its content and purpose.

*Integrated*—refers to combining the elements across the various content areas or frameworks.

*Interdisciplinary*—refers to combining the elements across the various content areas or frameworks.

*Performance Standards*—refers to the level of knowledge or proficiency students should manifest as a result of their education.

*Strands*—categories within particular content areas, which may vary from discipline to discipline. *Strands* are interrelated and should be integrated rather than taught in isolation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**Chapter 3. Dance**

**Subchapter A. Creative Expression**

**§301. Focus**

A. Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

1. Standard. Students develop creative expression through the application of knowledge, ideas, skills, and organizational abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§303. Benchmarks K-4**

A. In grades K–4, what students should know and be able to do includes:

| | | |
|---|---|---|
| CE-1D-E1 | Use kinesthetic awareness, proper use of space, and the ability to move safely | (2,5) |
| CE-1D-E2 | Identify and explore basic skills, the elements of dance (space, time and energy) and dance vocabulary | (2) |
| CE-1D-E3 | Recognize that dance is a way to create and communicate ideas and feelings | (1) |
| CE-1D-E4 | Discuss and explore the process of making a dance | (1, 2, 3, 5) |
| CE-1D-E5 | Execute improvised and set movement patterns with concentration and focus individually and in groups | (2,5) |
| CE-1D-E6 | Explore the relationship among dance, other arts, and disciplines outside the arts | (3,4) |
| CE-1D-E7 | Explore technical dimensions of dance individually and collaboratively such as performance space, accompaniment, current technology, and set design | (1, 3, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§305. Benchmarks 5-8**

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| CE-1D-M1 | Demonstrate self-monitoring and effective use of space | (2,5) |
| CE-1D-M2 | Recognize and explore the dance elements and vocabulary to increase basic skills and knowledge | (2) |
| CE-1D-M3 | Demonstrate the ability to use dance as a language and means of communication | (1, 2, 4, 5) |

| | | |
|---|---|---|
| CE-1D-M4 | Recognize and demonstrate the concepts of improvisation, choreography, and different dance structures such as canon and unison | (2, 4, 5) |
| CE-1D-M5 | Perform dance compositions informally and formally | (1, 4, 5) |
| CE-1D-M6 | Identify and discuss relationships among dance, other arts, and disciplines outside the arts | (3, 4, 5) |
| CE-1D-M7 | Use technical dimensions of dance individually and collaboratively | (1, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§307. Benchmarks 9-12**

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| CE-1D-H1 | Incorporate kinesthetic awareness, use of space and self-evaluation to refine performance skills | (2, 4, 5) |
| CE-1D-H2 | Utilize and expand dance vocabulary and develop technical skills | (2, 4) |
| CE-1D-H3 | Utilize dance as an expression of individual ideas and feelings | (1, 2, 5) |
| CE-1D-H4 | Incorporate the concepts of improvisation, choreography, and dance structures into dance compositions | (1, 2, 4, 5) |
| CE-1D-H5 | Present and evaluate movement studies designed to display skills and techniques | (1,2, 4) |
| CE-1D-H6 | Present a multi-disciplinary dance project | (3, 4, 5) |
| CE-1D-H7 | Manipulate technical dimensions of dance individually and collaboratively | (1, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§309. Creative Expression—Grade Cluster**

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Use kinesthetic awareness, proper use of space and the ability to move safely; (2, 5) | Demonstrate self-monitoring and effective use of space; (2, 5) | Incorporate kinesthetic awareness, use of space and self-evaluation to refine performance skills; (2, 4, 5) |
| Benchmark 2 | Identify and explore basic skills, the elements of dance (space, time, and energy) and dance vocabulary; (2) | Recognize and explore the dance elements and vocabulary to increase basic skills and knowledge; (2) | Utilize and expand dance vocabulary and develop technical skills; (2, 4) |
| Benchmark 3 | Recognize that dance is a way to create and communicate ideas and feelings; (1) | Demonstrate the ability to use dance as a language and means of communication; (1, 2, 4, 5) | Utilize dance as an expression of individual ideas and feelings; (1, 2, 5) |
| Benchmark 4 | Discuss and explore the process of making a dance; (1, 2, 3, 5) | Recognize and demonstrate the concepts of improvisation, choreography, and different dance structures such as canon and unison; (2, 4, 5) | Incorporate the concepts of improvisation, choreography and dance structures into dance compositions; (1, 2, 4, 5) |
| Benchmark 5 | Execute improvised and set movement patterns with concentration and focus individually and in groups; (2, 5) | Perform dance compositions informally and formally; (1, 4, 5) | Present and evaluate movement studies designed to display skills and techniques; (1, 2, 4) |
| Benchmark 6 | Explore the relationship among dance, other arts, and disciplines outside the arts; (3, 4) | Identify and discuss relationships among dance, other arts, and disciplines outside the arts; (3, 4, 5) | Present a multi-disciplinary dance project; (3, 4, 5) |
| Benchmark 7 | Explore technical dimensions of dance individually and collaboratively such as performance space, accompaniment, current technology, and set design. (1, 3, 5) | Use technical dimensions of dance individually and collaboratively. (1, 3, 4, 5) | Manipulate technical dimensions of dance individually and collaboratively. (1, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**Subchapter B. Aesthetic Perception**

**§321. Focus**

A. The study of aesthetics, or the philosophy of the arts, supplies the individual with a structure for analyzing, interpreting, and responding to the arts. An understanding of aesthetics empowers the individual to make informed personal interpretations of artistic expressions and to develop an awareness of the concepts and ideas of others. The individual questions concepts, weighs evidence and information, examines intuitive reactions, and develops personal conclusions about the values in works of art.

1. Standard. Students will develop aesthetic perception through the knowledge of art forms and respect for commonalities and differences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §323. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| AP-2D-E1 | Recognize and respond to sensory and emotional experiences in dance | (1, 4) |
| AP-2D-E2 | Recognize and respond to ideas and creations of others through the study of dance | (1, 4) |
| AP-2D-E3 | Understand there are many choices available in the creative process of choreography | (1, 3, 4) |
| AP-2D-E4 | Discuss the thoughts and feelings created by the works of choreographers | (1,3) |
| AP-2D-E5 | Recognize that there are differences between styles of dance | (2, 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §325. Benchmarks 5-8

A. In grades 5–8, what students should know and be able to do includes:

| | | |
|---|---|---|
| AP-2D-M1 | Utilize dance vocabulary and elements of dance for responding to the aesthetic qualities of works of dance | (1, 2, 4) |
| AP-2D-M2 | Recognize and communicate that the concept of beauty differs from culture to culture | (1, 4) |
| AP-2D-M3 | Identify and explore the meaning of dance and choreography to culture and environment | (1, 3, 4) |
| AP-2D-M4 | Communicate new ideas, possibilities, options, and situations pertaining to the world of dance | (1, 3, 4) |
| AP-2D-M5 | Identify, reflect, and distinguish differences among styles of dance | (1, 2, 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §327. Benchmarks 9–12

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| AP-2D-H1 | Use an expanded dance vocabulary when responding to the aesthetic qualities of dance | (1, 2, 4) |
| AP-2D-H2 | Analyze the unique characteristics of dance as it reflects the quality of everyday life in various cultures | (1, 2, 3, 4) |
| AP-2D-H3 | Use descriptors, analogies, and other metaphors to express the impact of dance on our senses, intellects, and emotions | (1, 4) |
| AP-2D-H4 | Assimilate and communicate the multiple possibilities and options available in dance | (1, 3, 4, 5) |
| AP-2D-H5 | Question/weigh evidence and information, examine intuitive reaction, and draw personal conclusions about dance | (1, 2, 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §329. Aesthetic PerceptionC Grade Cluster

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Recognize and respond to sensory and emotional experiences in dance; (1, 4) | Utilize dance vocabulary and elements of dance for responding to the aesthetic qualities of works of dance; (1, 2, 4) | Use an expanded dance vocabulary when responding to the aesthetic qualities of dance; (1, 2, 4) |
| Benchmark 2 | Recognize and respond to the ideas and creations of others through the study of dance; (1, 4) | Recognize and communicate that the concept of beauty differs from culture to culture; (1, 4) | Analyze the unique characteristics of dance as it reflects the quality of everyday life in vario us cultures; (1, 2, 3, 4) |
| Benchmark 3 | Understand there are many choices available in the creative process of choreography; (1, 3, 4) | Identify and explore the meaning of dance and choreography to culture and environment; (1, 3, 4) | Use descriptors, analogies, and other metaphors to express the impact of dance on our senses, intellects, and emotions; (1, 4) |
| Benchmark 4 | Discuss the thoughts and feelings created by the works of choreographers; (1, 3) | Communicate new ideas, possibilities, options, and situations pertaining to the world of dance; (1, 3, 4) | Assimilate and communicate the multiple possibilities and options available in dance; (1, 3, 4, 5) |
| Benchmark 5 | Recognize that there are differences between styles of dance. (2, 3, 4) | Identify, reflect and distinguish differences among styles of dance. (1, 2, 3, 4) | Question/weigh evidence and information, examine intuitive reaction, and draw personal conclusions about dance. (1, 2, 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Subchapter C. Historical Perspective and Cultural Perception

### §331. Focus

A. Historical and cultural perception is the vehicle for understanding works of art in time and place. The arts

survive through times of interruption and neglect; they outlive governments, creed, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

1. Standard. Students will develop historical perspective and cultural perception by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§333. Benchmarks K-4**

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| HP-3D-E1 | Explore and discuss that dance throughout history is a record of human experience | (3, 4) |
| HP-3D-E2 | Observe and recognize the styles of dance in various cultures | (3, 4, 5) |
| HP-3D-E3 | Introduce great dance works, innovators, and performers who have shaped history | (4, 5) |
| HP-3D-E4 | Identify and explore dance careers throughout history | (3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§335. Benchmarks 5-8**

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| HP-3D-M1 | Recognize and explore the role of dance in various cultures | (3, 4) |
| HP-3D-M2 | Classify and distinguish between different dance styles from historical, contemporary, and cultural perspectives | (1, 2, 4) |
| HP-3D-M3 | Explore and discuss the influences of great dance works, innovators, and performers who have shaped history | (2, 3, 4) |
| HP-3D-M4 | Recognize current career opportunities in dance | (3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§337. Benchmarks 9-12**

A. In grades 9–12, what students should know and be able to do includes:

| | | |
|---|---|---|
| HP-3D-H1 | Identify and analyze universal themes and values of various cultures as they are exhibited in dance | (1, 5) |
| HP-3D-H2 | Analyze and categorize styles as they relate to cultural, social, political, and economic environments | (2, 3, 4, 5) |
| HP-3D-H3 | Compare and contrast current dance trends and creators with those of the past | (2, 3, 4) |
| HP-3D-H4 | Present the career components of dance production | (1, 2, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§339. Historical Perspective and Cultural Perception—Grade Cluster**

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Explore and discuss that dance throughout history is a record of human experience; (3, 4) | Recognize and explore the role of dance in various cultures; (3, 4) | Identify and analyze universal themes and values of various cultures as they are exhibited in dance; (1, 5) |
| Benchmark 2 | Observe and recognize the styles of dance in various cultures; (3, 4, 5) | Classify and distinguish between different dance styles from historical, contemporary, and cultural perspectives; (1, 2, 4) | Analyze and categorize styles as they relate to cultural, social, political, and economic environments; (2, 3, 4, 5) |
| Benchmark 3 | Introduce great dance works, innovators and performers who have shaped history; (4, 5) | Explore and discuss the influences of great dance works, innovators, and performers who have shaped history; (2, 3, 4) | Compare and contrast current dance trends and creators with those of the past; (2, 3, 4) |
| Benchmark 4 | Identify and explore dance careers throughout history. (3, 4) | Recognize current career opportunities in dance. (3, 4) | Present the career components of dance production. (1, 2, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Subchapter D. Critical Analysis

### §345. Focus

A. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to observe, describe, analyze, and make critical, reasoned judgments about the form and content of the arts.

1. Standard. Students will make informed judgments about the arts by developing critical analysis skills through study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §347. Benchmarks K-4

A. In grades K–4, what students should know and be able to do includes:

| | | |
|---|---|---|
| CA-4D-E1 | Observe and identify the basic movements in dance | (1, 4) |
| CA-4D-E2 | Identify basic examples of the dance elements in various dance experiences | (1, 4) |
| CA-4D-E3 | Explore and discuss sequence in a performance | (1, 2) |
| CA-4D-E4 | Recognize basic differences in the processes of creating, performing, and observing dance | (4, 5) |
| CA-4D-E5 | Communicate individual feelings toward the dance experience | (1, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §349. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| CA-4D-M1 | Recognize the content and expression of various dance styles | (1, 4) |
| CA-4D-M2 | Recognize and identify how elements of dance communicate the choreographic intent | (1, 2) |
| CA-4D-M3 | Describe the use of aesthetic principles such as unity, contrast, continuity, and climax in dance | (1, 2, 4) |
| CA-4D-M4 | Compare and contrast the differing roles in the process of creating, performing, and observing dance | (1, 2, 5) |
| CA-4D-M5 | Apply dance vocabulary in dance critiques | (1, 2, 3, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §351. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| CA-4D-H1 | Develop a criterion for forming personal preferences and opinions of dance styles | (1, 2, 3, 4, 5) |
| CA-4D-H2 | Describe and demonstrate the choreographic intent of dance | (1, 2) |
| CA-4D-H3 | Apply aesthetic principles and choreographic criteria to critique dance | (1, 2, 3, 4) |
| CA-4D-H4 | Use aesthetic principles and factors to establish individual attitudes toward creating, performing, and observing dance | (1, 2, 4, 5) |
| CA-4D-H5 | Expand the ability to communicate and justify aesthetic responses to the dance experience | (1, 2, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §353. Critical Analysis C Grade Cluster

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Observe and identify the basic movements in dance; (1, 4) | Recognize the content and expression of various dance styles; (1, 4) | Develop a criterion for forming personal preferences and opinions of dance styles; 1, 2, 3, 4, 5) |
| Benchmark 2 | Identify basic examples of the dance elements in various dance experiences; (1, 4) | Recognize and identify how elements of dance communicate the choreographic intent; (1, 2) | Describe and demonstrate the choreographic intent of dance; (1, 2) |
| Benchmark 3 | Explore and discuss sequence in a performance; (1, 2) | Describe the use of aesthetic principles such as unity, contrast, continuity, and climax in dance; (1, 2, 4) | Apply aesthetic principles and choreographic criteria to critique dance; (1, 2, 3, 4) |
| Benchmark 4 | Recognize basic differences in the processes of creating, performing, and observing dance; (4, 5) | Compare and contrast the differing roles in the process of creating, performing, and observing dance; (1, 2, 5) | Use aesthetic principles and factors to establish individual attitudes toward creatin g, performing, and observing dance; (1, 2, 4, 5) |
| Benchmark 5 | Communicate individual feelings toward the dance experience. (1, 5) | Apply dance vocabulary in dance critiques. (1, 2, 3, 5) | Expand the ability to communicate and justify aesthetic responses to the dance experience. (1, 2, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Chapter 5. Music
## Subchapter A. Creative Expression

### §501. Focus

A. Creative Expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

1. Students develop creative expression through the application of knowledge, ideas, skills, and organizational abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §503. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| CE-1M-E1 | Recognize and imitate simple melodies and rhythmic patterns using voice, musical instruments, or other sound sources | (1, 3, 4) |
| CE-1M-E2 | Identify basic notational symbols and vocabulary that convey precise musical meanings | (1, 2, 3, 4) |
| CE-1M-E3 | Perform, improvise, and compose simple musical ideas | (2, 3, 4) |
| CE-1M-E4 | Explore basic elements of music using voice, musical instruments, electronic technology, or available media | (3) |
| CE-1M-E5 | Participate in organized activities including singing, playing, and movement | (1, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §505. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| CE-1M-M1 | Identify and perform melodic and rhythmic patterns using voice, musical instruments, or other sound sources, both individually and in ensembles | (1, 3, 4, 5) |
| CE-1M-M2 | Interpret notational symbols and vocabulary that convey precise musical meanings | (1, 2, 3, 4) |
| CE-1M-M3 | Improvise, perform, and compose written music | (2, 3, 4) |
| CE-1M-M4 | Identify and demonstrate elements of music, using voice, musical instruments, electronic technology, or other available media | (1, 3, 4) |
| CE-1M-M5 | Participate in organized activities including singing, playing, and movement | (1, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §507. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| CE-1M-H1 | Create and improvise advanced musical forms using voice, musical instruments, or other sound sources, both individually and in ensembles | (1, 2, 3, 4, 5) |
| CE-1M-H2 | Apply with technical accuracy notational symbols and vocabulary that convey precise musical meanings | (1, 2, 3, 4) |
| CE-1M-H3 | Improvise, perform, and compose advanced compositions | (2, 3, 4) |
| CE-1M-H4 | Interpret and apply elements of music using preferred medium of performance | (1, 3, 4) |
| CE-1M-H5 | Perform in musical ensembles using a preferred performance medium | (1, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §509. Creative Expression—Grade Cluster

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Recognize and imitate simple melodies and rhythmic patterns using voice, musical instruments, or other sound sources; (1, 3, 4) | Identify and perform melodic and rhythmic patterns using voice, musical instruments, or other sound sources, both individually and in ensembles; (1, 3, 4, 5) | Create and improvise advanced musical forms using voice, musical instruments, or other sound sources, both individually and in ensembles; (1, 2, 3, 4, 5) |
| Benchmark 2 | Identify basic notational symbols and vocabulary that convey precise musical meanings; (1, 2, 3, 4) | Interpret notational symbols and vocabulary that convey precise musical meanings; (1, 2, 3, 4) | Apply with technical accuracy notational symbols and vocabulary that convey precise musical meanings; (1, 2, 3, 4) |
| Benchmark 3 | Perform, improvise, and compose simple musical ideas; (2, 3, 4) | Improvise; perform, and compose written music; (2, 3, 4) | Improvise, perform, and compose advanced compositions; (2, 3, 4) |

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 4 | Explore basic elements of music using voice, musical instruments, electronic technology, or available media; (3) | Identify and demonstrate elements of music, using voice, musical instruments, electronic technology, or other available media; (1, 3, 4) | Interpret and apply elements of music using preferred medium of performance; (1, 3, 4) |
| Benchmark 5 | Participate in organized activities including singing, playing, and movement. (1, 5) | Perform in organized activities including singing, playing, and movement. (1, 5) | Perform in musical ensembles using a preferred performance medium. (1, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Subchapter B. Aesthetic Perception

### §515. Focus

A. The study of aesthetics, or the philosophy of the arts, supplies the individual with a structure for analyzing, interpreting, and responding to the arts. An understanding of aesthetics empowers the individual to make informed personal interpretations of artistic expressions and to develop an awareness of the concepts and ideas of others. The individual questions concepts, weighs evidence and information, examines intuitive reactions, and develops personal conclusions about the values in works of art.

1. Standard. Students will develop aesthetic perception through the knowledge of art forms and respect for commonalities and differences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §517. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| AP-2M-E1 | Use simple music vocabulary to discuss individual work and the works of others | (1, 4) |
| AP-2M-E2 | Develop and communicate an awareness of ideas and creations of others through the study of music | (1, 4, 5) |
| AP-2M-E3 | Develop an awareness of how music is used in daily life, in the workplace, and within the community | (1, 4, 5) |
| AP-2M-E4 | Explore various choices available in the creative processes of music | (1, 3, 4) |
| AP-2M-E5 | Participate in elementary inquiry into the basic question "What is music?" | (1, 3) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §519. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| AP-2M-M1 | Use expanded music vocabulary to interpret the aesthetic qualities of musical compositions | (1, 2, 3, 4) |
| AP-2M-M2 | Recognize different concepts of beauty in various cultures | (1, 4, 5) |
| AP-2M-M3 | Identify and explore music and the roles of musicians in differing cultures and environments | (1, 3, 4, 5) |
| AP-2M-M4 | Examine traditional and technological options as they pertain to creative processes in music | (1, 3, 4) |
| AP-2M-M5 | Identify, reflect, and distinguish differences in the elements of music as heard in musical works | (1, 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §521. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| AP-2M-H1 | Use advanced music vocabulary to respond to aesthetic qualities of music | (1, 2, 3, 4) |
| AP-2M-H2 | Analyze the unique characteristics of music used for different purposes in various cultures | (1, 2, 3, 4, 5) |
| AP-2M-H3 | Express the impact of music on intellect and emotion | (1, 3, 4, 5) |
| AP-2M-H4 | Compare and contrast traditional and technological options available for artistic expression in music | (1, 2, 3, 4) |
| AP-2M-H5 | Articulate intuitive reactions and draw personal conclusion about musical works | (1 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §523. Aesthetic PerceptionC Grade Cluster

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Use simple music vocabulary to discuss individual's work and the works of others; (1, 4) | Use expanded music vocabulary to interpret the aesthetic qualities of musical compositions; (1, 2, 3, 4) | Use advanced music vocabulary to respond to aesthetic qualities of music; (1, 2, 3, 4) |
| Benchmark 2 | Develop and communicate an awareness of ideas and creations of others through the study of music; (1, 4, 5) | Recognize different concepts of beauty in various cultures; (1, 4, 5) | Analyze the unique characteristics of music used for different purposes in various cultures; (1, 2, 3, 4, 5) |
| Benchmark 3 | Develop an awareness of how music is used in daily life, in the workplace, and within the community; (1, 4, 5) | Identify and explore music and the roles of musicians in differing cultures and environments; (1, 3, 4, 5) | Express the impact of music on intellect and emotion; (1, 3, 4, 5) |
| Benchmark 4 | Explore various choices available in the creative processes of music; (1, 3, 4) | Examine traditional and technological options as they pertain to creative processes in music; (1, 3, 4) | Compare and contrast traditional and technological options available for artistic expression in music; (1, 2, 3, 4) |
| Benchmark 5 | Participate in elementary inquiry into the basic question "What is music?" (1, 3) | Identify, reflect, and distinguish differences in the elements of music as heard in musical works. (1, 3, 4) | Articulate intuitive reactions and draw personal conclusion about musical works. (1, 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Subchapter C. Historical Perspective and Cultural Perception

### §533. Focus

A. Historical and cultural perception is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creed, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

1. Standard. Students will develop historical perspective and cultural perception by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq. HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §535. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| HP-3M-E1 | Recognize musical styles representative of various cultures | (1, 3, 4) |
| HP-3M-E2 | Explore and discuss the development of music within historical and cultural contexts | (1, 3, 4) |
| HP-3M-E3 | Recognize musical instruments of various cultures | (1, 2) |
| HP-3M-E4 | Recognize the roles of musicians in various cultures | (1, 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §537. Benchmarks 5-8

A. In grades 5–8, what students should know and be able to do includes:

| | | |
|---|---|---|
| HP-3M-M1 | Identify characteristics of musical styles representative of historical periods and cultures | (1, 2, 3, 4) |
| HP-3M-M2 | Compare and contrast the characteristics of music within historical and cultural contexts | (1, 2, 3, 4) |
| HP-3M-M3 | Identify specific uses of musical instruments in various cultures | (1, 3, 4) |
| HP-3M-M4 | Explore and discuss the roles of musicians in various cultures | (1, 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §539. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| HP-3M-H1 | Compare and contrast musical styles that represent various historical periods and cultures | (1, 2, 3, 4) |
| HP-3M-H2 | Analyze the role of music as it fulfills societal needs within historical and cultural contexts | (1, 2, 3, 4, 5) |
| HP-3M-H3 | Compare and contrast uses of musical instruments in various cultures | (1, 2, 3, 4) |
| HP-3M-H4 | Compare and contrast the roles of prominent musicians within various cultures | (1, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §541. Historical Perspective and Cultural Perception—Grade Cluster

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Recognize musical styles representative of various cultures; (1, 3, 4) | Identify characteristics of musical styles representative of historical periods and cultures; (1, 2, 3, 4) | Compare and contrast musical styles that represent various historical periods and cultures; (1, 2, 3, 4) |
| Benchmark 2 | Explore and discuss the development of music within historical and cultural contexts; (1, 3, 4) | Compare and contrast the characteristics of music within historical and cultural contexts; (1, 2, 3, 4) | Analyze the role of music as it fulfills societal needs within historical and cultural contexts; (1, 2, 3, 4, 5) |
| Benchmark 3 | Recognize musical instruments of various cultures; (1, 2) | Identify specific uses of musical instruments in various cultures. (1, 3, 4) | Compare and contrast uses of musical instruments in various cultures; (1, 2, 3, 4) |
| Benchmark 4 | Recognize the roles of musicians in various cultures. (1, 3, 4) | Explore and discuss the roles of musicians in various cultures. (1, 3, 4) | Compare and contrast the roles of prominent musicians within various cultures. (1, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Subchapter D. Critical Analysis

### §547. Focus

A. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to observe, describe, analyze, and make critical, reasoned judgments about the form and content of the arts.

1. Students will make informed judgments about the arts by developing critical analysis skills through study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §549. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| CA-4M-E1 | Develop an awareness of musical elements, forms, and styles through participation in musical experiences | (1, 2, 3, 5) |
| CA-4M-E2 | Demonstrate behavior appropriate for varied musical environments | (1, 3, 4, 5) |
| CA-4M-E3 | Explore music as a part of celebrations, ceremonies, and other special occasions | (1, 2, 3, 4, 5) |
| CA-4M-E4 | Identify relationships among music, other art forms, and disciplines outside the arts | (1, 3, 4) |
| CA-4M-E5 | Identify elements of music through listening activities | (1, 2, 3) |

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §551. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| CA-4M-M1 | Analyze musical experiences with regard to fundamental elements, forms, and styles | (1, 2, 3, 4) |
| CA-4M-M2 | Demonstrate and discuss behavior appropriate for varied musical environments | (1, 3, 4, 5) |
| CA-4M-M3 | Recognize and identify the purpose and appropriateness of music in relation to celebrations, ceremonies, and events | (1, 2, 3, 4, 5) |
| CA-4M-M4 | Investigate relationships among music, other art forms, and disciplines outside the arts | (1, 2, 3, 4) |
| CA-4M-M5 | Explore elements of music through listening to a variety of musical examples | (1, 2, 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §553. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| CA-4M-H1 | Utilize appropriate vocabulary to communicate informed judgments about musical experiences | (1, 2, 3, 4,) |
| CA-4M-H2 | Experience and evaluate behavior appropriate for varied musical environments | (1, 2, 3, 4, 5) |
| CA-4M-H3 | Analyze appropriateness of music choices as they relate to purpose | (1, 2, 3, 4, 5) |
| CA-4M-H4 | Identify commonalties and differences among music, other art forms, and disciplines outside the arts | (1, 2, 3, 4) |
| CA-4M-H5 | Analyze elements of music through listening to a variety of musical examples | (1, 2, 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§555. Critical Analysis C Grade Cluster**

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Develop an awareness of musical elements, forms, and styles through participation in musical experiences; (1, 2, 3, 5) | Analyze musical experiences with regard to fundamental elements, forms, and styles; (1, 2, 3, 4) | Utilize appropriate vocabulary to communicate informed judgments about musical experiences; (1, 2, 3, 4,) |
| Benchmark 2 | Demonstrate behavior appropriate for varied musical environments; (1, 3, 4, 5) | Demonstrate and discuss behavior appropriate for varied musical environments; (1, 3, 4, 5) | Experience and evaluate behavior appropriate for varied musical environments; (1, 2, 3, 4, 5) |
| Benchmark 3 | Explore music as a part of celebrations, ceremonies, and other special occasions; (1, 2, 3, 4, 5) | Recognize and identify the purpose and appropriateness of music in relation to celebrations, ceremonies, and events; (1, 2, 3, 4, 5) | Analyze appropriateness of music choices as they relate to purpose; (1, 2, 3, 4, 5) |
| Benchmark 4 | Identify relationships among music, other art forms, and disciplines outside the arts; (1, 3, 4) | Investigate relationships among music, other art forms, and disciplines outside the arts; (1, 2, 3, 4) | Identify commonalties and differences among music, other art forms, and disciplines outside the arts; (1, 2, 3, 4) |
| Benchmark 5 | Identify elements of music through listening activities. (1, 2, 3) | Explore elements of music through listening to a variety of musical example. (1, 2, 3, 4) | Analyze elements of music through listening to a variety of musical examples. (1, 2, 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Chapter 7. Theatre Arts

## Subchapter A. Creative Expression

### §701. Focus

A. Creative Expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

1. Standard. Students develop creative expression through the application of knowledge, ideas, skills, and organizational abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §703. Benchmarks K–4

A. In grades K–4, what students should know and be able to do includes:

| | | |
|---|---|---|
| CE-1TH-E1 | Explore and identify various emotions in interpersonal settings | (1, 4) |
| CE-1TH-E2 | Interact in group situations and show differentiation of roles through experimentation and role playing | (1, 2, 3, 4, 5) |
| CE-1TH-E3 | Identify and exhibit physical and emotional dimensions of characterization through experimentation and role playing | (1, 2, 4, 5) |
| CE-1TH-E4 | Create story lines for improvisation | (1, 2, 3, 4) |
| CE-1TH-E5 | Explore technical dimensions of the dramatic form individually and collaboratively such as theatrical space, scenery, costuming, make-up | (1, 2, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §705. Benchmarks 5–8

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| CE-1TH-M1 | Explore self-expression and various emotions individually and in groups | (1, 4, 5) |
| CE-1TH-M2 | Demonstrate role playing in single and interpersonal relationships | (1, 2, 4, 5) |
| CE-1TH-M3 | Demonstrate performance techniques, both physically and vocally, appropriate to a variety of characters | (1, 2, 4) |
| CE-1TH-M4 | Create scripts from improvisational activities | (1, 2, 3, 4, 5) |
| CE-1TH-M5 | Use technical dimensions of the dramatic form individually and collaboratively such as theatrical space, scenery, costuming, set design, make-up | (1, 2, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S.17.24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §707. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| CE-1TH-H1 | Develop intrapersonal skills as an individual and as a performer | (1, 2) |
| CE-1TH-H2 | Practice group performance dynamics that enhance characterization and interpret psychological motivation | (1, 2, 4, 5) |
| CE-1TH-H3 | Demonstrate performance methods, styles, and techniques | (1, 2, 3, 4) |
| CE-1TH-H4 | Write scripts for classroom, stage, and media performance, using various forms of technology | (1, 2, 3, 4) |

| | | |
|---|---|---|
| CE-1TH-H5 | Manipulate technical dimensions of the dramatic form individually and collaboratively such as theatrical space, scenery, set design and construction, costuming, make-up, properties, lights, sound, multimedia and management | (1, 2, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §709. Creative ExpressionC Grade Cluster

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Explore and identify various emotions in interpersonal settings; (1, 4) | Explore self-expression and various emotions individually and in groups; (1, 4, 5) | Develop intrapersonal skills as an individual and as a performer; (1, 2) |
| Benchmark 2 | Interact in group situations and show differentiation of roles through experimentation and role playing; (1, 2, 3, 4, 5) | Demonstrate role playing in single and interpersonal relationships; (1, 2, 4, 5) | Practice group performance dynamics that enhance characterization and interpret psychological motivation; (1, 2, 4, 5) |
| Benchmark 3 | Identify and exhibit physical and emotional dimensions of characterization through experimentation and role playing; (1, 2, 4, 5) | Demonstrate performance techniques, both physically and vocally, appropriate to a variety of characters; (1, 2, 4) | Demonstrate performance methods, styles, and techniques; (1, 2, 3, 4) |
| Benchmark 4 | Create story lines for improvisation; (1, 2, 3, 4) | Create scripts from improvisational activities; (1, 2, 3, 4, 5) | Write scripts for classroom, stage, and media performance, using various forms of technology; (1, 2, 3, 4) |
| Benchmark 5 | Explore technical dimensions of the dramatic form individually and collaboratively such as theatrical space, scenery, costuming, make-up. (1, 2, 3, 4, 5) | Use technical dimensions of the dramatic form individually and collaboratively such as theatrical space, scenery, costuming, set design, make-up. (1, 2, 3, 4, 5) | Manipulate technical dimensions of the dramatic form individually and collaboratively such as theatrical space, scenery, set design and construction, costuming, make-up, properties, lights, sound, multimedia and management. (1, 2, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Subchapter B. Aesthetic Perception

### §719. Focus

A. The study of aesthetics, or the philosophy of the arts, supplies the individual with a structure for analyzing, interpreting, and responding to the arts. An understanding of aesthetics empowers the individual to make informed personal interpretations of artistic expressions and to develop an awareness of the concepts and ideas of others. The individual questions concepts, weighs evidence and information, examines intuitive reactions, and develops personal conclusions about the values in works of art.

1. Students will develop aesthetic perception through the knowledge of art forms and respect for commonalities and differences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §721. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| AP-2TH-E1 | Recognize and respond to sensory and emotional experiences | (1, 2, 4) |
| AP-2TH-E2 | Respond to others in dramatic activities | (1, 3, 5) |
| AP-2TH-E3 | Practice the basics of listening and responding to demonstrate audience etiquette | (1, 4, 5) |
| AP-2TH-E4 | Explore relationships among the theatre, other arts, and disciplines outside the arts | (1, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§723. Benchmarks 5-8**

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| AP-2TH-M1 | Recognize and discuss individual differences in sensory and emotional perceptions | (1, 2, 3, 4) |
| AP-2TH-M2 | Recognize individual and group roles in the collaborative and creative process of drama | (1, 4, 5) |
| AP-2TH-M3 | Recognize and respond to cultural differences displayed in conventional and unconventional roles, productions, and performances | (1, 3, 4, 5) |
| AP-2TH-M4 | Describe relationships among theatre, other arts, and disciplines outside the arts | (1, 3, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§725. Benchmarks 9-12**

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| AP-2TH-H1 | Analyze and discuss character transformation and character relationships | (1, 2, 3, 4, 5) |
| AP-2TH-H2 | Discuss and respond to drama and multimedia with social and artistic discipline | (1, 2, 3, 4, 5) |
| AP-2TH-H3 | Construct social and personal meaning from informal and formal productions such as addressing theme, purpose, and point of view | (1, 2, 4) |
| AP-2TH-H4 | Integrate relationships among theatre, other arts, and disciplines outside the arts | (1, 2, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§727. Aesthetic PerceptionC Grade Cluster**

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Recognize and respond to sensory and emotional experiences ; (1, 2, 4) | Recognize and discuss individual differences in sensory and emotional perceptions; (1, 2, 3, 4) | Analyze and discuss character transformation and character relationships; (1, 2, 3, 4, 5) |
| Benchmark 2 | Respond to others in dramatic activities; (1, 3, 5) | Recognize individual and group roles in the collaborative and creative process of drama; (1, 4, 5) | Discuss and respond to drama and multimedia with social and artistic discipline; (1, 2, 3, 4, 5) |
| Benchmark 3 | Practice the basics of listening and responding to demonstrate audience etiquette; (1, 4, 5) | Recognize and respond to cultural differences displayed in conventional and unconventional roles, productions, and performances; (1, 3, 4, 5) | Construct social and personal meaning from informal and formal productions such as addressing theme, purpose, and point of view; (1, 2, 4) |
| Benchmark 4 | Explore relationships among the theatre, other arts, and disciplines outside the arts. (1, 3, 4, 5) | Describe relationships among theatre, other arts, and disciplines outside the arts. (1, 3, 4) | Integrate relationships among theatre, other arts, and disciplines outside the arts. (1, 2, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Subchapter C. Historical Perspective and Cultural Perception

**§737. Focus**

A. Historical and cultural perception is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creed, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

1. Standard. Students will develop historical perspective and cultural perception by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

**§739. Benchmarks K-4**

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| HP-3TH-E1 | Recognize and discuss the differences in various cultures | (1, 2, 4, 5) |
| HP-3TH-E2 | Recognize and recall the language of theatre arts | (1, 2, 4) |
| HP-3TH-E3 | Recognize characters and situations in literature and media from various historical periods | (1, 4) |
| HP-3TH-E4 | Recognize basic types and forms of theatre and communication arts, which includes media and technology | (1, 4) |
| HP-3TH-E5 | Recognize and identify universal themes reflected in various cultures | (1, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§741. Benchmarks 5-8**

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| HP-3TH-M1 | Describe relationships between artistic expression and artistic choices in various cultures | (1, 2, 3, 4, 5) |
| HP-3TH-M2 | Identify and use terminology and language appropriate to theatrical periods, environments, situations, and characters | (1, 3, 4) |
| HP-3TH-M3 | Describe characters and situations within literary, cultural, and historical contexts | (1, 3, 4) |
| HP-3TH-M4 | Describe patterns, types, and trends in communication and theatre arts, which includes media and technology | (1, 3, 4) |
| HP-3TH-M5 | Identify and discuss ways in which theme has been revealed and developed in various cultures | (1, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§743. Benchmarks 9-12**

A. In grades 9–12, what students should know and be able to do includes:

| | | |
|---|---|---|
| HP-3TH-H1 | Analyze through a historical perspective the form and content of cultural works | (1, 2, 3, 4, 5) |
| HP-3TH-H2 | Apply cultural and historical information to support period costumes, scripted scenes, scenery, and make-up | (1, 2, 3, 4) |
| HP-3TH-H3 | Demonstrate a knowledge of theatre history and dramatic literature | (1, 3, 4) |
| HP-3TH-H4 | Compare and contrast patterns, types, methods, styles, and trends in communication and theatre arts, which includes media and technology | (1, 2, 3, 4) |
| HP-3TH-H5 | Analyze the universality of theme, situation, and motivation across cultures and time | (1, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§745. Historical Perspective and Cultural Perception—Grade Cluster**

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Recognize and discuss the differences in various cultures; (1, 2, 4, 5) | Describe relationships between artistic expression and artistic choices in various cultures; (1, 2, 3, 4, 5) | Analyze through a historical perspective the form and content of cultural works; (1, 2, 3, 4, 5) |
| Benchmark 2 | Recognize and recall the language of theatre arts; (1, 2, 4) | Identify and use terminology and language appropriate to theatrical periods, environments, situations, and characters; (1, 3, 4) | Apply cultural and historical information to support period costumes, scripted scenes, scenery, and make-up; (1, 2, 3, 4) |
| Benchmark 3 | Recognize characters and situations in literature and media from various historical periods; (1, 4) | Describe characters and situations within literary, cultural, and historical contexts; (1, 3, 4) | Demonstrate a knowledge of theatre history and dramatic literature; (1, 3, 4) |
| Benchmark 4 | Recognize basic types and forms of theatre and communication arts, which includes media and technology; (1, 4) | Describe patterns, types, and trends in communication and theatre arts, which includes media and technology; (1, 3, 4) | Compare and contrast patterns, types, methods, styles, and trends in communication and theatre arts, which includes media and technology; (1, 2, 3, 4) |
| Benchmark 5 | Recognize and identify universal themes reflected in various cultures. (1, 4) | Identify and discuss ways in which theme has been revealed and developed in various cultures. (1, 4, 5) | Analyze the universality of theme, situation, and motivation across cultures and time. (1, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Subchapter D. Critical Analysis

**§757. Focus**

A. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to observe, describe, analyze, and make critical, reasoned judgments about the form and content of the arts.

1. Standard. Students will make informed judgments about the arts by developing critical analysis skills through study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§759. Benchmarks K-4**

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| CA-4TH-E1 | Recognize and respond to basic media experiences such as stage, radio, film, and electronic media | (1, 3, 4) |
| CA-4 TH-E2 | Describe personal observations of scripts and performances | (1, 3, 4) |
| CA-4 TH-E3 | Identify the differences among reality, fantasy, role playing, and media representation | (1, 4) |
| CA-4 TH-E4 | Recognize the function of the artist in creating works of art | (1, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§761. Benchmarks 5-8**

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| CA-4TH-M1 | Demonstrate an understanding of the basic principles and elements of media communication | (1, 2, 3, 4) |
| CA-4 TH-M2 | Participate in a critique of scripts, performances and productions | (1, 2, 4) |
| CA-4 TH-M3 | Identify levels and dimensions of characterization | (1, 2, 4) |
| CA-4 TH-M4 | Recognize and identify theatre careers and representative theatre artists in various cultures and historical periods | (1, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§763. Benchmarks 9-12**

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| CA-4 TH-H1 | Analyze how performers/presenters use movement, voice, language, and technical elements for communication | (1, 2, 3, 4, 5) |
| CA-4 TH-H2 | Select, analyze, and interpret the various aspects of theatrical works, performances, and productions | (1, 2, 3, 4, 5) |
| CA-4 TH-H3 | Question motivation from the perspective of the character in a given situation | (1, 4, 5) |
| CA-4 TH-H4 | Identify and compare the careers, lives, works, and influence of representative theatre artists in various cultures and historical periods | (1, 2, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§765. Critical Analysis C Grade Cluster**

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Recognize and respond to basic media experiences such as stage, radio, film, and electronic media; (1, 3, 4) | Demonstrate an understanding of the basic principles and elements of media communication; (1, 2, 3, 4) | Analyze how performers/ presenters use movement, voice, language, and technical elements for communication; (1, 2, 3, 4, 5) |
| Benchmark 2 | Describe personal observations of scripts and performances; (1, 3, 4) | Participate in a critique of scripts, performances and productions; (1, 2, 4) | Select, analyze, and interpret the various aspects of theatrical works, performances, and productions; (1, 2, 3, 4, 5) |
| Benchmark 3 | Identify the differences among reality, fantasy, role playing, and media representation; (1, 4) | Identify levels and dimensions of characterization; (1, 2, 4) | Question motivation from the perspective of the character in a given situation; (1, 4, 5) |
| Benchmark 4 | Recognize the function of the artist in creating works of art. (1, 4, 5) | Recognize and identify theatre careers and representative theatre artists in various cultures and historical periods. (1, 4, 5) | Identify and compare the careers, lives, works, and influence of representative theatre artists in various cultures and historical periods. (1, 2, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Chapter 9. Visual Arts

### Subchapter A. Creative Expression

**§901. Focus**

A. Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

1. Students develop creative expression through the application of knowledge, ideas, skills, and organizational abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§903. Benchmarks K-4**

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| CE-1VA-E1 | Explore and identify imagery from a variety of sources and demonstrate visual representation | (1, 2) |
| CE-1VA-E2 | Explore techniques and technologies for visual expression and communication | (2, 3) |
| CE-1VA-E3 | Use art vocabulary and the elements and principles of design to communicate the language of art | (1, 2) |
| CE-1VA-E4 | Explore and identify art careers across the disciplines and cultures | (2, 4) |
| CE-1VA-E5 | Work individually and as a group member in a responsible and productive manner | (1, 5) |
| CE-1VA-E6 | Understand relationships among the arts and other disciplines outside the arts | (4) |
| CE-1VA-E7 | Maintain an individual journal or sketchbook | (1, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§905. Benchmarks 5-8**

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| CE-1VA-M1 | Demonstrate art methods and techniques in visual representations based on research of imagery | (1, 2) |
| CE-1VA-M2 | Select and apply media, techniques, and technology to visually express and communicate | (1, 2) |
| CE-1VA-M3 | Use the elements and principles of design to visually express individual ideas | (1, 2) |
| CE-1VA-M4 | Communicate knowledge of art concepts and relationships among various cultures, disciplines, and art careers | (2, 4) |
| CE-1VA-M5 | Produce ideas for art productions while engaging in both individual and group activities | (1, 5) |
| CE-1VA-M6 | Identify the relationships between the arts and other disciplines through art production | (4) |
| CE-1VA-M7 | Maintain a sketchbook or journal and develop a portfolio | (1, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§907. Benchmarks 9-12**

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| CE-1VA-H1 | Produce works of art that successfully convey a central thought based on ideas, feelings, and memories | (1, 2) |
| CE-1VA-H2 | Apply a variety of media techniques, technologies, and processes for visual expression and communication | (2, 3) |
| CE-1VA-H3 | Recognize and utilize individual expression through the use of the elements of design while exploring compositional problems | (1, 2) |
| CE-1VA-H4 | Produce a visual representation of ideas derived through the study of various cultures, disciplines, and art careers | (2, 4) |
| CE-1VA-H5 | Produce imaginative works of art generated from individual and group ideas | (1, 5) |
| CE-1VA-H6 | Produce works of art that describe and connect art with other disciplines | (4) |
| CE-1VA-H7 | Maintain a sketchbook or journal and develop a portfolio | (1, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§909. Creative Expression C Grade Cluster**

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Explore and identify imagery from a variety of sources and demonstrate visual representation; (1, 2) | Demonstrate art methods and techniques in visual representations based on research of imagery; (1, 2) | Produce works of art that successfully convey a central thought based on ideas, feelings, and memories; (1, 2) |
| Benchmark 2 | Explore techniques and technologies for visual expression and communication; (2, 3) | Select and apply media, techniques, and technology to visually express and communicate; (1, 2) | Apply a variety of media techniques, technologies, and processes for visual expression and communication; (2, 3) |
| Benchmark 3 | Use art vocabulary and the elements and principles of design to communicate the language of art; (1, 2) | Use the elements and principles of design to visually express individual ideas; (1, 2) | Recognize and utilize individual expression through the use of the elements of design while exploring compositional problems; (1, 2) |
| Benchmark 4 | Explore and identify art careers across the disciplines and cultures; (2, 4) | Communicate knowledge of art concepts and relationships among various cultures, disciplines, and art careers; (2, 4) | Produce a visual representation of ideas derived through the study of various cultures, disciplines, and art careers; (2, 4) |
| Benchmark 5 | Work individually and as a group member in a responsible and productive manner; (1, 5) | Produce ideas for art productions while engaging in both individual and group activities; (1, 5) | Produce imaginative works of art generated from individual and group ideas; (1, 5) |
| Benchmark 6 | Understand relationships among the arts and other disciplines outside the arts; (4) | Identify the relationships between the arts and other disciplines through art production; (4) | Produce works of art that describe and connect art with other disciplines; (4) |

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 7 | Maintain an individual journal or sketchbook. (1, 4) | Maintain a sketchbook or journal and develop a portfolio. (1, 4) | Maintain a sketchbook or journal and develop a portfolio. (1, 4) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Subchapter B. Aesthetic Perception

### §919. Focus

A. The study of aesthetics, or the philosophy of the arts, supplies the individual with a structure for analyzing, interpreting, and responding to the arts. An understanding of aesthetics empowers the individual to make informed personal interpretations of artistic expressions and to develop an awareness of the concepts and ideas of others. The individual questions concepts, weighs evidence and information, examines intuitive reactions, and develops personal conclusions about the values in works of art.

1. Standard. Students will develop aesthetic perception through the knowledge of art forms and respect for commonalities and differences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §921. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| AP-2VA-E1 | Develop skills in using basic art vocabulary, including the elements of design, to critique individual work and that of others | (1, 5) |
| AP-2VA-E2 | Recognize and respond to concepts, such as beauty and taste, which are determined by culture and differ from person to person | (1, 5) |
| AP-2VA-E3 | Discuss and identify the role and status of the artist and how art is used in daily life, in the workplace, and within the community | (3, 4, 5) |
| AP-2VA-E4 | Recognize and respond to the difference between judgment and preference in art | (2, 3) |
| AP-2VA-E5 | Participate in elementary inquiry into the basic question "What is art?" | (1, 2, 3, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §923. Benchmarks 5-8

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| AP-2VA-M1 | Use art elements, principles of design, and art vocabulary for responding to the aesthetic qualities of a work of art | (1, 3) |
| AP-2VA-M2 | Develop and communicate an awareness of the ideas and creations of others, and recognize that concepts, like beauty and taste, differ by culture | (1, 5) |
| AP-2VA-M3 | Identify and explore the meaning of art and the role of artists in their culture and environment | (3, 4, 5) |
| AP-2VA-M4 | Illustrate awareness of new ideas, possibilities, options, and situations pertaining to the art world | (2, 3) |
| AP-2VA-M5 | Identify, reflect, and distinguish differences of images, symbols, and sensory qualities seen in a work of art and in those in nature | (1) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §925. Benchmarks 9-12

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| AP-2VA-H1 | Use an expanded art/design vocabulary when responding to the aesthetic qualities of a work of art | (1, 3) |
| AP-2VA-H2 | Analyze unique characteristics of art as it reflects the quality of everyday life in various cultures | (1, 5) |
| AP-2VA-H3 | Use descriptors, analogies, and other metaphors to describe interrelationships observed in works of art, nature, and the total environment | (3, 4, 5) |
| AP-2VA-H4 | Compare and contrast the multiple possibilities and options available for artistic expression | (2, 3) |
| AP-2VA-H5 | Question/weigh evidence and information, examine intuitive reactions, and draw personal conclusions about works of art | (1) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §927. Aesthetic PerceptionC Grade Cluster

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Develop skills in using basic art vocabulary, including the elements of design, to critique individual work and that of others; (1, 5) | Use art elements, principles of design, and art vocabulary for responding to the aesthetic qualities of a work of art; (1, 3) | Use an expanded art/design vocabulary when responding to the aesthetic qualities of a work of art; (1, 3) |
| Benchmark 2 | Recognize and respond to concepts, such as beauty and taste, which are determined by culture and differ from person to person; (1, 5) | Develop and communicate an awareness of the ideas and creations of others, and recognize that concepts, like beauty and taste, differ by culture; (1, 5) | Analyze unique characteristics of art as it reflects the quality of everyday life in various cultures; (1, 5) |
| Benchmark 3 | Discuss and identify the role and status of the artist and how art is used in daily life, in the workplace, and within the community; (3, 4, 5) | Identify and explore the meaning of art and the role of artists in their culture and environment; (3, 4, 5) | Use descriptors, analogies, and other metaphors to describe interrelationships observed in works of art, nature, and the total environment; (3, 4, 5) |
| Benchmark 4 | Recognize and respond to the difference between judgment and preference in art; (2, 3) | Illustrate awareness of new ideas, possibilities, options, and situations pertaining to the art world; (2, 3) | Compare and contrast the multiple possibilities and options available for artistic expression; (2, 3) |
| Benchmark 5 | Participate in elementary inquiry into the basic question "What is art?" (1, 2, 3, 4, 5) | Identify, reflect, and distinguish differences of images, symbols, and sensory qualities seen in a work of art and in those in nature. (1) | Question/weigh evidence and information, examine intuitive reactions, and draw personal conclusions about works of art. (1) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Subchapter C. Historical Perspective and Cultural Perception

### §937. Focus

A. Historical and cultural perception is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creed, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

1. Students will develop historical perspective and cultural perception by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

### §939. Benchmarks K-4

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| HP-3VA-E1 | Recognize and identify works of art by subjects, cultures, and time periods | (1, 2) |
| HP-3VA-E2 | Express how visual symbols communicate a universal language | (1, 4, 5) |
| HP-3VA-E3 | Explore and discuss art images from the past and the present | (1, 3, 4) |
| HP-3VA-E4 | Identify media used in works of art throughout history | (2, 3) |
| HP-3VA-E5 | Describe ways the visual arts are used in daily life | (1, 2, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§941. Benchmarks 5-8**

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| HP-3VA-M1 | Recognize and classify works of art by their style, theme, time period, and culture | (1, 2) |
| HP-3VA-M2 | Understand how works of art cross historical, geographical, and political boundaries | (1, 4, 5) |
| HP-3VA-M3 | Recognize the significance of themes, symbols, and ideas in art that convey messages from the past and present | (1, 3, 4) |
| HP-3VA-M4 | Analyze and identify media and techniques used by artists throughout history | (2, 3) |
| HP-3VA-M5 | Recognize individual artistic expression and cultural influences to understand the arts within the community | (1, 2, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§943. Benchmarks 9-12**

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| HP-3VA-H1 | Categorize specific styles and periods of art as they relate to various cultural, political, and economic conditions | (1, 2) |
| HP-3VA-H2 | Analyze how works of art cross geographical, political, and historical boundaries | (1, 4, 5) |
| HP-3VA-H3 | Compare and contrast ways art has been used as a means of communication throughout history | (1, 2, 3, 4) |
| HP-3VA-H4 | Analyze materials, technologies, media, and processes of the visual arts throughout history | (2, 3) |
| HP-3VA-H5 | Identify the roles of artists who have achieved recognition and their influences on the community | (1, 2, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§945. Historical Perspective and Cultural Perception—Grade Cluster**

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | Recognize and identify works of art by subjects, cultures, and time periods; (1, 2) | Recognize and classify works of art by their style, theme, time period, and culture; (1, 2) | Categorize specific styles and periods of art as they relate to various cultural, political, and economic conditions; (1, 2) |
| Benchmark 2 | Express how visual symbols communicate a universal language; (1, 4, 5) | Understand how works of art cross historical, geographical, and political boundaries; (1, 4, 5) | Analyze how works of art cross geographical, political, and historical boundaries; (1, 4, 5) |
| Benchmark 3 | Explore and discuss art images from the past and the present; (1, 3, 4) | Recognize the significance of themes, symbols, and ideas in art that convey messages from the past and present; (1, 3, 4) | Compare and contrast ways art has been used as a means of communication throughout history; (1, 2, 3, 4) |
| Benchmark 4 | Identify media used in works of art throughout history; (2, 3) | Analyze and identify media and techniques used by artists throughout history; (2, 3) | Analyze materials, technologies, media, and processes of the visual arts throughout history; (2, 3) |
| Benchmark 5 | Describe ways the visual arts are used in daily life. (1, 2, 4, 5) | Recognize individual artistic expression and cultural influences to understand the arts within the community. (1, 2, 4, 5) | Identify the roles of artists who have achieved recognition and their influences on the community. (1, 2, 4, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

## Subchapter D. Critical Analysis

**§955. Focus**

A. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to observe, describe, analyze, and make critical, reasoned judgments about the form and content of the arts.

1. Students will make informed judgments about the arts by developing critical analysis skills through study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§957. Benchmarks K-4**

A. In grades K-4, what students should know and be able to do includes:

| | | |
|---|---|---|
| CA-4VA-E1 | View works of art, express an opinion, and justify individual viewpoints | (1, 2, 3) |
| CA-4VA-E2 | Work individually and/or collectively to identify symbols and images in art and other core curricula | (2, 3, 5) |
| CA-4VA-E3 | Identify works of art by media, subject matter, and culture | (2, 3) |
| CA-4VA-E4 | Relate individual and collective knowledge and experiences to works of art in forming opinions | (1, 2, 3, 4) |
| CA-4VA-E5 | Express personal feelings or interpretations about works of art and explain negative or positive comments | (1,2) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§959. Benchmarks 5-8**

A. In grades 5-8, what students should know and be able to do includes:

| | | |
|---|---|---|
| CA-4VA-M1 | Observe works of art and describe through visual, verbal, or written avenues how artists use the design elements and principles | (1, 2, 3) |
| CA-4VA-M2 | Work individually and/or collectively to analyze/interpret symbols and images for meaning, purpose, and value in art and other core curricula | (2, 3, 5) |
| CA-4VA-M3 | Classify the style, period, media, and culture in works of art | (2, 3) |
| CA-4VA-M4 | Discuss how culture influences artists' use of media, subject matter, symbols, and themes in relation to works of art | (1, 2, 3, 4) |
| CA-4VA-M5 | Develop interpretations about works of art and explain negative or positive comments while respecting the views of others | (2, 3, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§961. Benchmarks 9-12**

A. In grades 9-12, what students should know and be able to do includes:

| | | |
|---|---|---|
| CA-4VA-H1 | Translate knowledge of the design elements and principles to communicate individual ideas | (1, 2, 3) |
| CA-4VA-H2 | Work individually and/or collectively to compare and contrast symbols and images in the visual arts within historical periods and in other core curricula | (2, 3, 4) |
| CA-4VA-H3 | Compare and contrast the processes, subjects, and media of the visual arts | (2, 3) |
| CA-4VA-H4 | Analyze how specific works are created and how they relate to cultures and to historical periods | (1, 2, 3, 4) |
| CA-4VA-H5 | Select and analyze a work of art and give a personal interpretation of that work based on information researched | (2, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

**§963. Critical Analysis C Grade Cluster**

| Grade Cluster | K–4 | 5–8 | 9–12 |
|---|---|---|---|
| Benchmark 1 | View works of art, express an opinion, and justify individual viewpoints; (1, 2, 3) | Observe works of art and describe through visual, verbal, or written avenues how artists use the design elements and principles; (1, 2, 3) | Translate knowledge of the design elements and principles to communicate individual ideas; (1, 2, 3) |
| Benchmark 2 | Work individually and/or collectively to identify symbols and images in art and other core curricula; (2, 3, 5) | Work individually and/or collectively to analyze/interpret symbols and images for meaning, purpose, and value in art and other core curricula; (2, 3, 5) | Work individually and/or collectively to compare and contrast symbols and images in the visual arts within historical periods and in other core curricula; (2, 3, 4) |
| Benchmark 3 | Identify works of art by media, subject matter, and culture; (2, 3) | Classify the style, period, media, and culture in works of art; (2, 3) | Compare and contrast the processes, subjects, and media of the visual arts; (2, 3) |
| Benchmark 4 | Relate individual and collective knowledge and experiences to works of art in forming opinions; (1, 2, 3, 4) | Discuss how culture influences artists' use of media, subject matter, symbols, and themes in relation to works of art; (1, 2, 3, 4) | Analyze how specific works are created and how they relate to cultures and to historical periods; (1, 2, 3, 4) |
| Benchmark 5 | Express personal feelings or interpretations about works of art and explain negative or positive comments. (1, 2) | Develop interpretations about works of art and explain negative or positive comments while respecting the views of others. (2, 3, 5) | Select and analyze a work of art and give a personal interpretation of that work based on information researched. (2, 5) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 24:296 (February 1998), amended LR 28:

Interested persons may submit comments until 4:30 p.m., May 9, 2002, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 1963C Louisiana State Arts Content Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of changes will cost the State Department of Education $12,615. The items included in this cost are formatting the document ($250), codification of the document ($1,725), running the document in the *Louisiana Register* ($9,936), publication of the document ($554), and dissemination of the document ($150).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

| | |
|---|---|
| Marlyn J. Langley | H. Gordon Monk |
| Deputy Superintendent | Staff Director |
| Management and Finance | Legislative Fiscal Office |

0203#049

## NOTICE OF INTENT

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

Control of Emission of Organic Compounds
Calcasieu Parish (LAC 33:III.Chapter 21)(AQ219A)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2103, 2104, 2115, 2122, 2123, 2125, 2143, and 2153 (Log #AQ219A).

Proposed rule AQ219 was previously published in the *Louisiana Register* on July 20, 2001, and affected the parishes of Beauregard, Calcasieu, Cameron, and Jefferson Davis. Upon further evaluation of air quality monitoring data for the area, and after review and consideration of comments received, AQ219 was withdrawn on October 20, 2001. The rule being proposed by this rulemaking, AQ219A, is applicable to Calcasieu Parish only and addresses comments received on the previous proposed rule. This rule is also being proposed as a revision to the Louisiana State Implementation Plan (SIP).

This proposed rule revision affects Calcasieu Parish by lowering applicability thresholds in selected sections of Chapter 21. These sections regulate storage of volatile organic compounds, crude oil and condensate, waste gas disposal, fugitive emission control for ozone nonattainment areas, organic solvents, vapor degreasers, graphic arts (printing) by rotogravure and flexographic processes, and VOC emissions from wastewater. The broad effect of the rule will be to bring under the enforcement umbrella some smaller facilities that were covered at a higher threshold. Calcasieu Parish experienced ozone exceedance days during the years 1998, 1999, and 2000. Four or more exceedances during any consecutive three-year period constitute a violation of the ozone National Ambient Air Quality Standard (NAAQS). In accordance with activated contingency measures established in the approved air quality Maintenance Plan for Calcasieu Parish, a control strategy must be developed and appropriate control measures implemented in an effort to maintain Calcasieu's current attainment designation and to protect air quality in the area. The basis and rationale for this proposed rule are to continue achieving compliance with the NAAQS for ozone in Calcasieu Parish to protect the air quality of the state of Louisiana.

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

**Title 33**
**ENVIRONMENTAL QUALITY**
**Part III. Air**
**Chapter 21. Control of Emission of Organic Compounds**
**Subchapter A. General**
**§2103. Storage of Volatile Organic Compounds**

A. - D.4.d. …

E. Vapor Loss Control System. A vapor loss control system consists of a gathering system capable of collecting the volatile organic compound (VOC) vapors and a vapor disposal system capable of processing such organic vapors. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

1. The vapor loss control system shall reduce inlet emissions of total volatile organic compounds by 95 percent or greater.

2. Nothwithstanding Paragraph E.1 of this Section, if the vapor loss control system was installed on or before December 31, 1992, then the vapor loss control system shall reduce inlet emissions of total volatile organic compounds by 90 percent or greater.

3. The specifications and requirements in Paragraph E.1 or 2 of this Section do not apply during periods of planned routine maintenance. Periods of planned routine maintenance of the vapor loss control system, during which

the vapor loss control system does not meet the specifications of Paragraph E.1 or 2 of this Section, as applicable, shall not exceed 240 hours per year.

F. - I.6. …

7. records of planned routine maintenance performed on the vapor loss control system, including the duration of each time the vapor loss control system does not meet the specifications of Paragraph E.1 or 2 of this Section, as applicable, due to the planned routine maintenance. Such records shall include the information specified as follows:

a. the first time of day and date the requirements of Subsection E of this Section were not met, at the beginning of the planned routine maintenance; and

b. the first time of day and date the requirements of Subsection E of this Section were met, at the conclusion of the planned routine maintenance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), repromulgated LR 16:27 (January 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 28:

**§2104. Crude Oil and Condensate**

A. Applicability. This Section applies to any oil and gas production facility (SIC Code 1311), natural gas processing plant (SIC Code 1321), or natural gas transmission facility (SIC Code 4922) that has a potential to emit more than 50 Tons Per Year (TPY) of flash gas to the atmosphere in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, and West Baton Rouge or more than 100 TPY of flash gas to the atmosphere in any other parish.

B. - C.1. …

2. For facilities in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, and West Baton Rouge with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent or reduced to a potential to emit of less than 50 TPY.

3. For facilities in parishes other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, and West Baton Rouge with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent, or reduced to a potential to emit of less than 100 TPY.

D. - D.3. …

E. Compliance Schedule. For equipment located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, compliance shall be achieved as soon as practicable, but no later than September 1, 1998. For equipment located in the parish of Calcasieu with a potential to emit less than 100 TPY, compliance shall be achieved as soon as practicable, but no later than [date to be inserted one year from promulgation]. For all other facilities compliance shall be achieved as soon as practicable, but no later than May 1, 1999.

F. - G.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1497 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§2115. Waste Gas Disposal**

Any waste gas stream containing VOCs from any emission source shall be controlled by one or more of the applicable methods set forth in Subsections A-G of this Section. This Section shall apply to all waste gas streams located at facilities that have the potential to emit 50 TPY or more of VOCs in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, or 100 TPY or more of VOCs in any other parish. This Section does not apply to waste gas streams that must comply with a control requirement, meet an exemption, or are below an applicability threshold specified in another section of this Chapter. This Section does not apply to waste gas streams that are required by another federal or state regulation to implement controls that reduce VOCs to a more stringent standard than would be required by this Section.

A. - H.1. …

a. it can be demonstrated that the waste gas stream is not a part of a facility that emits, or has the potential to emit, 50 TPY or more of VOCs in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge or 100 TPY or more of VOCs in any other parish;

H.1.b. - I.5. …

J. Compliance. All facilities affected by this Section shall be in compliance as soon as practicable but in no event later than [date to be inserted one year from promulgation].

J.1. - M. Waste Gas Stream …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:960 (November 1990), LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 19:317 (March 1993), LR 22:1212 (December 1996), LR 24:21 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§2122. Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes**

A. - A.1. …

2. This Section is applicable to sources in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge.

3. The requirements of this Section shall be effective for sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge starting January 1, 1996.

4. The requirements of this Section shall be effective for sources located in the parish of Calcasieu starting January 1, 2003.

5. When the provisions of this Section are effective, process units to which this Section applies that are also

subject to the provisions of LAC 33:III.2121 will not be required to comply with the provisions of LAC 33:III.2121.

A.6. - G.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:

**Subchapter B. Organic Solvents**

**§2123. Organic Solvents**

A. - D.5. …

6. Surface coating facilities on any property in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes that when controlled have a potential to emit, at maximum production, a combined weight (total from the property) of VOCs less than 10 tons in any consecutive 12 calendar months are exempt from the provisions of Subsection C of this Section. Surface coating facilities on any property in parishes other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge that when uncontrolled have a potential to emit a combined weight of VOCs less than 100 pounds (45 kilograms) in any consecutive 24-hour period are exempt from the provisions of Subsection C of this Section.

D.7. - G.. Repair and Maintenance Thermoplastic Coating …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:2453 (November 2000), LR:28

**Subchapter C. Vapor Degreasers**

**§2125. Vapor Degreasers**

A. - C.2.j. …

D. Exemptions. Except as required in this Subsection, a vapor degreaser emitting 100 pounds (45 kilograms) or less of VOCs in any consecutive 24-hour period (uncontrolled) is exempt from the provisions of this Section provided the total emissions from all the vapor degreasers at the facility combined are less than 100 tons/year of VOCs, uncontrolled. If these two conditions are not met, the provisions of this Section must apply. For Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes, the requirements of this Section apply to all solvent metal cleaners, except as stated in this Subsection.

D.1. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:962 (November 1990), LR 18:1122 (October 1992), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR:28

**Subchapter H. Graphic Arts**

**§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes**

A. Control Requirements. No person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, or flexographic printing facility having a potential to emit 50 TPY or more of VOCs in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, or having a potential to emit 100 TPY or more of VOCs in any other parish, unless VOC emissions are controlled by one of the methods in Paragraphs A.1-5 of this Section. Once a facility is subject to the provisions of this Section, it remains so regardless of future variations in production.

A.1. - 5. …

B. Applicability Exemption. A rotogravure or flexographic printing facility that has the potential to emit, at full production (8760 hours per year basis), a combined weight of VOCs of less than 50 TPY (in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge) or 100 TPY (in any other parish), calculated from historical records of actual consumption of ink, is exempt from the provisions of Subsections A and C of this Section and need only comply with Subsection D of this Section.

C. - D.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 28:

**Subchapter M. Limiting Volatile Organic Compound Emissions From Industrial Wastewater**

**§2153. Limiting VOC Emissions From Industrial Wastewater**

A. - H.5. …

I. Parishes and Compliance Schedules. For the affected facilities in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes, any person who is the owner or operator of an affected source category within a plant shall be in compliance with these regulations no later than November 15, 1996. If an additional affected VOC wastewater stream is generated as a result of a process change, the wastewater shall be in compliance with this Section upon initial startup or by November 15, 1998, whichever is later, unless the owner or operator demonstrates to the administrative authority* that achieving compliance will take longer. If this demonstration is satisfactory to the administrative authority*, compliance shall be achieved as expeditiously as

practicable, but in no event later than three years after the process change. An existing wastewater stream that becomes an affected VOC wastewater stream due to a process change must be in compliance with this Section as expeditiously as practicable, but in no event later than three years after the process change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:

A public hearing on the proposed rule and the SIP revision will be held on April 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by AQ219A. Such comments must be received no later than May 1, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to patsyd@deq.state.la.us. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ219A.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at http://www.deq.state.la.us/ planning/regs/index.htm.

James H. Brent, Ph.D.
Assistant Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Control of Emission of Organic Compounds C Calcasieu Parish

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The exact impact this rule will have on a facility will vary. Many of these facilities are already regulated by the federal SOCMI (Synthetic Organic Chemical Manufacturing Industry) regulations or by federal or state MACT (Maximum Achievable Control Technology) regulations, so the proposed rule will have no effect at all.

In the case of the Fugitive Emissions control rule, those directly affected facilities are already required to perform regular monitoring. The proposed rule will not change monitoring intervals, only the enforcement threshold. When leaks are discovered they are generally fixed regardless of the regulatory threshold because leakage represents waste (monetary loss) and can potentially create a toxic situation or result in a fire hazard.

The department does not have information on the number or percent of facilities that will be affected by the proposed rule. However, the department believes that, on the whole, compliance costs will not be excessive. No other cost information is available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition since all facilities must follow the same rules. There is no estimated effect on employment.

| | |
|---|---|
| James H. Brent, Ph.D. | Robert E. Hosse |
| Assistant Secretary | General Government Section Director |
| 0203#039 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Environmental Quality
### Office of Environmental Assessment

Control of Emissions of Nitrogen Oxides ($NO_x$)
(LAC 33:III.2201)(AQ224)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2201 (Log #AQ224).

This proposed revision of LAC 33:III.Chapter 22, Control of Emissions of Nitrogen Oxides, lowers the regulatory threshold for lean-burn internal combustion engines in the Baton Rouge Nonattainment Area from 1500 to 320 horsepower. The proposed rule also revises the definitions for *peaking service* and *cap* and ensures that the allowance trading program is consistent with LAC 33:III.605 and 607. The regulatory threshold for lean-burn internal combustion engines located in the Baton Rouge Nonattainment Area is being revised in order to meet Reasonably Available Control Technology (RACT) requirements for $NO_x$ emissions in the ozone nonattainment parishes. This rule is also being proposed as a revision to the Louisiana State Implementation Plan (SIP). The basis and rationale for this proposed rule are to protect air quality in Louisiana and to comply with the NAAQS for ozone.

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

**Title 33**
**ENVIRONMENTAL QUALITY**
**Part III. Air**

**Chapter 22. Control of Emissions of Nitrogen Oxides ($NO_x$)**

**§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence**

A. - A.3. …

B. Definitions. Unless specifically defined in this Subsection or in LAC 33:III.111 or 502, the words, terms, and abbreviations in this Chapter shall have the meanings commonly used in the field of air pollution control. For purposes of this Chapter only, the following definitions shall supersede any definitions in LAC 33:III.111 or 502.

* * *

*Cap***C**a system for demonstrating compliance whereby an affected facility, a subset of affected sources at an affected facility, or a group of affected facilities under common control are operated to stay below a mass emission rate expressed as mass per unit of time. The allowable mass emission rate is calculated by adding the allowable emissions for each affected point source. The allowable emission is the product of the source's average hourly heat input in MMBtu/hour (not to exceed any applicable permit limitations) based on the highest consecutive 30-day period during the ozone seasons of 2000 and 2001 and the applicable factor in Paragraph D.1 of this Section.

* * *

*Peaking Service***C**a stationary gas turbine that is operated intermittently to produce energy. To be in peaking service, the annual electric output (MW-hour) for the affected point source shall be less than the product of 2500 hours and the MW rating of the turbine.

* * *

*Trading Allowances*—the tons of $NO_x$ emissions that result from over-controlling, permanently reducing the operating rate of, or permanently shutting down, an affected point source located within the Baton Rouge Nonattainment Area or the Region of Influence. The allowances are determined in accordance with LAC 33:III.607.C and from the emission factors required by Subsection D of this Section for the affected point source and the enforceable emission factor assigned by the owner or operator in accordance with Subsection E of this Section. Baseline emissions shall be the lower of actual emissions or adjusted allowable emissions, as defined in LAC 33:III.605. Trading allowances will be granted only for reductions that are real, quantifiable, permanent, and federally enforceable. $NO_x$ reductions that are used in a facility-wide averaging plan cannot also be used in a trading plan.

* * *

C. - C.3. …

a. rich-burn engines with a rating of less than 300 horsepower (Hp);

b. lean-burn engines with a rating of less than 320 Hp in the Baton Rouge Nonattainment Area; and

c. lean-burn engines with a rating of less than 1500 Hp in the Region of Influence;

C.4. - 20. …

D. Emission Factors

1. The following table lists $NO_x$ emission factors that shall apply to affected point sources located at affected facilities in the Baton Rouge Nonattainment Area or the Region of Influence:

| $NO_x$ Emission Factors | | |
|---|---|---|
| **Category** | **Maximum Rated Capacity** | **NOx Emission Factor[a]** |
| Electric Power Generating System Boilers: | | |
| Coal-fired | >/= 80 MMBtu/Hour | 0.21 pound/MMBtu |
| Number 6 Fuel Oil-fired | >/= 80 MMBtu/Hour | 0.18 pound/MMBtu |
| All Others (gaseous or liquid) | >/= 80 MMBtu/Hour | 0.10 pound/MMBtu |
| Industrial Boilers | >/= 80 MMBtu/Hour | 0.10 pound/MMBtu |
| Process Heater/Furnaces: | | |
| Ammonia Reformers | >/= 80 MMBtu/Hour | 0.23 pound/MMBtu |
| All Others | >/= 80 MMBtu/Hour | 0.08 pound/MMBtu |
| Stationary Gas Turbines: | | |
| Peaking Service, Fuel Oil-fired | >/= 10 MW | 0.30 pound/MMBtu |
| Peaking Service, Gas-fired | >/= 10 MW | 0.20 pound/MMBtu |
| All Others | >/= 10 MW | 0.16 pound/MMBtu[b] |
| Stationary Internal Combustion Engines: | | |
| Lean-burn (Region of Influence) | >/= 1500 Hp | 4g/Hp-hour |
| Lean-burn (Baton Rouge Nonattainment Area) | >/= 320 Hp | 4g/Hp-hour |
| Rich-burn | >/= 300 Hp | 2g/Hp-hour |

[a] all factors are based on the higher heating value of the fuel.
[b] equivalent to 42 ppmv (15 percent $O_2$, dry basis) with an F factor of 8710 dscf/MMBtu.

D.2. - 2.c. …

3. For affected point sources in an electric power generating system, the emission factors from Subsection D of this Section shall apply as the mass of $NO_x$ emitted per unit of heat input (pound $NO_x$ per MMBtu), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a ton per day or a pound per hour cap provided that monitoring is installed, calibrated, maintained, and

operated to demonstrate compliance with the cap. The cap for a facility or for multiple facilities under common control is calculated by adding the products of the factor from Paragraph D.1 of this Section and the average hourly heat input in MMBtu/hour (not to exceed any applicable permit limitations) based on the highest consecutive 30-day period during the ozone seasons of 2000 and 2001 for each affected point source as follows:

Equation D-1

$$Cap\ (tpd) = 0.012\ X \sum_{i=1}^{N} (R_{li}\ x\ HI_i)$$

Where:

$HI_i$ = the average hourly heat input based on the highest consecutive 30-day period during the ozone seasons of 2000 and 2001 of each point source (MMBtu/hour)

I = each point source included in the cap

N = the total number of point sources included in the cap

$R_{li}$ = the limit for each point source from Subsection D of this Section (pound $NO_x$/MMBtu)

4. For all other affected point sources, the emission factors from Subsection D of this Section shall apply as the mass of $NO_x$ emitted per unit of heat input (pound $NO_x$ per MMBtu), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a cap as detailed in Paragraph D.3 of this Section provided a system, approved by the department, is installed, calibrated, maintained, and operated to demonstrate compliance.

D.5. - 9. …

E. Alternative Plans

1. Facility-Wide Averaging Plan. A facility-wide averaging plan is established in this Chapter for single affected facilities and multiple affected facilities that are owned or operated by the same entity. For sources located within the Baton Rouge Nonattainment Area or the Region of Influence, an owner or operator of one or more affected facilities may use the facility-wide averaging plan as an alternative means of compliance with the emission factors from Subsection D of this Section. A request for approval to use a facility-wide averaging plan, that includes the details of the plan, shall be submitted to the department either separately or with the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. A facility-wide averaging plan submitted under this provision shall be approved if the department determines that it will provide emission reductions equivalent to or more than that required by the emission factors in Subsection D of this Section and the plan establishes satisfactory means for determining initial and continuous compliance, including appropriate monitoring and recordkeeping requirements. Approval of the alternative plans by the administrative authority does not necessarily indicate automatic approval by the administrator.

E.1.a. …

b. An owner or operator of an electric power generating system that chooses to use an averaging plan shall demonstrate compliance by either of the following methods:

E.1.b.i. - ii. …

c. Owners or operators of all other affected point sources that choose to use an averaging plan shall demonstrate compliance by either of the following methods:

i. operating such that each affected point source does not exceed its assigned individual limit in pound $NO_x$/MMBtu on a 30-day rolling average basis; or

ii. complying with a cap as described in Paragraph D.3 of this Section, provided a system, approved by the department, is installed, calibrated, maintained, and operated to demonstrate compliance with the cap.

E.1.d. - i. …

2. Trading Plan. Trading is established in this Chapter as an alternate means of compliance with the emission factors from Subsection D of this Section. Within the Baton Rouge Nonattainment Area and the Region of Influence, trading allowances, as defined in Subsection B of this Section, may be traded between affected facilities owned by different companies in a manner consistent with LAC 33:III.617.C.3. The approval to use trading shall be requested in the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. A trading plan submitted under this provision shall be approved if the department determines that it will provide $NO_x$ emission reductions equivalent to or more than that required by the emission factors of Subsection D of this Section and the plan establishes satisfactory means for determining ongoing compliance, including appropriate monitoring and recordkeeping requirements. Approval of trading plans by the administrative authority does not necessarily indicate automatic approval of the administrator.

F. - H.3.b.vi. …

4. The owner or operator of stationary internal combustion engines that are subject to this Chapter shall demonstrate continuous compliance as follows:

H.4.a. - J.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), amended LR 28:

A public hearing on the proposed rule and the SIP revision will be held on April 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by AQ224. Such comments must be received no later than May 1, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to patsyd@deq.state.la.us. Copies of this proposed regulation can be purchased at the above referenced address. Contact

the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ224.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at http://www.deq.state.la.us/ planning/regs/index.htm.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Control Of Emissions of Nitrogen Oxides ($NO_x$)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no known implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

DEQ collects an annual fee of $9.72 per ton of NOx emissions. The proposed revision to Chapter 22 is expected to reduce these emissions by up to 440 tons per year, consequently reducing state fee collections by a maximum of $4,277 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated costs for implementing this revision to Chapter 22 should not exceed $440,000, although they could be considerably lower. The department does not have precise cost information. Estimates utilize cost factors from the NESCAUM (Northeast States for Coordinated Air Use Management) publication *Status Report on NOx Controls* dated December 2000. Additionally, there will be annual operating and maintenance costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The expected impact on competition and employment is believed to be minimal since the proposed revision primarily lowers the regulatory threshold for lean-burn, internal combustion engines in the Baton Rouge Nonattainment Area (parishes of Ascension, East Baton Rouge, Iberville, Livingston and West Baton Rouge). The department knows of only 5 engines at 2 facilities that will be directly affected by the rule revision.

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|---|---|
| James H. Brent, Ph.D. | Robert E. Hosse |
| Assistant Secretary | General Government Section Director |
| 0203#040 | Legislative Fiscal Office |

**NOTICE OF INTENT**

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

Incorporation by Reference©2001
(LAC 33:I.3931; 33:III.507, 1432, 3003, 5116, 5122, 5211; 33:V.Chapter 30.Appendices A-L; 33:IX.2301, 2531, 2533; 33:XV.1517)(OS043*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Environmental Quality regulations, LAC 33:I.3931; 33:III.507, 1432, 3003, 5116, 5122, and 5311; 33:V.Chapter 30.Appendices A-L; 33:IX.2301, 2531, and 2533; and 33:XV.1517 (Log #OS043*).

This proposed rule is identical to federal regulations found in 10 CFR 71, 7/1/2001; 40 CFR 60, 61, 63, 70.6, 93, 117.3, 122.29, 136, 266.Appendices A-M, 302.4, 401, and 405-471, 7/1/2001, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

This proposed rule incorporates by reference into LAC 33:I, III, V, IX, and XV the corresponding regulations in 10 CFR 71 and 40 CFR Parts 60, 61, 63, 70.6, 93, 117.3, 122.29, 136, 144.63, 266, 302.4, 401, and 405-471, July 1, 2001. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC.

On March 5, 2002, EPA adopted revisions to Sections 112(g) and 112(j) of the Clean Air Act Amendments of 1990. The rule is titled, "National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)." In effect, the requirement to submit a Title V permit application on May 15, 2002, for any facility whose source category Part 63 (MACT) Rule has not been promulgated by May, 15, 2002, is revised to a requirement to submit a Part 1 Permit Application. A Fact Sheet that includes the web address for the newly promulgated rule may be found at the following web address: http://www.epa.gov/ttn/oarpg/t3/fact_sheets /gprctd_fs.pdf. This federal rule is being incorporated by reference in this proposed rule (OS043*). The publication date and citation of the *Federal Register* containing this EPA rule will be inserted when it becomes available.

This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This

incorporation by reference package is being proposed to keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this proposed rule are to mirror the federal regulations in order to maintain equivalency.

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

**Title 33**
**ENVIRONMENTAL QUALITY**
**Part I. Office of the Secretary**
**Subpart 2. Notification**

**Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges**

**Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges**

**§3931. Reportable Quantity List for Pollutants**

A. …

1. 40 CFR 117.3 (7-1-01 Edition) Table 117.3-Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

2. 40 CFR 302.4 (7-1-01 Edition) Table 302.4-List of Hazardous Substances and Reportable Quantities; Appendix A to §302.4-Sequential CAS Registry Number List of CERCLA Hazardous Substances.

B. - Note @. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:

**Part III. Air**

**Chapter 5. Permit Procedures**

**§507. Part 70 Operating Permits Program**

A. - B.1. …

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The Louisiana Department of Environmental Quality hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), as in effect on July 1, 2001. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:

**Chapter 14. Conformity**

**Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act**

**§1432. Incorporation by Reference**

A. 40 CFR Part 93, Subpart A, July 1, 2001, is hereby incorporated by reference with the exclusion of Section 105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:1280 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:

**Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

**Subchapter A. Incorporation by Reference (IBR)**

**§3003. IBR 40 *Code of Federal Regulations* (CFR) Part 60**

A. Except as modified in this Section, regulations at 40 CFR Part 60, as revised July 1, 2001, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the State of Louisiana.

Table 1 - Table 1.A. …

B. Corrective modification and clarification are made as follows.

1. Whenever the referenced regulations (i.e., 40 CFR Part 60) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 60) to be provided to "the Administrator" shall be provided to the Office of Environmental Assessment, Environmental Technology Division where the state is designated authority by EPA as "the Administrator" or shall be provided to the Office of Environmental Assessment, Environmental Technology Division and EPA where EPA retains authority as "the Administrator."

2. 40 CFR Part 60 Subpart A, Section 60.4 (b)(T) shall be modified to read as follows: State of Louisiana: Office of Environmental Assessment, Environmental Technology Division, Department of Environmental Quality.

3. The availability to the public of information provided to or otherwise obtained by the state under this Chapter shall be governed by LAC 33:I.501-509.

4. Clarification of MSW landfill milestones are as follows: design plans are due on or before January 28, 1999; awarding of contracts is due on or before June 28, 1999; initiation of on-site construction is due on or before September 28, 1999; initial performance test is to be completed on or before March 28, 2000; and final compliance is due on or before April 28, 2000.

5. The department's Section 111(d) emission guideline plan for Hospital/Medical/Infectious Waste Incinerators includes the following CFR citations: 40 CFR 60.30, 60.30(e), 60.31(e), 60.32(e), 60.33(e), 60.35(e), 60.36(e), 60.37(e), 60.38(e), and 60.39(e). Until the department has a mechanism to approve training programs in compliance with 40 CFR 60.34(e), the department accepts accreditation approved by other states complying with 40 CFR 60.34(e).

C. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000), LR 26:2460 (November 2000), LR 26:2608 (November 2000), LR 27:2229 (December 2001), LR 28:

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

**§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR Part 61, dated July 1, 2001, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the state of Louisiana.

| 40 CFR 61 | Subpart/Appendix Heading |
|---|---|
| * * * | |
| [See Prior Text in Subpart A - Appendix C] | |

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), LR 23:1658 (December 1997), amended LR 24:1278 (July 1998), LR 25:1464 (August 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:

**Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR Part 63, dated July 1, 2001, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference is EPA rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)," promulgated on March 5, 2002, and as published in the *Federal Register* at [publication date and citation to be inserted].

| 40 CFR 63 | Subpart/Appendix Heading |
|---|---|
| * * * | |
| [See Prior Text in Subpart A - Appendix D] | |

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:1464 (August 1999) LR 25:1798 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:

**Chapter 53. Area Sources of Toxic Air Pollutants**

**Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

**§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR Part 63, dated July 1, 2001, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

| 40 CFR 63 | Subpart/Appendix Heading |
|---|---|
| * * * | |
| [See Prior Text in Subpart A - Subpart X] | |

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), LR 25:1464 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2230 (December 2001), LR 28:

**Part V. Hazardous Waste and Hazardous Materials**

**Subpart 1. Department of Environmental QualityC Hazardous Waste**

**Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces**

**Appendices**

**Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals**

A. 40 CFR 266, Appendix I, July 1, 2001, is hereby incorporated by reference.

**Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine**

A. 40 CFR 266, Appendix II, July 1, 2001, is hereby incorporated by reference.

**Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride**

A. 40 CFR 266, Appendix III, July 1, 2001, is hereby incorporated by reference.

**Appendix D. Reference Air Concentrations**

A. 40 CFR 266, Appendix IV, July 1, 2001, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105.Table 1 and Appendix E of this Chapter, respectively.

**Appendix E. Risk Specific Doses ($10^{-5}$)**

A. 40 CFR 266, Appendix V, July 1, 2001, is hereby incorporated by reference.

**Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]**

A. 40 CFR 266, Appendix VI, July 1, 2001, is hereby incorporated by reference.

**Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues**

A. 40 CFR 266, Appendix VII, July 1, 2001, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105.Table 1, 3025.B.1 and B.2.a, and Chapter 22.Table 2, respectively.

**Appendix H. Organic Compounds for Which Residues Must be Analyzed**

A. 40 CFR 266, Appendix VIII, July 1, 2001, is hereby incorporated by reference.

**Appendix I. Methods Manual for Compliance with the BIF Regulations**

A. 40 CFR 266, Appendix IX, July 1, 2001, is hereby incorporated by reference, except as follows.

A.1. - B. …

**Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters**

A. 40 CFR 266, Appendix XI, July 1, 2001, is hereby incorporated by reference.

**Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces**

A. 40 CFR 266, Appendix XII, July 1, 2001, is hereby incorporated by reference, except that the footnote should be deleted.

**Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units**

A. 40 CFR 266, Appendix XIII, July 1, 2001, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105.Table 1.

**Part IX. Water Quality**

**Chapter 23. The LPDES Program**

**Subchapter A. Definitions and General Program Requirements**

**§2301. General Conditions**

A. - E. …

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter (e.g., 40 CFR 122.29) shall refer to those regulations published in the July 1, 2001 *Code of Federal Regulations*, unless otherwise noted.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:

**§2531. 40 CFR Part 136**

A. Title 40 (Protection of the Environment) *Code of Federal Regulations* (CFR) Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, revised July 1, 2001, in its entirety.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:

**§2533. 40 CFR Chapter I, Subchapter N**

A. Title 40 (Protection of the Environment) CFR, Chapter I, Subchapter N (Effluent Guidelines and Standards), revised July 1, 2001, Parts 401 and Parts 405-471 in their entirety.

NOTE: General Pretreatment Regulations for Existing and New Sources of Pollution found in Part 403 of Subchapter N have been included in these regulations as Subchapter T.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:

## Part XV. Radiation Protection

### Chapter 15. Transportation of Radioactive Material

### §1517. Incorporation by Reference

A. The department incorporates by reference 10 CFR Part 71, Appendix A (July 1, 2001).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), LR 27:2233 (December 2001), LR 28:

A public hearing will be held on April 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by OS043*. Such comments must be received no later than April 24, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to patsyd@deq.state.la.us. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS043*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at http://www.deq.state.la.us/ planning/regs/index.htm.

James H. Brent, Ph.D.
Assistant Secretary

0203#042

## NOTICE OF INTENT

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

RCRA XI Authorization
(LAC 33:V.Chapters 1, 3, 22, 31, 42, and 49)(HW080*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.109, 321, 2213, 2215, 2236, Chapter 22.Appendix.Tables 2, 7, 9, and 11, 3105, 4201-4243, 4901, and 4909 (Log #HW080*).

This proposed rule is identical to federal regulations found in 65 FR 42292-42302, July 10, 2000; 65 FR 67068-67133, November 8, 2000; 65 FR 81373-81381, December 26, 2000; 66 FR 24270-24272, May 14, 2001; 66 FR 27218-27266 and 27266-27297, May 16, 2001; and 66 FR 35087-35107, October 16, 2001, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

This proposed rule includes changes to the Hazardous Waste regulations on the following topics that are required by the Environmental Protection Agency for continued authorization of the RCRA program in the state of Louisiana: NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities; Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil; Storage, Treatment, and Disposal of Mixed Waste; and Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived From Rules. The basis and rationale for this rule are to mirror the federal regulations.

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

## Title 33
## ENVIRONMENTAL QUALITY
### Part V. Hazardous Waste and Hazardous Materials
### Subpart 1. Department of Environmental Quality—Hazardous Waste

### Chapter 1. General Provisions and Definitions

### §109. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

* * *

*Hazardous Waste*—a solid waste, as defined in this Section, is a hazardous waste if:

1. - 2.b. …

c. it is a mixture of solid waste and one or more hazardous wastes listed in LAC 33:V.4901 and has not been excluded from Paragraph 2 or Subparagraphs 4.f and g of this definition under LAC 33:V.105.D and M; however, the following mixtures of solid wastes and hazardous wastes listed in LAC 33:V.4901 are not hazardous wastes (except by application of Subparagraph 2.a or b of this definition) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is subject to regulation

under either Section 402 or Section 307(b) of the Clean Water Act (including wastewater at facilities that have eliminated the discharge of wastewater) and:

i. one or more of the following solvents listed in LAC 33:V.4901.B, carbon tetrachloride, tetrachloroethylene, trichloro-ethylene, provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed one part per million; or

ii. one or more of the following spent solvents listed in LAC 33:V.4901.B, methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents, provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million; or

iii. one of the following wastes listed in LAC 33:V.4901.C, provided that the wastes are discharged to the refinery oil recovery sewer before primary oil/water/solids separation, heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste Number K050), crude oil storage tank sediment from petroleum refining operations (EPA Hazardous Waste Number K169), clarified slurry oil tank sediment and/or in-line filter/separation solids from petroleum refining operations (EPA Hazardous Waste Number K170), spent hydrotreating catalyst (EPA Hazardous Waste Number K171), and spent hydrorefining catalyst (EPA Hazardous Waste Number K172); or

iv. a discarded commercial chemical product or chemical intermediate listed in LAC 33:V.4901.D and E arising from de minimis losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process. For purposes of this Clause, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers rendered empty by that rinsing; or

v. wastewater resulting from laboratory operations containing toxic (T) wastes listed in LAC 33:V.4901, provided that the annualized average flow of laboratory wastewater does not exceed 1 percent of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system, or provided the wastes' combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation; or

vi. one or more of the following wastes listed in LAC 33:V.4901.C, wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157), provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or are recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five parts per million by weight; or

vii. wastewaters derived from the treatment of one or more of the following wastes listed in LAC 33:V.4901.C, organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156), provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five milligrams per liter; and

d. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by using an analytical method from LAC 33:V.Chapter 49.Appendix A to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105.Table 1).

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed.

ii. The rebuttable presumption does not apply to used oils contaminated with Chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

3. - 4.e. …

f. A hazardous waste that is listed in LAC 33:V.4901 solely because it exhibits one or more characteristics of ignitability as defined under LAC 33:V.4903.B, corrosivity as defined under LAC 33:V.4903.C, or reactivity as defined under LAC 33:V.4903.D is not a hazardous waste if the waste no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.4903. The exclusion also pertains to any mixture of a solid waste and a hazardous waste listed in LAC 33:V.4901 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under Subparagraph 2.c of this definition, and any solid waste

generated from treating, storing, or disposing of a hazardous waste listed in LAC 33:V.4901 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under Clause 4.b.i of this definition. Wastes excluded under this Subparagraph are subject to LAC 33:V.Chapter 22 (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.

g. Hazardous waste containing radioactive waste is no longer a hazardous waste when it meets the eligibility criteria and conditions of LAC 33:V.Chapter 42. This exemption also pertains to any mixture of a solid waste and an eligible radioactive mixed waste and any solid waste generated from treating, storing, or disposing of an eligible radioactive mixed waste. Waste exempted under this Subparagraph must meet the eligibility criteria and specified conditions in LAC 33:V.4205 and 4207 (for storage and treatment) and in LAC 33:V.4223 and 4225 (for transportation and disposal). Waste that fails to satisfy these eligibility criteria and conditions is regulated as hazardous waste.

5. - 6.b. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:

## Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

### §321. Modification of Permits

A. - C.10. …

a. Facility owners or operators must have complied with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210 that were in effect prior to May 14, 2001 (see 40 CFR 63, revised as of July 10, 2000) in order to request a permit modification under this Section.

C.10.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1691 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 28:

## Chapter 22. Prohibitions on Land Disposal

## Subchapter A. Land Disposal Restrictions

### §2213. Waste-Specific Prohibitions—Chlorinated Aliphatic Wastes

A. Effective May 8, 2001, the wastes specified in LAC 33:V.Chapter 49 as EPA Hazardous Waste Numbers K174 and K175, soil and debris contaminated with these wastes, radioactive wastes mixed with these wastes, and soil and debris contaminated with radioactive wastes mixed with these wastes are prohibited from land disposal.

B. The requirements of Subsection A of this Section do not apply if:

1. the wastes meet the applicable treatment standards specified in this Chapter;

2. persons have been granted an exemption from a prohibition in accordance with a petition under LAC 33:V.2241 or 2271, with respect to those wastes and units covered by the petition;

3. the wastes meet the applicable treatment standards established in accordance with a petition granted under LAC 33:V.2231;

4. hazardous debris has met the treatment standards in LAC 33:V.2223 or the alternative treatment standards in LAC 33:V.2230; or

5. persons have been granted an extension to the effective date of the prohibition granted in accordance with LAC 33:V.2239, with respect to the wastes covered by the extension.

C. To determine whether a hazardous waste identified in this Section exceeds the applicable treatment standards specified in LAC 33:V.2223, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable levels of LAC 33:V.2223, the waste is prohibited from land disposal and all requirements of this Chapter are applicable, except as otherwise specified.

D. Disposal of K175 wastes that have complied with all applicable LAC 33:V.2223 treatment standards must also be macroencapsulated in accordance with Table 8 of this Chapter, unless the waste is placed in:

1. a RCRA Subtitle C monofill containing only K175 wastes that meet all applicable LAC 33:V.2223 treatment standards; or

2. a dedicated RCRA Subtitle C landfill cell in which all other wastes being disposed are at a pH less than or equal to 6.0.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§2215. Waste Specific Prohibitions—Soils Exhibiting the Toxicity Characteristic for Metals and Containing PCBs**

A. Effective December 26, 2000, the following wastes are prohibited from land disposal: any volume of soils exhibiting the toxicity characteristic solely because of metals (D004-D011) and containing PCBs.

B. Requirements of Subsection A of this Section do not apply if:

1. the wastes contain halogenated organic compounds (see Table 9 of this Chapter) in total concentrations of less than 1,000 mg/kg and meet the treatment standards specified in LAC 33:V.2223 for EPA Hazardous Waste Numbers D004-D011, as applicable;

2. the wastes contain halogenated organic compounds in total concentrations of less than 1,000 mg/kg and meet the alternative treatment standards specified in LAC 33:V.2236 for contaminated soil;

3. persons have been granted an exemption from a prohibition in accordance with a petition under LAC 33:V.2241, with respect to those wastes and units covered by the petition; or

4. the wastes meet applicable alternative treatment standards established in accordance with a petition granted under LAC 33:V.2231.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§2236. Alternative Land Disposal Restriction (LDR) Treatment Standards for Contaminated Soil**

A. - C.3.b. …

D. Constituents Subject to Treatment. When applying the soil treatment standards in Subsection C of this Section, constituents subject to treatment are any constituents listed in Table 7 (Universal Treatment Standards) of this Chapter that are reasonably expected to be present in any given volume of contaminated soil, except fluoride, selenium, sulfides, vanadium, and zinc, and that are present at concentrations greater than 10 times the universal treatment standard. PCBs are not a constituent subject to treatment in any given volume of soil that exhibits the toxicity characteristic solely because of the presence of metals.

E. - E.2.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, LR 25:446 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 27:294 (March 2001), LR 28:

**Table 2. Treatment Standards for Hazardous Wastes**

| Waste Code | Waste Description and Treatment/Regulatory Subcategory[1] | Regulated Hazardous Constituent | | Wastewaters | Non-Wastewaters |
|---|---|---|---|---|---|
| | | Common Name | CAS[2] Number | Concentration in mg/l[3]; or Technology Code[4] | Concentration in mg/kg[5] unless noted as "mg/l TCLP" or Technology Code[4] |
| * * * [See Prior Text in D001-F038] | | | | | |
| F039 | Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under LAC 33:V.Subchapter A. (Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Wastes retains its EPA Hazardous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.). | * * * [See Prior Text in Acenaphthylene-Heptachlor epoxide] | | | |
| | | 1,2,3,4,6,7,8-Heptachorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD) | 35822-46-9 | 0.000035 | 0.0025 |
| | | 1,2,3,4,6,7,8-Heptachorodibenzofuran (1,2,3,4,6,7,8-HpCDF) | 67562-39-4 | 0.000035 | 0.0025 |
| | | 1,2,3,4,7,8,9-Heptachorodibenzofuran (1,2,3,4,7,8,9-HpCDF) | 55673-89-7 | 0.000035 | 0.0025 |
| | | * * * [See Prior Text in Hexachlorobenzene-N-Nitrosopyrrolidine] | | | |
| | | 1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD) | 3268-87-9 | 0.000063 | 0.005 |
| | | 1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF) | 39001-02-0 | 0.000063 | 0.005 |
| | | * * * [See Prior Text in Parathion-Vanadium] | | | |
| * * * [See Prior Text K001-K172] | | | | | |
| K174 | Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer. | 1,2,3,4,6,7,8-Heptachlorodibenzo-*p*-dioxin (1,2,3,4,6,7,8-HpCDD) | 35822-46-9 | 0.000035 or CMBST | 0.0025 or CMBST[11] |
| | | 1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF) | 67562-39-4 | 0.000035 or CMBST[11] | 0.0025 or CMBST[11] |
| | | 1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF) | 55673-89-7 | 0.000035 or CMBST[11] | 0.0025 or CMBST[11] |
| | | HxCDDs (All Hexachlorodibenzo-*p*-dioxins) | 34465-46-8 | 0.000063 or CMBST[11] | 0.001 or CMBST[11] |
| | | HxCDFs (All Hexachlorodibenzofurans) | 55684-94-1 | 0.000063 or CMBST[11] | 0.001 or CMBST[11] |
| | | 1,2,3,4,6,7,8,9-Octachlorodibenzo-*p*-dioxin (OCDD) | 3268-87-9 | 0.000063 or CMBST[11] | 0.005 or CMBST[11] |
| | | 1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF) | 39001-02-0 | 0.000063 or CMBST[11] | 0.005 or CMBST[11] |
| | | PeCDDs (All Pentachlordibenzo-*p*-dioxins | 36088-22-9 | 0.000063 or CMBST[11] | 0.001 or CMBST[11] |
| | | PeCDFs (All Pentachlorodibenzofurans | 30402-15-4 | 0.000035 or CMBST[11] | 0.001 or CMBST[11] |
| | | TCDDs (All Tetrachlorodibenzo-*p*-dioxins) | 41903-57-5 | 0.000063 or CMBST[11] | 0.001 or CMBST[11] |
| | | TCDFs (All Tetrachlorodibezofurans) | 55722-27-5 | 0.000063 or CMBST[11] | 0.001 or CMBST[11] |
| K175 | Wastewater treatment sludge from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process. | Arsenic | 7440-36-0 | 1.4 | 5.0 mg/L TCLP |
| | | Mercury[12] | 7438-97-6 | NA | 0.025 mg/L TCLP |
| | | PH[12] | | NA | pH=6.0 |
| | All K175 wastewaters | Mercury | 7438-97-6 | 0.15 | NA |
| * * * [See Prior Text in P001-U411] | | | | | |

Notes 1 - 11 …

[12]Disposal of K175 wastes that have complied with all applicable LAC 33:V.2223 treatment standards must also be macroencapsulated in accordance with Table 8 of this Chapter unless the waste is placed in: (1) a RCRA Subtitle C monofill containing only K175 wastes that meet all applicable LAC 33:V.2223 treatment standards; or (2) a dedicated RCRA Subtitle C landfill cell in which all other wastes being disposed are at a pH less than or equal to 6.0.

NOTE: NA means not applicable.

**Table 7. Universal Treatment Standards**

| Regulated Constituent-Common Name | CAS[1] Number | Wastewater Standard Concentration in mg/l[2] | Nonwastewater Standard Concentration in mg/kg[3] unless noted as "mg/l TCLP" |
|---|---|---|---|
| Organic Constituents | | | |
| * * * [See Prior Text in Acenaphthylene-Heptachlor epoxide] | | | |
| 1,2,3,4,6,7,8-Heptachorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD) | 35822-46-9 | 0.000035 | 0.0025 |
| 1,2,3,4,6,7,8-Heptachorodibenzofuran (1,2,3,4,6,7,8-HpCDF) | 67562-39-4 | 0.000035 | 0.0025 |
| 1,2,3,4,7,8,9-Heptachorodibenzofuran (1,2,3,4,7,8,9-HpCDF) | 55673-89-7 | 0.000035 | 0.0025 |
| * * * [See Prior Text in Hexochlorobenzene- N-Nitrosopyrrolidine] | | | |
| 1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD) | 3268-87-9 | 0.000063 | 0.005 |
| 1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF) | 39001-02-0 | 0.000063 | 0.005 |
| * * * [See Prior Text in Oxamyl[6] –Parathion] | | | |
| Total PCBs (sum of all PCB isomers, or all Arochlors)[8] | 1336-36-3 | 0.10 | 10 |
| * * * [See Prior Text in Pebulate[6] –Zinc[5]] | | | |

NOTE: Notes 1 - 7 …
[8]This standard is temporarily deferred for soil exhibiting a hazardous characteristic due to D004-D011 only.
NOTE: NA means not applicable.

## Table 9.

### List of Halogenated Organic Compounds (HOCs) Regulated under LAC 33:V.2215

In determining the concentration of HOCs in a hazardous waste for purposes of the LAC 33:V.2215 land disposal prohibition, EPA has defined the HOCs that must be included in a calculation as any compounds having a carbon-halogen bond that are listed in the table below.

**I. Volatiles**

1. Bromodichloromethane
2. Bromomethane
3. Carbon Tetrachloride
4. Chlorobenzene
5. 2-Chloro-1,3-butadiene
6. Chlorodibromomethane
7. Chloroethane
8. 2-Chloroethyl vinyl ether
9. Chloroform
10. Chloromethane
11. 3-Chloropropene
12. 1,2-Dibromo-3-chloropropane
13. 1,2-Dibromomethane
14. Dibromomethane
15. Trans-1,4-Dichloro-2-butene
16. Dichlorodifluoromethane
17. 1,1-Dichloroethane
18. 1,2-Dichloroethane
19. 1,1-Dichloroethylene
20. Trans-1,2-Dichloroethene
21. 1,2-Dichloropropane
22. Trans-1,3-Dichloropropene
23. cis-1,3-Dichloropropene
24. Iodomethane
25. Methylene chloride
26. 1,1,1,2-Tetrachloroethane
27. 1,1,2,2-Tetrachloroethane
28. Tetrachloroethene
29. Tribromomethane
30. 1,1,1-Trichloroethane
31. 1,1,2-Trichloroethane
32. Trichlorothene
33. Trichloromonofluoromethane
34. 1,2,3-Thrichloropropane
35. Vinyl Chloride

**II. Semivolatiles**

1. Bis(2-chloroethoxy)ethane
2. Bis(2-chloroethyl)ether
3. Bis(2-chloroisopropyl)ether
4. p-Chloroaniline
5. Chlorobenzilate
6. p-Chloro-m-cresol
7. 2-Chloronaphthalene
8. 2-Chlorphenol
9. 3-Chloropropionitrile
10. m-Dichlorobenzene
11. o-Dichlorobenzene
12. p-Dichlorobenzene
13. 3,3'-Dichlorobenzidine
14. 2,4-Dichlorophenol
15. 2,6-Dichlorophenol
16. Hexachlorobenzene
17. Hexachlorobutadiene
18. Hexachlorocyclopentadiene
19. Hexachloroethane
20. Hexachloroprophene
21. Hexachlorpropene
22. 4,4'-Methylenebis(2-chloroanaline)
23. Pentachlorobenzene
24. Pentachloroethane
25. Pentachloronitrobenzene
26. Pentachlorophenol
27. Pronamide
28. 1,2,4,5-Tetrachlorobenzene
29. 2,3,4,6-Tetrachlorophenol
30. 1,2,4-Trichlorobenzene
31. 2,4,5-Trichlorophenol
32. 2,4,6-Trichlorophenol
33. Tris(2,3-dibromopropyl)phosphate

**III. Organochlorine Pesticides**

1. Aldrin
2. alpha-BHC
3. beta-BHC
4. delta-BHC
5. gamma-BHC

6. Chlorodane
7. DDD
8. DDE
9. DDT
10. Dieldrin
11. Endosulfan I
12. Endosulfan II
13. Endrin
14. Endrin aldehyde
15. Heptachlor
16. Heptachlor epoxide
17. Isodrin
18. Kepone
19. Methoxyclor
20. Toxaphene

**IV. Phenoxyacetic Acid Herbicides**

1. 2,4-Dichlorophenoxyacetic acid
2. Silvex
3. 2,4,5-T

**V. PCBs**

1. Aroclor 1016
2. Aroclor 1221
3. Aroclor 1232
4. Aroclor 1242
5. Aroclor 1248
6. Aroclor 1254
7. Aroclor 1260
8. PCBs not otherwise specified

**VI. Dioxins and Furans**

1. Hexachlorodibenzo-p-dioxins
2. Hexachlorodibenzofuran
3. Pentachlorodibenzo-p-dioxins
4. Pentachlorodibenzofuran
5. Tetrachlorodibenzo-p-dioxins
6. Tetrachlorodibenzofuran
7. 2,3,7,8-Tetrachlorodibenzo-p-dioxin

**Table 11.**

Appendix VII, Table 1, Effective Dates of Surface Disposed Wastes (Non-Soil and Debris) Regulated in the LDRs, of 40 CFR 268, published July 1, 2001, and in 66 FR 27297, May 16, 2001, is hereby incorporated by reference.

## Chapter 31. Incinerators

### §3105. Applicability

A. - E. …

**Table 1. Hazardous Constituents**

| Common Name | Chemical Abstracts Name | Chemical Abstracts Number | Hazardous Waste Number |
|---|---|---|---|
| * * * [See Prior Text in A2213 - 5-Nitro-o-toluidine] | | | |
| Octachlorodibenzo-p-dioxin (OCDD) | 1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin | 3268-87-9 | ..... |
| Octachlorodibenzofuran (OCDF) | 1,2,3,4,6,7,8,9-Octachlorodibenzofuran | 39001-02-0 | ..... |
| * * * [See Prior Text in Octamethylpyrophosphoramide – Ziram] | | | |

[1]The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:

## Chapter 42. Conditional Exemption for Low-Level Mixed Waste Storage and Disposal

### §4201 What Definitions Apply to this Chapter?

A. This Chapter uses the following special definitions:

*Agreement State*—a state that has entered into an agreement with the NRC under Section 274.b of the Atomic Energy Act of 1954 (AEA), as amended (68 Stat. 919), to assume responsibility for regulating within its borders by-product, source, or special nuclear material in quantities not sufficient to form a critical mass.

*Certified Delivery*—certified mail with return receipt requested, equivalent courier service, or other means that provides the sender with a receipt confirming delivery.

*Eligible Naturally Occurring and/or Accelerator-Produced Radioactive Material (NARM)*—NARM that is eligible for the transportation and disposal conditional exemption. It is a NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by state NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with LAC 33:XV.Chapters 3 and 13, NRC, or NRC agreement state equivalent regulations.

*Exempted Waste*—a waste that meets the eligibility criteria in LAC 33:V.4205 and meets all of the conditions in LAC 33:V.4207 or meets the eligibility criteria in LAC 33:V.4223 and complies with all the conditions in LAC 33:V.4225. Such waste is conditionally exempted from the regulatory definition of hazardous waste described in LAC 33:V.109.

*Hazardous Waste*—any material that is defined to be hazardous waste in accordance with LAC 33:V.109, definition of *hazardous waste*.

*Land Disposal Restriction (LDR) Treatment Standards*—treatment standards, under LAC 33:V.Chapter 22, that a RCRA hazardous waste must meet before it can be disposed of in a RCRA hazardous waste land disposal unit.

*License*—a license issued by the department, NRC, or a NRC agreement state to users that manage radionuclides regulated by the department, NRC, or NRC agreement states under authority of the Atomic Energy Act of 1954, as amended (see LAC 33:XV.102).

*Low-Level Mixed Waste (LLMW)* **C** a waste that contains both low-level radioactive waste and RCRA hazardous waste.

*Low-Level Radioactive Waste (LLRW)* **C** a radioactive waste that is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material, as defined in Section 11e.(2) of the Atomic Energy Act (see also the definition of *waste* at LAC 33:XV.102).

*Mixed Waste* **C** a waste that contains both RCRA hazardous waste and source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954, as amended.

*Naturally Occurring and/or Accelerator-Produced Radioactive Material (NARM)* **C** radioactive materials that are:

a. naturally occurring and are not source, special nuclear, or by-product materials, as defined by the AEA; or

b. produced by an accelerator. NARM is regulated by the states under state law or by Department of Energy (DOE), as authorized by the AEA under DOE orders.

*NRC* **C** the U. S. Nuclear Regulatory Commission.

*We or Us* **C** within this Chapter, the administrative authority, as defined in LAC 33:V.109.

*You* **C** a generator, treater, or other handler of low-level mixed waste or eligible NARM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4203. What Does a Storage And Treatment Conditional Exemption Do?**

A. The storage and treatment conditional exemption exempts your LLMW from the regulatory definition of hazardous waste in LAC 33:V.109 if your waste meets the eligibility criteria in LAC 33:V.4205 and you meet the conditions in LAC 33:V.4207.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4205. What Wastes are Eligible for the Storage and Treatment Conditional Exemption?**

A. LLMW, defined in LAC 33:V.4201, is eligible for this conditional exemption if it is generated and managed by you under a single department, NRC, or NRC agreement state license. (Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a permit and is ineligible for this exemption. In addition, NARM waste is ineligible for this exemption.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4207. What Conditions Must You Meet for Your LLMW to Qualify for and Maintain a Storage and Treatment Exemption?**

A. For your LLMW to qualify for the exemption, you must notify us in writing by certified delivery that you are claiming a conditional exemption for the LLMW stored on your facility. The dated notification must include your name, address, RCRA identification number, department, NRC, or NRC agreement state license number, the waste code(s) and storage unit(s) for which you are seeking an exemption, and a statement that you meet the conditions of this Chapter. Your notification must be signed by your authorized representative, who certifies that the information in the notification is true, accurate, and complete. You must notify us of your claim either within 90 days of the effective date of these regulations in your state or within 90 days of when a storage unit is first used to store conditionally exempt LLMW.

B. To qualify for and maintain an exemption for your LLMW you must:

1. store your LLMW waste in tanks or containers in compliance with the requirements of your license that apply to the proper storage of low-level radioactive waste (not including those license requirements that relate solely to recordkeeping);

2. store your LLMW in tanks or containers in compliance with chemical compatibility requirements of a tank or container in LAC 33:V.1919, 2115, 4429 and 4444;

3. certify that facility personnel who manage stored conditionally exempt LLMW are trained in a manner that ensures that the conditionally exempt waste is safely managed and includes training in chemical waste management and hazardous materials incidents response that meets the personnel training standards found in LAC 33:V.1515.A.3;

4. conduct an inventory of your stored conditionally exempt LLMW at least annually and inspect it at least quarterly for compliance with this Chapter; and

5. maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities, describe evacuation plans, list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators, and list emergency equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4209. What Waste Treatment Does the Storage and Treatment Conditional Exemption Allow?**

A. You may treat your LLMW at your facility within a tank or container in accordance with the terms of your department, NRC, or NRC agreement state license. Treatment that cannot be done in a tank or container without a RCRA permit (such as incineration) is not allowed under this exemption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4211. How Could You Lose the Conditional Exemption for Your LLMW and What Action Must You Take?**

A. Your LLMW will automatically lose the storage and treatment conditional exemption if you fail to meet any of

the conditions specified in LAC 33:V.4207. When your LLMW loses the exemption, you must immediately manage that waste, which failed the condition as RCRA hazardous waste, and the storage unit storing the LLMW immediately becomes subject to RCRA hazardous waste container and/or tank storage requirements.

1. If you fail to meet any of the conditions specified in LAC 33:V.4207, you must report to us or the oversight agency in the NRC agreement state, in writing by certified delivery within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

a. the specific condition(s) you failed to meet;

b. a description of the LLMW (including the waste name, hazardous waste codes, and quantity) and storage location at the facility; and

c. the date(s) on which you failed to meet the condition(s).

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan.

B. We may terminate your conditional exemption for your LLMW, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4213. If You Lose the Storage and Treatment Conditional Exemption for Your LLMW, Can the Exemption Be Reclaimed?**

A. You may reclaim the storage and treatment exemption for your LLMW if:

1. you again meet the conditions specified in LAC 33:V.4207; and

2. you send us a notice by certified delivery that you are reclaiming the exemption for your LLMW. Your notice must be signed by your authorized representative certifying that the information contained in your notice is true, complete, and accurate. In your notice you must do the following:

a. explain the circumstances of each failure;

b. certify that you have corrected each failure that caused you to lose the exemption for your LLMW and that you again meet all the conditions as of the date you specify;

c. describe plans that you have implemented, listing specific steps you have taken, to ensure the conditions will be met in the future; and

d. include any other information you want us to consider when we review your notice reclaiming the exemption.

B. We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to, the following:

1. you have failed to correct the problem;

2. you explained the circumstances of the failure unsatisfactorily; or

3. you failed to implement a plan with steps to prevent another failure to meet the conditions of LAC 33:V.4207.

C. In reviewing a reclaimed conditional exemption under this Section, we may add conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will protect human health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4215. What Records Must You Keep At Your Facility and for How Long?**

A. In addition to those records required by your department, NRC, or NRC agreement state license, you must keep the following records:

1. your initial notification records, return receipts, reports to us of failure(s) to meet the exemption conditions, and all records supporting any reclaim of an exemption;

2. records of your LLMW annual inventories and quarterly inspections;

3. your certification that facility personnel who manage stored mixed waste are trained in safe management of LLMW, including training in chemical waste management and hazardous materials incidents response; and

4. your emergency plan as specified in LAC 33:V.4207.B.

B. You must maintain records concerning notification, personnel trained, and your emergency plan for as long as you claim this exemption and for three years thereafter or in accordance with department regulations under LAC 33:XV.Chapter 4, NRC, or equivalent NRC agreement state regulations, whichever is longer. You must maintain records concerning your annual inventory and quarterly inspections for three years after the waste is sent for disposal or in accordance with department regulations under LAC 33:XV.Chapter 4, NRC or equivalent NRC agreement state regulations, whichever is longer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4217. When is Your LLMW No Longer Eligible for the Storage and Treatment Conditional Exemption?**

A. When your LLMW has met the requirements of your department, NRC, or NRC agreement state license for decay-in-storage and can be disposed of as nonradioactive waste, then the conditional exemption for storage no longer applies. On that date your waste is subject to hazardous waste regulation under the relevant sections, and the time period for accumulation of a hazardous waste, as specified in LAC 33:V.1109.E, begins.

B. When your conditionally exempt LLMW, which has been generated and stored under a single department, NRC, or other NRC agreement state license number, is removed

from storage, it is no longer eligible for the storage and treatment exemption. However, your waste may be eligible for the transportation and disposal conditional exemption at LAC 33:V.4221.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4219. Do Closure Requirements Apply to Units that Stored LLMW Prior to the Effective Date of this Chapter?**

A. Interim status and permitted storage units that have been used to store only LLMW prior to the effective date of this Chapter and, after that date, store only LLMW that becomes exempt under this Chapter are not subject to the closure requirements of LAC 33:V.Chapters 5, 18, 19, 21, 23, 24, 25, 27, 28, 29, 32, 35, and 43. Storage units (or portions of units) that have been used to store both LLMW and non-mixed hazardous waste prior to the effective date of this Chapter or are used to store both after that date remain subject to closure requirements with respect to the non-mixed hazardous waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4221. What Does the Transportation and Disposal Conditional Exemption Do?**

A. This conditional exemption exempts your waste from the regulatory definition of hazardous waste if your waste meets the eligibility criteria under LAC 33:V.4223 and you meet the conditions in LAC 33:V.4225.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4223. What Wastes Are Eligible for the Transportation and Disposal Conditional Exemption?**

A. Eligible waste must be:

1. a LLMW, as defined in this Chapter, that meets the waste acceptance criteria of a LLRWDF; and/or

2. an eligible NARM waste, as defined in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4225. What Are the Conditions You Must Meet for Your Waste to Qualify for and Maintain the Transportation and Disposal Conditional Exemption?**

A. You must meet the following conditions for your eligible waste to qualify for and maintain the exemption.

1. The eligible waste must meet or be treated to meet LDR treatment standards, as described in LAC 33:V.4227.

2. If you are not already subject to department, NRC, or NRC agreement state equivalent manifest and transportation regulations for the shipment of your waste, you must manifest and transport your waste according to department regulations, as described in LAC 33:V.4229, NRC, or NRC agreement state equivalent regulations.

3. The exempted waste must be in containers when it is disposed of in the LLRWDF, as described in LAC 33:V.4235.

4. The exempted waste must be disposed of at a designated LLRWDF, as described in LAC 33:V.4233.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4227. What Treatment Standards Must Your Eligible Waste Meet?**

A. Your LLMW or eligible NARM waste must meet LDR treatment standards specified in LAC 33:V.Chapter 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4229. Are You Subject to the Manifest and Transportation Condition in LAC 33:V.4225.A.2?**

A. If you are not already subject to equivalent department, NRC, or NRC agreement state manifest and transportation regulations for the shipment of your waste, you must meet the manifest requirements under LAC 33:XV.465 and the transportation requirements under LAC 33:XV.Chapter 15 to ship the exempted waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4231. When Does the Transportation and Disposal Exemption Take Effect?**

A. The exemption becomes effective once all the following have occurred.

1. Your eligible waste meets the applicable LDR treatment standards.

2. You have received return receipts that you have notified us and the LLRWDF, as described in LAC 33:V.4237.

3. You have completed the packaging and preparation for shipment requirements for your waste according to LAC 33:XV.Chapter 15, NRC, or other NRC agreement state equivalent regulations, and you have prepared a manifest for your waste according to LAC 33:XV.Chapter 4, NRC, or other NRC agreement state equivalent regulations; and

4. You have placed your waste on a transportation vehicle destined for a LLRWDF licensed by the department, NRC, or other NRC agreement state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4233. Where Must Your Exempted Waste be Disposed of?**

A. Your exempted waste must be disposed of in a LLRWDF that is regulated and licensed by LAC 33:XV.Chapters 3 and 13, NRC, or other NRC agreement

state, including state NARM licensing regulations for eligible NARM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4235. What Type of Container Must be Used for Disposal of Exempted Waste?**

A. Your exempted waste must be placed in containers before it is disposed. The container must be:

1. a carbon steel drum;

2. an alternative container with equivalent containment performance in the disposal environment, such as a carbon steel drum; or

3. a high integrity container as defined by department, NRC, or other NRC agreement state regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4237. Whom Must You Notify?**

A. You must provide a one time notice to us stating that you are claiming the transportation and disposal conditional exemption prior to the initial shipment of an exempted waste from your facility to a LLRWDF. Your dated written notice must include your facility name, address, phone number, and RCRA ID number and be sent by certified delivery.

B. You must notify the LLRWDF receiving your exempted waste by certified delivery before shipment of each exempted waste. You can only ship the exempted waste after you have received the return receipt of your notice to the LLRWDF. This notification must include the following:

1. a statement that you have claimed the exemption for the waste;

2. a statement that the eligible waste meets applicable LDR treatment standards;

3. your facility's name, address, and RCRA ID number;

4. the RCRA hazardous waste codes prior to the exemption of the waste streams;

5. a statement that the exempted waste must be placed in a container, according to LAC 33:V.4235, prior to disposal in order for the waste to remain exempt under the transportation and disposal conditional exemption of this Chapter;

6. the manifest number of the shipment that will contain the exempted waste; and

7. a certification that all the information provided is true, complete, and accurate. The statement must be signed by your authorized representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4239. What Records Must You Keep at Your Facility and for How Long?**

A. In addition to those records required by the department, NRC, or other NRC agreement state license, you must keep records as follows.

1. You must follow the applicable existing recordkeeping requirements under LAC 33:V.1529, 2245, and 4357 to demonstrate that your waste has met LDR treatment standards prior to your claiming the exemption.

2. You must keep a copy of all notifications and return receipts required under LAC 33:V.4241 and 4243 for three years after the exempted waste is sent for disposal.

3. You must keep a copy of all notifications and return receipts required under LAC 33:V.4237.A for three years after the last exempted waste is sent for disposal.

4. You must keep a copy of the notification and return receipt required under LAC 33:V.4237.B for three years after the exempted waste is sent for disposal.

5. If you are not already subject to equivalent department, NRC, or other NRC agreement state manifest and transportation regulations for the shipment of your waste, you must also keep all other documents related to tracking the exempted waste as required under LAC 33:XV.465, including applicable NARM requirements, in addition to the records specified in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4241. How Could You Lose the Transportation and Disposal Conditional Exemption for Your Waste and What Actions Must You Take?**

A. Any waste will automatically lose the transportation and disposal exemption if you fail to manage it in accordance with all of the conditions specified in LAC 33:V.4225.

1. When you fail to meet any of the conditions specified in LAC 33:V.4225 for any of your wastes, you must report to us, in writing by certified delivery, within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

a. the specific condition(s) that you failed to meet for the waste;

b. a description of the waste (including the waste name, hazardous waste codes, and quantity) that lost the exemption; and

c. the date(s) on which you failed to meet the condition(s) for the waste.

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally, within 24 hours, and follow up with a written notification within five days.

B. We may terminate your ability to claim a conditional exemption for your waste or require you to meet additional conditions to claim a conditional exemption for serious or repeated noncompliance with any requirement(s) of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§4243. If You Lose the Transportation and Disposal Conditional Exemption for a Waste, Can the Exemption Be Reclaimed?**

A. You may reclaim the transportation and disposal exemption for a waste after you have received a return

receipt confirming that we have received your notification of the loss of the exemption specified in LAC 33:V.4241.A and if:

1. you again meet the conditions specified in LAC 33:V.4225 for the waste; and

2. you send a notice, by certified delivery, to us that you are reclaiming the exemption for the waste. Your notice must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. The notice must:

a. explain the circumstances of each failure;

b. certify that each failure that caused you to lose the exemption for the waste has been corrected and that you again meet all conditions for the waste as of the date you specify;

c. describe plans you have implemented, listing the specific steps that you have taken, to ensure that conditions will be met in the future; and

d. include any other information you want us to consider when we review your notice reclaiming the exemption.

B. We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to:

1. you have failed to correct the problem;

2. you explained the circumstances of the failure unsatisfactorily; or

3. you failed to implement a plan with steps to prevent another failure to meet the conditions of LAC 33:V.4225.

C. In reviewing a reclaimed conditional exemption under this Section, we may add conditions to the exemption to ensure that transportation and disposal activities will protect human health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

## Chapter 49. Lists of Hazardous Wastes

### §4901. Category I Hazardous Wastes

A. - C. …

**Table 2. Hazardous Wastes from Specific Sources**

| Industry and EPA Hazardous Waste Number | Hazard Code | Hazardous Waste |
|---|---|---|
| * * * | | |
| **Organic Chemicals** | | |
| * * * [See Prior Text in K009 – K161] | | |
| K174 | (T) | Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer (including sludges that result from commingled ethylene dichloride or vinyl chloride monomer wastewater and other wastewater), unless the sludges meet the following conditions: (i) they are disposed of in a RCRA subtitle C or nonhazardous landfill licensed or permitted by the state or federal government; (ii) they are not otherwise placed on the land prior to final disposal; and (iii) the generator maintains documentation demonstrating that the waste was either disposed of in an on-site landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in an off-site landfill. Respondents in any action brought to enforce the requirements of RCRA subtitle C must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer or ethylene dichloride, demonstrate that they meet the terms of the exclusion set forth above. In doing so, they must provide appropriate documentation (*e.g.*, contracts between the generator and the landfill owner/operator, invoices documenting delivery of waste to landfill,) that the terms of the exclusion were met. |
| K175 | (T) | Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process. |
| **Inorganic Chemicals** | | |
| * * * | | |

D. - F. Table 4. …

G. Constituents that Serve as a Basis for Listing Hazardous Waste. Table 6 lists constituents that serve as a basis for listing hazardous waste.

**Table 6.**

| Table of Constituents that Serve as a Basis for Listing Hazardous Waste |
|---|
| * * * [See Prior Text in F001-K172, Benzene, arsenic] |
| EPA Hazardous Waste Number K174 |
| 1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)<br>1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)<br>1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,6,7,8,9-HpCDF),<br>HxCDDs (All Hexachlorodibenzo-p-dioxins)<br>HxCDFs (All Hexachlorodibenzofurans)<br>PeCDDs (All Pentachlorodibenzo-p-dioxins)<br>OCDD (1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin)<br>OCDF (1,2,3,4,6,7,8,9-Octachlorodibenzofuran)<br>PeCDFs (All Pentachlorodibenzofurans)<br>TCDDs (All Tetrachlorodibenzo-p-dioxins)<br>TCDFs (All Tetrachlorodibenzofurans). |
| EPA Hazardous Waste Number K175 |
| Mercury |

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:321 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790, 791 (November 1988), LR 15:182 (March 1989), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995),

LR 21:944 (September 1995), LR 22:829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR:715 (May 2001), LR:28

**§4909. Comparable/Syngas Fuel Exclusion**

A. - D.2.b.i. …

ii. utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or

c. hazardous waste incinerators subject to regulation under LAC 33:V.Chapter 31 or Chapter 43.Subchapter N or applicable CAA MACT standards; or

d. gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.

D.3 - D.13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 25:489 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:305 (March 2001), LR 28:

A public hearing will be held on April 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by HW080*. Such comments must be received no later than April 24, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to patsyd@deq.state.la.us. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW080*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at http://www.deq.state.la.us/ planning/regs/index.htm.

James H. Brent, Ph.D.
Assistant Secretary

0203#041

## NOTICE OF INTENT

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

Respiratory Protection
(LAC 33:XV.403, 443, and Appendix A)(RP029*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.403, 443, and Appendix A (Log #RP029*).

This proposed rule is identical to federal regulations found in 64 FR 54543, 10/7/99, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

This proposed rule consists of amendments to LAC 33:XV addressing respiratory protection and controls to restrict internal exposures. Included are the definitions of air purifying respirator, atmosphere-supplying respirator, assigned protection factors (APF), demand respirator, disposable respirator, fit factor test, fit test, filtering facepiece (dust mask), helmet, hood, loose-fitting facepiece, negative pressure respirator, positive pressure respirator, powered air-purifying respirator, pressure demand respirator, qualitative fit test, quantitative fit test, self-contained breathing apparatus, supplied-air respirator, tight-fitting facepiece, and user seal check (fit check). Also included are the addition of application for the use of higher assigned protection factors and the modification of Appendix A to include assigned protection factors for respirators. As a Nuclear Regulatory Commission Agreement State, in accordance with the NRC Agreement signed on May 1, 1967, Louisiana has accepted the responsibility for promulgating regulations that satisfy the compatibility requirement of Section 274 of the Atomic Energy Act of 1954, as amended. In certain areas defined by the NRC, state regulations must be the same as NRC regulations. The extent to which the regulation must be identical, whether in content or in effect, is determined by the NRC. All amendments in this package are mandated by the NRC to comply with recent NRC regulation changes. The basis and rationale for these amendments are to achieve compatibility with the regulations of the Nuclear Regulatory Commission in accordance with Section 274 of the Atomic Energy Act of 1954, as amended.

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

**Title 33**
**ENVIRONMENTAL QUALITY**
**Part XV. Radiation Protection**
**Chapter 4. Standards for Protection Against Radiation**
**Subchapter A. General Provisions**
**§403. Definitions**

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

*Air-Purifying Respirator*—a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

* * *

*Assigned Protection Factor (APF)*—the expected work place level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

*Atmosphere-Supplying Respirator*—a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere and includes supplied-air respirators (SARS) and self-contained breathing apparatus (SCBA) units.

* * *

*Demand Respirator*—an atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.

* * *

*Disposable Respirator*—a respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).

* * *

*Filtering Facepiece (Dust Mask)*—a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium that is not equipped with elastomeric sealing surfaces and adjustable straps.

*Fit Factor*—a quantitative estimate of the fit of a particular respirator to a specific individual, which typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

*Fit Test*—the use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

*Helmet*—a rigid respiratory inlet covering that also provides head protection against impact and penetration.

*Hood*—a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

* * *

*Loose-Fitting Facepiece*—a respiratory inlet covering that is designed to form a partial seal with the face.

* * *

*Negative Pressure Respirator (Tight Fitting)*—a respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

* * *

*Positive Pressure Respirator*—a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

*Powered Air-Purifying Respirator (PAPR)*—an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

*Pressure Demand Respirator*—a positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

*Qualitative Fit Test (QLFT)*—a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.

*Quantitative Fit Test (QNFT)*—an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

* * *

*Self-Contained Breathing Apparatus (SCBA)*—an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

* * *

*Supplied-Air Respirator (SAR)* or *Airline Respirator*—an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

*Tight-Fitting Facepiece*—a respiratory inlet covering that forms a complete seal with the face.

*User Seal Check (Fit Check)*—an action conducted by the respirator user to determine if the respirator is properly seated to the face (e.g., negative pressure check, positive pressure check, irritant smoke test, or isoamyl acetate check).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2104.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 22:969 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2768 (December 2000), LR 28:

**Subchapter E. Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas**
**§443. Application for Use of Higher Assigned Protection Factors**

A. The licensee shall obtain authorization from the department before using assigned protection factors in excess of those specified in Appendix A of this Chapter. The department may authorize a licensee to use higher assigned protection factors upon receipt of an application that:

1. describes the situation for which a need exists for higher protection factors; and

2. demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2104.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**Appendix A**

| Assigned Protection Factors for Respirators [a] | | |
|---|---|---|
| **Type of Respirator** | **Operating Mode** | **Assigned Protection Factors (APF)** |
| I. Air-Purifying Respirators [Particulate[b] Only][c] | | |
| Filtering facepiece,disposable[d] | Negative pressure | ([d]) |
| Facepiece, half[e] | Negative pressure | 10 |
| Facepiece, full | Negative pressure | 100 |
| Facepiece, half | Powered air-purifying respirators | 50 |
| Facepiece, full | Powered air-purifying respirators | 1000 |
| Helmet/hood | Powered air-purifying respirators | 1000 |
| Facepiece, loose fitting | Powered air-purifying respirators | 25 |
| II. Atmosphere-Supplying Respirators [particulate, gases, and vapors[f]] | | |
| 1. Airline Respirator: | | |
| Facepiece, half | Demand | 10 |
| Facepiece, half | Continuous flow | 50 |
| Facepiece, half | Pressure demand | 50 |
| Facepiece, full | Demand | 100 |
| Facepiece, full | Continuous flow | 1000 |
| Facepiece, full | Pressure demand | 1000 |
| Helmet/hood | Continuous flow | 1000 |
| Facepiece, loose-fitting | Continuous flow | 25 |
| Suit | Continuous flow | ([g]) |
| 2. Self-Contained Breathing Apparatus (SCBA): | | |
| Facepiece, full | Demand | 100[h] |
| Facepiece, full | Pressure demand | 10,000[i] |
| Facepiece, full | Demand, recirculating | 100[h] |
| Facepiece, full | Positive pressure, recirculating | 10,000[i] |
| III. Combination Respirators | | |
| Any combination of air-purifying and atmosphere-supplying respirators | Assigned protection factor for type and mode of protection as listed above | |

[a] These assigned protection factors apply only in a respiratory protection program that meets the requirements of this Chapter. They are applicable only to airborne radiological hazards and may not be appropriate in circumstances when chemical or other respiratory hazards exist instead of, or in addition to, radioactive hazards. Selection and use of respirators for such circumstances must also comply with the U.S. Department of Labor regulations. Radioactive contaminants for which the concentration values in Table 1, Column 3 of Appendix B of this Chapter are based on internal dose due to inhalation may, in addition, present external exposure hazards at higher concentrations. Under these circumstances limitations on occupancy may have to be governed by external dose limits.

[b] Air-purifying respirators with APF of less than 100 must be equipped with particulate filters that are at least 95 percent efficient. Air-purifying respirators with APFs equal to 100 must be equipped with particulate filters that are at least 99 percent efficient. Air-purifying respirators with APFs greater than 100 must be equipped with particulate filters that are at least 99.97 percent efficient.

[c] The licensee may apply to the department for the use of an APF greater than 1 for sorbent cartridges, as protection against airborne radioactive gases and vapors (e.g., radioiodine).

[d] Licensees may permit individuals to use this type of respirator, who have not been medically screened or fit tested on such respirator, provided that no credit be taken for their use in estimating intake or dose. It is also recognized that it is difficult to perform an effective positive or negative pressure pre-use user seal check on this type of device. All other respiratory protection program requirements listed in LAC 33:XV.442 apply. An assigned protection factor has not been assigned for these devices. However, an APF equal to 10 may be used if the licensee can demonstrate a fit factor of at least 100 by use of a validated or evaluated, qualitative or quantitative fit test.

[e] Under-chin type only. No distinction is made in this Appendix between elastomeric half-masks with replaceable cartridges and those designed with the filter medium as an integral part of the facepiece (e.g., disposable or reusable disposable). Both types are acceptable so long as the seal area of the latter contains some substantial type of seal-enhancing material such as rubber or plastic, the two or more suspension straps are adjustable, the filter medium is at least 95 percent efficient, and all other requirements of this Chapter are met.

[f] The assigned protection factors for gases and vapors are not applicable to radioactive contaminants that present an absorption or submersion hazard. For tritium oxide vapor, approximately one-third of the intake occurs by absorption through the skin, so that an overall protection factor of 3 is appropriate when atmosphere-supplying respirators are used to protect against tritium oxide. Exposure to radioactive noble gases is not considered a significant respiratory hazard and protective actions for these contaminants should be based on external (submersion) dose considerations.

[g] No National Institute for Occupational Safety and Health (NIOSH) approval schedule is currently available for atmosphere supplying suits. This equipment may be used in an acceptable respiratory protection program as long as all the other minimum program requirements, with the exception of fit testing, are met (i.e., LAC 33:XV.442).

[h] The licensee should implement institutional controls to ensure that these devices are not used in areas immediately dangerous to life or health (IDLH).

[i] This type of respirator may be used as an emergency device in unknown concentrations for protection against inhalation hazards. External radiation hazards and other limitations to permitted exposure, such as skin absorption, shall be taken into account in these circumstances. This device may not be used by any individual who experiences perceptible outward leakage of breathing gas while wearing the device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2104.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

A public hearing will be held on April 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by RP029*. Such comments must be received no later than April 24, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to patsyd@deq.state.la.us. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of RP029*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m., 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at http://www.deq.state.la.us/ planning/regs/index.htm.

James H. Brent, Ph.D.
Assistant Secretary

0203#043

## NOTICE OF INTENT

### Department of Environmental Quality
### Office of Environmental Assessment

Reorganization of Solid Waste Regulations
(LAC 33:VII.Subparts 1 and 3)(SW031)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.Subparts 1 and 3 (Log #SW031).

This proposed rule repeals and replaces in its entirety all previously promulgated Solid Waste regulations cited as LAC 33:VII.Subpart 1. This rule also repeals in its entirety LAC 33:VII.Subpart 3.Louisiana Resource Recovery and Development Authority. This action is being taken to: 1) reorganize the regulations in a more user-friendly manner; 2) correct errors in text; 3) eliminate the Louisiana Resource Recovery and Development Authority (LRRDA) in accordance with Act 524 of the 2001 Louisiana Legislative Session; 4) clarify technical requirements for all solid waste facilities; 5) incorporate into regulations geology and groundwater standards currently required by the department; 6) allow the department to establish the numbers and levels of certified operators at a facility; 7) provide more flexibility regarding characterization of subsurface geology; 8) remove language allowing operations at a proposed facility with a temporary permit; and 9) establish a basis for the phrase "environmentally sound manner." A cross-reference of old to new citations and a list identifying where new language has been added are being provided to aid in the review of the proposed rule. These two documents can be found on the department's website at http://www.deq.state.la.us/ planning/regs/index.htm. These regulations shall affect all new submittals, including, but not limited to, new permit applications, modifications, and permit renewals. These regulations will not affect those submittals that have been received by the department prior to the effective date of this rule. Further, these regulations will only apply to the modification that is submitted after the effective date, not to the underlying permit that is being modified. The basis and rationale for this rule are to be responsive to the regulated community and to ensure the protection of public health and the environment.

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

### Title 33
### ENVIRONMENTAL QUALITY
### Part VII. Solid Waste
### Subpart 1. Solid Waste Regulations
### Chapter 1. General Provisions and Definitions
### §101. Scope and Purpose

A. The Louisiana Legislature recognizes that the safety and welfare of state citizens "require efficient and reasonable regulation of solid waste disposal practices as well as a coordinated, statewide resource recovery and management program" (R.S. 30:2152). Therefore, the Department of Environmental Quality has formulated these rules and regulations to:

1. establish standards governing the storage, collection, recovery and reuse, and disposal of solid waste;
2. implement a management program that will protect the air, groundwater, and surface water and the environment from pollution from solid wastes and thus eliminate the potential threat to human health from such pollution;
3. encourage both citizens and industry to reduce the amount of waste developed and generated in the state; and
4. implement the utilization of solid waste for useful purposes whenever practicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §103. Authority

A. The Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) established the enforcement authority and procedures for carrying out the purposes of the act. These rules and regulations were developed under the authority of the secretary of the Department of Environmental Quality, as

mandated by the Louisiana Solid Waste Management and Resource Recovery Law (R.S. 30:2151 et seq.). The Louisiana Solid Waste Operator Certification and Training Program (R.S. 37:3151 et seq.) created the Louisiana Solid Waste Operator Certification and Training Program. The principal domicile of the board shall be that of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30: 2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§105. Repeals**

A. These regulations repeal and replace in their entirety all previously promulgated regulations cited as LAC 33:VII.Subpart 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§107. Effective Date**

A. These rules and regulations shall be effective on (date to be inserted) for all new submittals, including but not limited to, new permit applications, modifications, and permit renewals. These rules and regulations will not affect those submittals that have been received by the department prior to the effective date. Further, these rules and regulations only apply to a modification that was submitted after the effective date, not to the underlying permit that is being modified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§109. Severability**

A. If any provision of these rules and regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act and these regulations that can be given effect without the invalid provision or application, and to this end provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§110. Public Information Service**

A. Responses to Suggestions and Complaints. The department will respond to complaints and suggestions and disseminate all pertinent information concerning solid waste. Information will be disseminated by letter or telephone communication in response to direct inquiries and through a departmental bulletin, issued periodically, that will include lists of permits, enforcement actions, and similar information of general interest, if such a bulletin is available.

B. Public Hearings. A summary of all discussions, presentations, and comments submitted will be prepared after each hearing and made available to all who request it, in accordance with R.S. 44:1, et seq.

C. Mailing List. The department will maintain a mailing list of groups or individuals interested in public hearings and other such activities of the Office of Environmental Services, Permits Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§111. Confidentiality**

A. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§113. Division of Responsibility**

A. The administrative authority is responsible for the following:

1. identifying solid waste processing and disposal facilities;

2. classifying such facilities for "closure" or "upgrade";

3. performing all necessary regulatory operations, including:

a. operating the permit system;

b. surveillance and monitoring to determine facility compliance; and

c. initiating and processing enforcement actions when necessary to meet the purposes of these regulations;

4. soliciting, administering, and distributing federal, state, and other funds; and

5. entering into contracts as necessary to carry out the mandates of the act.

B. Municipalities, parishes, and regional commissions are responsible for the following:

1. planning and operating necessary pickup and collection systems, including recycling programs, and delivering solid waste to permitted processing or disposal facilities;

2. planning and operating permitted processing and/or disposal facilities while cooperating with the department, or other entity, to implement regional management systems;

3. providing necessary financial support for the regional management systems through fees or other means;

4. administering supplementary funds received from federal or state sources through the administrative authority; and

5. entering into contracts when necessary to provide for maximum efficiency of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§114. Assignment and Reassignment of Responsibilities**

A. Assignment of New Responsibilities. The administrative authority may assign to local authorities new responsibilities required to implement elements of the program not assigned in LAC 33:VII.113.B.

B. Reassignment of Responsibilities. The administrative authority may reassign responsibilities within the department or to local authorities in LAC 33:VII.113.B as may be deemed necessary to operate the program more effectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§115. Definitions**

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

*Access Road*—a passageway for vehicles leading from the entrance of a facility to each unit of the facility.

*Act*—the Louisiana Environmental Quality Act (R.S. 30:2001et seq.).

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

*Agricultural Waste*—nonhazardous waste resulting from the production and processing of agricultural products, including manures, prunings, and crop residues. Some examples of agricultural wastes are included in LAC 33:VII.Chapter 7, Appendix D. This term does not include solid wastes defined as industrial solid waste in this Section.

*Air Curtain Destructor*—a unit to facilitate combustion above the fire burning in the combustion chamber pit so that combustion efficiency is increased and smoke and other particulate matter is contained. The unit consists of a combustion chamber pit and an air blower to force air through ducts (known as canisters) to establish a curtain of high velocity air.

*Animal Feed*—any crop, such as pasture crops, forage, and grain grown for consumption by animals.

*Applicant*—any person who intends to be a standard permit holder for a solid waste processing and/or disposal facility and who has submitted a permit application to the Department of Environmental Quality.

*Aquifer*—a formation, group of formations, or part of a formation that contains enough saturated permeable materials to yield significant quantities of water to wells or springs.

*Areal*—pertaining to an area, as an areal map.

*Areal Map*—a geologic map showing the horizontal extent and distribution of rock units exposed at the surface or subsurface.

*Areas Susceptible to Mass Movement*—those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the facility, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock fall.

Assessment Well—see *monitoring well*.

*Assets*—all existing and all probable future economic benefits obtained or controlled by a particular entity.

*Autoclave*—steam sterilization at a temperature of at least 250° F and a pressure of at least 15 pounds per square inch for at least 30 minutes. Longer times are required depending on the amount of waste, the presence of water, and the type of container used. Alternate patterns of temperature, pressure, and time may be used if compatible with the sterilization equipment being used and demonstrably sufficient to kill disease-causing microorganisms.

*Background Soil pH*—the pH of the soil before the addition of substances that alter the hydrogen-ion concentration (see *Soil pH*).

*Bailing*—a method of obtaining samples of water from a groundwater monitoring well by lowering and raising a weighted bottle, capped length of pipe, or similar device.

*Baler*—a facility that reduces and restrains a solid waste volume by mechanical compaction to achieve a higher-density-per-unit volume.

*Beneficial Use*—the use of waste material for some profitable purpose (e.g., incorporating sludge into soil to amend the soil). Avoidance of processing or disposal cost alone does not constitute beneficial use.

*Board of Certification and Training*—a board for the certification and training of operators of systems or facilities for the disposal of commercial and residential solid waste (established by R.S. 37:3151 et seq.).

*Cation-Exchange Capacity*—the sum of exchangeable cations a soil can absorb, expressed in milliequivalents per 100 grams of soil, as determined by sampling the soil to the depth of cultivation or solid waste placement, whichever is greater, and analyzing, by the summation method, for distinctly acid soils, or, by the sodium acetate method, for neutral, calcareous, or saline soils.

*Clean Closure*—the act of closing a facility whereby all solid waste is removed, including contamination that results from solid waste placement.

*Closure*—the act of securing a facility that has been used to process, store, or dispose of solid waste in a manner that minimizes harm to the public and the environment.

*Closure Plan*—a plan for closure and/or post closure of a facility prepared in accordance with the requirements of LAC 33:VII.Subpart 1.

*Coastal Zone*—the coastal waters and adjacent shorelands within the boundaries of the coastal zone established by the State and Local Coastal Resources Management Act of 1978 (R.S. 49:213.1-213.21).

*Collect*—to accumulate industrial solid waste or solid waste generated by more than one household or commercial establishment or by a storage or processing facility.

*Commercial Establishment*—a business, including its structures and property, that is involved in the exchange or distribution of goods or commodities or that rents, leases, or sells space for such activities.

*Commercial Solid Waste*—all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial solid wastes.

*Compactor*—a solid waste facility, other than collection and transportation vehicles, that reduces a solid waste volume by mechanical compaction to achieve a higher-density-per-unit volume.

*Compost*—a solid waste that has undergone biological decomposition of organic matter and has been stabilized using composting or similar technologies to a degree that is beneficial to plant growth and that is used, or sold for use, as a soil amendment, artificial topsoil, growing-medium amendment, or other similar uses.

*Composting*—a controlled process of degrading organic matter with microorganisms.

*Composting Facility***C**a facility where organic matter is processed by natural or mechanical means to aid the microbial decomposition of the organic matter.

*Construct***C**to build, erect, excavate, or form any portion of a solid waste facility.

*Construction/Demolition Debris***C**nonhazardous waste generally considered not water-soluble, including but not limited to, metal, concrete, brick, asphalt, roofing materials (shingles, sheet rock, plaster), or lumber from a construction or demolition project, but excluding regulated asbestos-contaminated material (RACM), as defined in LAC 33:III.5151.B, white goods, furniture, trash, or treated lumber. The admixture of construction and demolition debris with more than 5 percent by volume of paper associated with such debris or any other type of solid waste (excluding woodwaste or yard waste) will cause it to be classified other than construction/demolition debris.

*Contamination (Environmental)***C**the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

*Contamination (Solid Waste)***C**the admixture of any solid waste with any amount of hazardous waste or any other type of waste not meeting the definition of solid waste.

*Contingency Plan***C**an organized, planned, coordinated course of action to be followed in the event of a fire, explosion, or discharge or release of waste into the environment that could endanger human health or the environment.

*Cover Material***C**soil or other suitable material approved by the administrative authority, applied on the top and side slopes of disposed solid waste to control vectors, gases, erosion, fires, and infiltration of precipitation; to support vegetation; to provide trafficability; or to ensure an aesthetic appearance.

*Crops for Human Consumption***C**crops grown for human consumption that are not processed to minimize pathogens before they are distributed to consumers.

*Curing Area***C**an area where organic material that has undergone the rapid initial stage of composting is further stabilized into a humus-like material.

*Current Assets***C**cash, other assets, or resources commonly identified as those that are reasonably expected to be realized in cash, sold, or consumed during the normal operating cycle of the business.

*Current Liabilities***C**obligations whose liquidation is reasonably expected to require the use of existing resources, properly classifiable as current assets, or the creation of other current liabilities.

*Daily Cover***C**cover material applied at the end of the operating day to a unit, the working face of a unit, or a facility. (If earthen, cover will consist of a minimum of six inches of cover material).

*Department***C**the Department of Environmental Quality as created by R.S. 30:2001 et seq.

*Disease Vector***C**animals such as rodents, fleas, flies, mosquitoes, and other arthropods that are capable of transmitting diseases to humans.

*Displacement***C**the relative movement of any two sides of a fault measured in any direction.

*Disposal***C**the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste on or into any land or water so that such solid waste, or any constituent thereof, may have the potential for entering the environment or being emitted into the air or discharged into any waters of Louisiana.

*Ditch***C**an earthen trench or excavation principally used to convey wastewaters without regard to whether solids settling or treatment of wastewater occurs therein.

*Emergency Exemption***C**a special authorization issued to a person by the administrative authority that allows freedom from obligation to these regulations or any portion thereof for a specified period of time, owing to emergencies such as strikes or acts of God.

*Estimated Life of Facility***C**the length of time a solid waste facility is capable of accepting wastes, based on its current permit or permit application.

*Exemption***C**a special authorization issued to a person by the administrative authority that allows freedom from obligation to these regulations or a portion thereof.

*Existing Facility***C**any facility (as defined in this Subsection) that receives solid waste or that exists or is being constructed on February 20, 1993, that does or will store, process, or dispose of solid wastes. (Facilities closed prior to January 20, 1981, or facilities that have completed the closure/post closure requirements prior to February 20, 1993, are not considered existing facilities.)

*Existing Operation***C**any solid waste operation that manages, collects, stores, processes, or receives solid waste that exists or that is being constructed on February 20, 1993. (Operations closed prior to January 20, 1981, or operations that have completed the closure and/or post closure requirements prior to February 20, 1993, are not considered existing operations.)

*Facility***C**actual land and associated appurtenances used for storage, processing, and/or disposal of solid wastes, but possibly consisting of one or more units. (Any earthen ditches leading to or from a unit of a facility and that receive solid waste are considered part of the facility to which they connect, except for ditches lined with materials capable of preventing groundwater contamination. The term facility does not necessarily mean an entire industrial manufacturing plant.)

*Fault***C**a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to those on the other side.

*Final Cover***C**cover material that is applied to minimize the infiltration of precipitation in a facility and revegetated to control erosion.

*Flood Plain***C**the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, that are inundated by the 100-year flood.

*Food-Chain Crops***C**crops grown for human consumption, tobacco, and crops grown to feed animals that are consumed by humans.

*Freeboard***C**the vertical distance between the lowest point of the top of a facility levee and the surface of the liquid waste contained therein.

*Freshwater Aquifer***C**an aquifer containing water with quantities of total dissolved solids of less than 10,000 mg/L that is capable of yielding usable quantities of groundwater to drinking-water wells, industrial pumps, springs, or streams.

*Friable Asbestos Waste***C**waste containing more than 1 percent asbestos that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

*Garbage***C**solid waste that includes animal and vegetable matter from the handling, preparation, cooking, and serving of foods, but that does not include industrial solid waste.

*Generator***C**any person whose act or process produces solid waste as defined in these regulations.

*Geotechnical Borehole***C**an exploratory borehole drilled, augered, bored, or cored to obtain soil samples to be analyzed for chemical and/or physical properties.

*Groundwater***C**water below the land surface in the zone of saturation.

*Hazardous Waste***C**waste identified as hazardous in the current Louisiana hazardous waste regulations (LAC 33:V) and/or by the federal government under the Resource Conservation and Recovery Act and subsequent amendments.

*Holocene***C**the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch to the present.

*Implement***C**to carry out, accomplish, and ensure actual fulfillment by specific means or by providing instruments or means of accomplishment.

*Implementation Schedule***C**a timetable for completing a predetermined implementation plan.

*Impoundment***C**see *surface impoundment*.

*Inactive (or Abandoned) Facility***C**a solid waste storage, processing, or disposal facility that no longer receives solid waste and has not been closed in accordance with Louisiana solid waste regulations.

*Incinerator***C**any enclosed device using controlled-flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace and is not a boiler nor an industrial furnace as defined in LAC 33:V.109.

*Incinerator Ash***C**residual solid waste that has been received, thermally oxidized, and/or decomposed by an incinerator.

*Incinerator Waste-Handling Facility***C**a facility that processes solid waste that has been received, thermally oxidized, and/or decomposed by an incinerator.

*Incorporation into Soil***C**the injection of solid waste beneath the surface of soil or the mixing of solid waste with the surface soil.

*Industrial Establishment***C**a business, including its structures and property, that is involved in the production or manufacture of goods or commodities.

*Industrial Solid Waste***C**solid waste generated by a manufacturing, industrial, or mining process or that is contaminated by solid waste generated by such a process. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products; by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; and transportation equipment. This term does not include hazardous waste regulated under the Louisiana hazardous waste regulations or under federal law, or waste that is subject to regulation under the Office of Conservation's Statewide Order No. 29-B or by other agencies.

*Industrial Solid Waste Facility***C**a facility for the processing, storage, and/or disposal of industrial solid waste.

*Infectious Waste***C**waste that contains pathogens of sufficient virulence and quantity that exposure to it could result in an infectious disease in a susceptible host.

*Initial Promulgation***C**the date on which the Louisiana Solid Waste Management Program first became effective, January 20, 1981.

*Interim Compacted Cover***C**a minimum of 2 feet of compacted silty or sandy clay.

*Interim Cover***C**a minimum of 1 foot of soil that is applied to a portion of a unit or a facility.

*Isopach***C**a line drawn on a map through points of equal true thickness of a designated stratigraphic unit or group of stratigraphic units.

*Isopach Map***C**a map that shows the thickness of a bed, formation, sill, or other tabular body throughout a geographic area by means of isopachs at regular intervals.

*Karst Terranes***C**areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terranes include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

*Landfarm***C**a facility for the disposal of solid wastes in which wastes are applied to the land and/or incorporated into the soil for biological reduction and soil attenuation.

*Landfill***C**a facility for the disposal of solid waste, other than landfarm(s) or surface impoundment(s), that disposes of solid waste by placing it on or into the land surface and usually also compacting and covering with suitable cover material to a depth and at a frequency sufficient to control disease vectors and odors and in a manner that protects human health and the environment.

*Leachate***C**a liquid that has passed through or emerged from solid waste and may contain soluble, suspended, or miscible materials removed from such wastes.

*Leak-Detection Well***C**a well used to determine the escape of liquids from a permitted solid waste facility.

*Liabilities***C**probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

*Liner***C**layer or layers of material(s) beneath and on the sides of a solid waste disposal facility that are designed to restrict the escape of wastes or their constituents from the facility.

*Liquid Waste***C**any waste material that is determined to contain "free liquids" as defined by Method 9095 (Paint Filter Liquids Test), as described in "Test Methods of Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication SW-846.

*Lithified Earth Material***C**all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include manmade materials,

such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth's surface.

*Litter***C**exposed solid waste outside the active portion of a unit of a facility.

*Lower-Explosive Limit***C**the lowest percent by volume of a mixture of explosive gases in the air that will propagate a flame at 25° C and atmospheric pressure.

*Major Modification***C**any change in a site, facility, process or disposal method, or operation that substantially deviates from the permit or tends to substantially increase the impact of the site, facility, process or disposal method, or operation on the environment.

*Mandatory Modification***C**any change in a site, facility, unit, process or disposal method, or operation that is required as a result of these regulations.

*Mandatory Modification Document***C**a document submitted by existing facilities in conformance with LAC 33:VII.502 that applies for a mandatory modification and that amends or adds to each portion of the permit at issue so that the permit meets the requirements of these regulations. The document must conform to the requirements for permit modifications found in LAC 33:VII.507.

*Manure***C**a solid waste composed of excreta of animals and any residual materials that have been used for bedding, sanitary, or feeding purposes for such animals.

*Maximum Horizontal Acceleration in Lithified Earth Material***C**the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

*Mesophilic Stage***C**a biological stage in the composting process characterized by active bacteria that favor a moderate temperature range of 20° to 45° C. It occurs later in the composting process than the thermophilic stage and is associated with a moderate rate of decomposition.

*Minor Modification***C**any modification that does not meet the criteria for a major modification.

*Modification***C**any change in a site, facility, unit, process or disposal method, or operation that deviates from the specifications in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specifications of the permit is not considered a modification.

*Monitoring Well***C**a well used to obtain hydraulic and/or water-quality data and to satisfy regulatory requirements for groundwater monitoring at regulated units, which is usually installed at or near a known or potential source of groundwater contamination.

*Municipal Solid Waste Landfill* or *MSW Landfill***C**an entire disposal facility in a contiguous geographical space where residential solid waste or commercial solid waste is placed in or on land.

*Net Worth***C**total assets minus total liabilities and equivalent to the person's equity.

*Observation Well***C**a well used to obtain information on the water resources of an area.

*Off-Site Processing/Disposal Area***C**a location for the processing and/or disposal of solid waste that is not on the generator's site.

*100-Year Flood***C**a flood that has a 1 percent or greater chance of occurring in any year or a flood of a magnitude equaled or exceeded once in 100 years on average over a significantly long period.

*On-Site Processing/Disposal Area***C**the land area and appurtenances thereon used for processing and/or disposal of solid waste on the same property, or on geographically contiguous property, where waste is generated. Two or more pieces of property that are geographically contiguous, but divided by public or private right(s)-of-way are considered a single site.

*Open Burning***C**the combustion of solid waste without control of combustion air to maintain adequate temperature for efficient combustion, containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and control of the emission of the combustion products.

*Open Dump***C**a solid waste processing or disposal facility that has been issued a temporary permit and may not comply with the standards set by these regulations.

*Operating Area***C**the portion of a facility that is actively involved in the storage, processing, or disposal of solid waste.

*Order Authorizing Commencement of Operations***C**a written authorization issued by the administrative authority after a permit holder has completed all upgrading measures or completed construction measures, provided the required certification and a successful initial start-up inspection has been conducted by a representative of the department.

*Parent Corporation***C**a corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility permit holder; the latter corporation is deemed a "subsidiary" of the parent corporation.

*Permit***C**a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure, or post closure of a certain facility used or intended to be used to process or dispose of solid waste in accordance with the act, these regulations, and specified terms and conditions.

*Permittee/Permit Holder***C**a person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

*Person***C**an individual, trust, firm, joint-stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of the state, interstate body, or the federal government or any agency of the federal government.

*pH***C**the logarithm of the reciprocal of hydrogen-ion concentration.

*Pickup Station***C**a facility, at which one or more containers are located, which is used to accumulate industrial solid waste or to accumulate solid waste generated by more than one household or commercial establishment for pickup by a transporter. This definition does not include containers that receive only solid waste generated on property that is contiguous with the property on which the container is located (e.g., containers located at and receiving solid waste only from a multiunit dwelling, a commercial establishment, or an industrial establishment.)

*Piezometer***C**a well with the sole function of determining groundwater elevation.

*Pilot Hole***C**a hole drilled with the intent to install casing and to produce water. It is usually of a smaller

diameter than the proposed well and has to be reamed to a larger diameter for the installation of a casing and screen.

*Poor Foundation Conditions***C**those areas where features exist that indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a facility.

*Potable Water***C**water with bacteriological, physical, and chemical properties that make it suitable for human consumption.

*Potentiometric Surface***C**the surface that represents the static head with reference to a specified datum, such as the National Geodetic Vertical Datum (NGVD). As the term relates to aquifers, it is defined by the levels to which water will rise in tightly cased wells.

*Practice(s)***C**act(s) of storing, processing, collecting, transporting, or disposing of solid wastes.

*Process***C**a method or technique, including recycling, recovering, compacting (but not including compacting that occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport, reduced in volume, and amenable for recovery, storage, reshipment, or resale. The definition of process does not include treatment of wastewaters to meet state or federal wastewater discharge permit limits. Neither does the definition include activities of an industrial generator to simply separate wastes from the manufacturing process.

*Promiscuous Dump*—a solid waste disposal facility that has resulted from disposal activities of persons other than the landowner and whose operation is not permitted by the administrative authority.

*Putrescible***C**susceptible to rapid decomposition by bacteria, fungi, or oxidation, creating noxious odors.

*Reclassified Waste***C**a particular solid waste that the administrative authority has determined is no longer classified as a hazardous waste subject to regulation under the Louisiana hazardous waste regulations. Such wastes are "reclassified" as solid waste and are subject to regulation under these regulations.

*Recovery Well***C**a well used to remove groundwater that has been determined to be contaminated.

*Refuse-Derived Fuel***C**fuel processed from combustible solid waste.

*Refuse-Derived Fuel Facility***C**a solid waste facility where fuel is processed from combustible solid waste.

*Residence***C**a single or multiunit dwelling, whether owned, leased, or rented by its occupant(s).

*Residential Solid Waste***C**any solid waste (including garbage, trash, and sludges from residential septic tanks and wastewater treatment facilities) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

*Resource Recovery***C**the process by which solid waste that retains useful physical or chemical properties is reused or recycled for the same or other purposes, including uses as energy sources.

*Runoff***C**any rainwater, leachate, or other liquid that drains from any part of a facility.

*Run-On***C**any rainwater or other liquid that drains onto any part of a facility.

*Salvaging***C**the controlled removal of waste materials for later use.

*Sanitary Landfill***C**a landfill for the disposal of commercial or residential solid waste by deposit in a landfill in layers covered with suitable cover material of a depth and at a frequency adequate to control disease vectors and odors, and in such a manner that minimizes the risk to human health and the environment. It is located, contoured, and designed so that it will not constitute a source of water pollution.

*Scavenging***C**unauthorized removal of solid waste materials from a disposal or processing facility.

*Seismic-Impact Zone***C**an area with a 10 percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10 g in 250 years.

*Separation Facility***C**a solid waste facility at which recyclables are separated from the solid waste stream for future use.

*Septage***C**the contents of a septic tank, cesspool, or other individual sewage-treatment facility that receives domestic-sewage wastes.

*Service Area***C**the geographic area serviced by a solid waste facility in which solid waste is generated, collected, and transported for delivery to that solid waste facility.

*Sewage Sludge***C**sludge resulting from treatment of wastewater from publicly or privately owned or operated sewage-treatment plants.

*Shredder***C**a solid waste facility that reduces the particle size of solid waste by grinding, milling, shredding, or rasping.

*Site***C**the physical location, including land area and appurtenances, of an existing or proposed storage, processing, or disposal facility. A site may consist of a number of facilities, each subject to a permit to process or dispose of solid waste.

*Sludge***C**residue produced by or precipitated from a treatment process.

*Soil pH***C**a pH value obtained by sampling the soil to the depth of cultivation or solid waste placement. Test methodologies shall be in accordance with "Test Methods for Evaluation of Solid Wastes, Physical/Chemical Methods," EPA Publication SW-846.

*Solid Waste***C**any garbage, refuse, or sludge from a wastewater-treatment plant, water-supply treatment plant, or air pollution-control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. *Solid waste* does not include solid or dissolved material in domestic sewage; solid or dissolved materials in irrigation-return flows; industrial discharges that are point sources subject to permits under R.S. 30:2075; source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (68 Stat. 923 et seq.), as amended; or hazardous waste subject to permits under R.S. 30:2171 et seq.

*Solid Waste Management System***C**the entire process of collection, transportation, storage, processing, and disposal of solid waste by any person engaged in such process as a

business or by any municipality, authority, trust, parish, or any combination thereof.

*Spill*—any unauthorized discharge or release of solid waste into or onto the land, air, or water.

*Stabilize (Compost)*—compost that has at least passed through the thermophilic stage and in which biological decomposition of the solid waste has occurred to a sufficient degree to allow beneficial use.

*Standard Permit*—written authorization issued by the administrative authority to an applicant who has successfully completed the permit application process for a processing or disposal facility.

*Storage*—the containment of solid waste on surfaces capable of preventing groundwater contamination in a means not constituting processing or disposal.

*Structure Contour Map*—a map depicting lines drawn through points of equal elevation on a stratum, key bed, or horizon in order to depict the attitude of the rocks.

*Surface Application*—placement of solid waste onto a landfarm without incorporating it into the soil.

*Surface Impoundment*—a facility consisting of a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), designed to hold an accumulation of liquid waste and/or sludge, that is not an injection well, landfarm, landfill, or tank. Runoff and containment areas (ROCAs) of landfarms are considered to be surface impoundments.

*Surface-Recharge Zone*—an area where a formation or formations that compose an aquifer intersect the land surface and receive water from percolation, precipitation, or surface-water bodies.

*Tangible Net Worth*—the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents and royalties.

*Tank*—a stationary device designed to contain an accumulation of solid waste and constructed of nonearthen materials that provide structural support. The term *tank* does not include underground storage tanks as defined by the underground storage tank rules and regulations (LAC 33:XI).

*Temporary Permit*—a written authorization issued by the administrative authority, for a specific amount of time, to a person for the construction, installation, closure, or post closure of a particular facility used or intended to be used for processing or disposing of solid waste in accordance with the act, these regulations, and specified terms and conditions.

*Thermophilic Stage*—a biological stage in the composting process characterized by active bacteria that favor a high temperature range of 45° to 75° C. It occurs early in the composting process, before the mesophilic stage, and is associated with a high rate of decomposition.

*Test Hole*—an exploratory borehole drilled to obtain geologic, hydrologic, or water-quality data.

*Topsoil*—the surface layer of soil, capable of promoting growth of vegetation.

*Toxicity Characteristic Leaching Procedure (TCLP)*—a method to determine if a waste exhibits hazardous characteristics, conducted in accordance with LAC 33:V.

*Transfer Station*—a solid waste processing facility where solid waste is transferred from collection vehicles and placed in other vehicles for transportation.

*Transport*—to move industrial solid waste off-site and/or to move solid waste of a commercial establishment or more than one household to a storage, processing, or disposal facility.

*Transporter*—any person who moves industrial solid waste off-site and/or who moves solid waste of a commercial establishment or more than one household to a storage, processing, or disposal facility.

*Trash*—nonputrescible refuse, including white goods, furniture, and wood and metal goods.

*Treatment Zone*—the depth in the soil of a landfarm into which solid waste has been incorporated and additional depths to which decomposition is occurring based on site-specific conditions.

*Type (of Waste)*—a category of waste in a general classification, defined for solid waste management purposes (e.g., commercial, industrial, residential).

*Type I Facility*—a facility used for disposing of industrial solid wastes. (If the facility is also used for disposing of residential or commercial solid waste, it is also a Type II facility).

*Type I-A Facility*—a facility used for processing industrial solid waste (e.g., transfer station, incinerator waste-handling facility, shredder, baler, or compactor). (If the facility is also used for processing residential or commercial solid waste, it is also a Type II-A facility).

*Type II Facility*—a facility used for disposing of residential or commercial solid waste. (If the facility also is used for disposing of industrial solid waste, it is also a Type I facility).

*Type II-A Facility*—a facility used for processing residential, infectious, or commercial solid waste (e.g., transfer station, incinerator waste-handling facility, refuse-derived fuel facility, shredder, baler, autoclave, or compactor). (If the facility is also used for processing industrial solid waste, it is also a Type I-A facility).

*Type III Facility*—a facility used for disposing or processing of construction/demolition debris or woodwaste, composting organic waste to produce a usable material, or separating recyclable wastes (a separation facility). Residential, commercial, or industrial solid waste must not be disposed of or processed in a Type III facility.

*Unauthorized Discharge*—a continuous, intermittent, or one time discharge, whether intentional, anticipated, or unanticipated, from any source, permitted or unpermitted, which is in contravention of any provision of the act or of any permit or license terms and conditions or of any applicable regulation, compliance schedule, variance, or exemption of the administrative authority.

*Unauthorized Dump*—a solid waste disposal facility whose operation is not authorized by the administrative authority.

*Unit of a Facility*—designated area of a facility wherein solid waste is, has been, or will be processed, stored, or disposed of.

*Unstable Area*—a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable

areas can include poor foundation conditions, areas susceptible to mass movement, and Karst terranes.

*Uppermost Aquifer*—the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

*Uppermost Water-Bearing Permeable Zone*—any relatively permeable zone, other than the uppermost aquifer, that may act as a potential contaminant pathway.

*Vector*—see *disease vector.*

*Water Table*—the upper surface of the zone of saturation at which the pressure is equal to the atmospheric pressure.

*Wetlands*—those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

*White Goods*—discarded domestic and commercial appliances, such as refrigerators, ranges, washers, and water heaters.

*Woodwaste*—yard trash and types of waste typically generated by sawmills, plywood mills, and woodyards associated with the lumber and paper industry, such as wood residue, cutoffs, wood chips, sawdust, wood shavings, bark, wood refuse, wood-fired boiler ash, and plywood or other bonded materials that contain only phenolic-based glues or other glues that are approved specifically by the administrative authority. Treated or painted lumber is not considered woodwaste under this definition.

*Working Face*—that portion of a landfill where waste is currently being added during the operating day.

*Yard Trash*—vegetative matter resulting from landscaping, maintenance, or land-clearing operations, including tree and shrubbery leaves, limbs, stumps, grass clippings, and flowers.

*Zone of Incorporation*—the depth to which solid waste has been incorporated into the soil of a landfarm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

## Chapter 3. Applicability, Scope, and Mandatory Provisions of the Program

### §301. Wastes Governed by These Regulations

A. All solid wastes as defined by the act and these regulations are subject to the provisions of these regulations, except as provided in these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §302. Wastes Not Governed by the Regulations

A. The following wastes are not subject to the provisions of these regulations:

1. wastes regulated under other authority and not processed or disposed of in solid waste facilities permitted under these regulations, including but not limited to, the following wastes:

a. agricultural-crop residues, aquacultural residues, silvicultural residues, and other agricultural wastes stored, processed, or disposed of on the site where the crops are grown or that are stored, processed, or disposed in accordance with a best management practice plan that has been provided to the Office of Environmental Services, Permits Division and approved, in writing, by the Department of Agriculture and within the jurisdiction of the Department of Agriculture;

b. mining overburden, spoils, tailings, and related solid wastes within the jurisdiction of the Department of Natural Resources, Office of Conservation;

c. produced-waste fluids and muds resulting from the exploration for or production of petroleum and geothermal energy, and all surface and storage waste facilities incidental to oil and gas exploration and production within the jurisdiction of the Department of Natural Resources, Office of Conservation;

d. uncontaminated dredge or earthen excavation spoil;

e. solid wastes while they are stored at residences or commercial establishments and regulated by local ordinance or within the jurisdiction of the Department of Health and Hospitals;

f. uncontaminated residues from benefication of earthen material;

g. uncontaminated stormwater and uncontaminated noncontact cooling water; and

h. infectious waste or other hospital or clinic wastes that are not processed or disposed of in solid waste processing or disposal facilities permitted under these regulations; and

2. wastes excluded by definition of solid waste in the act and/or as otherwise specified in the act, including:

a. hazardous wastes subject to regulation under R.S. 30:2171 et seq.;

b. solid or dissolved material in domestic sewage (such as domestic-oxidation ponds), except separated sludges;

c. solid or dissolved materials in irrigation-return flow;

d. discharges that are downstream from point sources subject to permit under R.S. 30:2075, except waste contained in solid waste facilities prior to the final discharge point. However:

i. wastewaters in existing ditches that are downstream of a designated internal state or federal wastewater discharge point are exempt from the definition of solid waste if they require no further treatment to meet final state or federal wastewater discharge point permit limits or if they require only pH adjustment to meet final pH permit limits or suspended solids settling specifically to meet final total suspended solids permit limits;

ii. wastewasters in existing ditches upstream of a designated final state or federal wastewater discharge point that require no further treatment to meet final state or federal permit limits or that only require pH adjustment to meet final pH permit limits or solids settling specifically to meet total suspended solids permit limits are exempt from the definition of solid waste;

iii. solids or sludges in ditches are exempt from the definition of solid waste until such time as such solids or sludges are removed from the ditches for disposal, provided however, that this exclusion from the definition of solid

waste only applies to solids and sludges derived from wastewaters described in Clauses A.2.d.i and ii of this Section; and

iv. the administrative authority reserves the right to withdraw the exemption for wastewaters in Clauses A.2.d.i and ii of this Section if the wastewaters contribute to groundwater contamination;

e. source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

f. compost produced by an individual for his own use, as provided in R.S. 30:2416.G; and

g. automotive fluff resulting from the shredding of automobiles by scrap metal recycling facilities and from which metals have been recovered, as provided in R.S. 30:2153(1)(b)(iv).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations**

A. Solid wastes listed in this Section that are processed or disposed of in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations. This includes the following solid wastes:

1. wastes resulting from land and right-of-way clearing (trees, stumps) and processed or disposed of on the site where generated;

2. solid wastes in facilities that have been closed in a manner acceptable to the administrative authority prior to January 20, 1981. (This Subsection is not intended to require permitting of any facilities that have been closed in a manner acceptable to the administrative authority and that remain closed.);

3. waste papers, metals, plastics, and glass that are presorted to be recycled or reused and not destined for disposal;

4. uncontaminated earthen materials such as limestone, clays, sands, clamshells, river silt, and uncontaminated residues from benefication of earthen materials;

5. brick, stone, reinforced and unreinforced concrete, and asphaltic roadbeds;

6. sludges resulting from the treatment of water at public or privately owned water-supply treatment plants;

7. petroleum-refining catalysts and other materials utilized as feedstocks that are managed at a facility in order to recover these wastes for further use;

8. agricultural wastes, including manures, that are removed from the site of generation by an individual for his own personal use on land owned or controlled by the individual. The amount of wastes covered by this exemption shall not exceed 10 tons per year (wet weight) per individual per use location;

9. solid wastes that are treated or disposed of in a hazardous waste treatment or disposal facility that is regulated under LAC 33:Part V;

10. woodwastes that are beneficially-used in accordance with a best management practice plan approved, in writing, by the Louisiana Department of Agriculture and submitted to the Office of Environmental Services, Permits Division, provided the following requirements are met:

a. the generator must notify the Office of Environmental Services, Permits Division of such activity at each site in accordance with LAC 33:VII.401; and

b. the generator must submit to the Office of Management and Finance, Financial Services Division a disposer annual report in accordance with the standards in LAC 33:VII.1109, which reports amounts of woodwastes beneficially-used at each site;

11. solid wastes re-used in a manner protective of human health and the environment, as demonstrated by a soil re-use plan prepared in accordance with LAC 33:VII.Chapter 11 and approved by the administrative authority;

12. infectious waste that is generated by individuals in a residence, or by health care services that provide medical treatment to individuals at home, provided that these wastes are retained by the patient for processing or disposal; and

13. other wastes deemed acceptable by the administrative authority based on possible environmental impact.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§305. Facilities Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations**

A. The following facilities that are operated in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

1. incinerators that receive only on-site-generated commercial solid waste and that have a design rate of no more than 250 pounds per hour and an operating rate that does not exceed the design rate;

2. shredders, autoclaves, balers, and compactors, when used for recycling, that receive no waste volume from off-site sources;

3. facilities that process or reuse on-site-generated, nonhazardous, petroleum-contaminated media and debris from underground storage tank corrective action, provided such processing or reuse is completed in less than 12 months and authorized by the underground storage tank regulations;

4. construction/demolition-debris disposal facilities at industrial sites that receive only on-site-generated construction/demolition-debris, provided the following requirements are met:

a. the facility must notify the Office of Environmental Services, Permits Division of such activity in accordance with LAC 33:VII.401; and

b. the facility must submit to the Office of Management and Finance, Financial Services Division a disposer annual report in accordance with the standards for construction/demolition-debris disposal facilities found in LAC 33:VII.727;

5. solid waste injection wells that are under the jurisdiction of the Department of Natural Resources. However, any storage, processing, or disposal (not including

injection) incidental to such injection wells is subject to these regulations;

6. industrial facilities that process solid waste by nondestructive and nonthermal means on the site where the waste is generated (i.e., none of the waste is from off-site sources);

7. secondary containment systems (e.g., sumps or dikes) that are designed and operated to contain nonroutine spill events (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include secondary containment systems for solid waste disposal units;

8. woodwaste facilities at which only woodwaste is disposed of on property owned by the generator of the woodwaste, provided the following requirements are met:

a. the facility must notify the Office of Environmental Services, Permits Division of such activity in accordance with LAC 33:VII.401;

b. the facility must submit to the Office of Management and Finance, Financial Services Division a disposer annual report in accordance with the standards for woodwaste disposal facilities in LAC 33:VII.709;

c. the facility must comply with applicable Louisiana water pollution control regulations (LAC 33:IX); and

d. the facility must comply with the perimeter barrier, security, and buffer zone requirements in LAC 33:VII.703.A;

9. facilities at which only woodwastes resulting from utility right-of-way clearing are received, provided the following conditions are met:

a. the facility property must be controlled by the utility company that generates the woodwaste;

b. the facility must comply with the natural or manmade perimeter barrier and security requirements in LAC 33:VII.703.A.2;

c. the facility must not receive solid waste from any source other than the utility company (or its authorized contractors) that generates the waste;

d. the facility must notify the Office of Environmental Services, Permits Division of its activities in accordance with LAC 33:VII.401;

e. the facility must submit to the Office of Management and Finance, Financial Services Division a disposer annual report that accurately estimates volumes of waste disposed in accordance with the standards for woodwaste disposal facilities found in LAC 33:VII.709; and

f. the facility must comply with applicable Louisiana water quality regulations (LAC 33:IX);

10. ditches that receive nonroutine spillage (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include ditches for solid waste disposal units such as landfills, landfarms, or surface impoundments;

11. recycling facilities, as described in LAC 33:VII.303.A.3, that receive only source separated recyclables;

12. hospitals and other health care facilities that store or treat regulated infectious waste generated on-site or that accept waste from off-site wholly or partly owned subsidiaries;

13. facilities on which there is burning of leaves, grass, twigs, branches, and vines by a private property owner on his own property for noncommercial purposes in parishes with a population of 300,000 or less, provided the property owner attends the burning of yard waste at all times. The facility must comply with all applicable air quality local, state, and federal regulations. This exception shall not apply in the parish of East Baton Rouge; and

14. facilities on which there is burning of trees, brush, grass, or other vegetable matter in any parish having a population of 90,000 or less, provided the location of the burning is not within the territorial limits of a city or town or adjacent to a city or town in such proximity that the ambient air of the city or town will be affected by smoke from the burning. The facility must comply with all applicable air quality local, state, and federal regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§307. Exemption Requests**

A. Any person subject to these regulations who generates, collects, stores, transports, processes, or disposes of solid waste may petition the administrative authority for exemption from these regulations or any portion thereof.

1. The administrative authority may provide exemptions from these regulations, or any portion thereof, when petitions for such are deemed appropriate after consideration of the factors enumerated in Subparagraphs B.2.a and b of this Section, as well as any other pertinent factors.

2. The administrative authority shall make a decision whether or not to grant the exemption requested within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority. In no case shall the time period be greater than one year.

B. Each request for an exemption must:

1. identify the specific provisions of these regulations from which a specific exemption is sought;

2. provide sufficient justification for the type of exemption sought, which includes, but may not be limited to, the following demonstrations:

a. that compliance with the identified provisions would tend to impose an unreasonable economic, technologic, or safety burden on the person or the public; and

b. that the proposed activity will have no significant adverse impact on the public health, safety, and welfare and the environment and that it will be consistent with the provisions of the act; and

3. include proof of publication of the notice as required in Paragraph C.1 of this Section, except for emergency exemptions.

C. Public Notification of Exemption Requests

1. Persons requesting an exemption shall publish a notice of intent to submit a request for an exemption, except as provided in Paragraph C.2 of this Section. This notice shall be published one time as a single classified advertisement measuring three columns by five inches in the

legal notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal notices section of the official journal of the state. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement measuring three columns by five inches, in the legal notices section of the official journal of the state, will be the only public notice required.

2. Persons granted emergency exemptions by the administrative authority shall publish a notice to that effect in the legal notices section of a newspaper of general circulation in the area and parish where the facility requesting the exemption is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal notices section of the official journal of the state. The notice shall describe the nature of the emergency exemption and the period of time for which the exemption was granted. Proof of publication of the notice shall be forwarded to the Office of Environmental Services, Permits Division within 60 days after the granting of an emergency exemption.

D. Innovative or Alternate Technology Exemption. Persons requesting an exemption based on innovative or alternate technology shall follow the procedure specified in Subsections A, B, and C, except for Subparagraph B.2.a, of this Section. Requests for exemptions based on innovative technology may be granted by the administrative authority based on the ability of the applicant to make the following demonstrations:

1. the request is based on innovative or alternative technology;

2. the innovative or alternative technology must satisfy all of the applicable standards in LAC 33:VII other than those for which the exemption is sought; and

3. the innovative or alternative technology must produce performance or provide protection that is equivalent or superior to that required by all the standards for which the exemption is sought.

E. No exemptions shall be granted for Type II landfills that would allow noncompliance with federal regulations, specifically 40 CFR 257 and 258, as amended on October 9, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§309. Mandatory Provisions**

A. Generating, Collecting, Transporting, Storing, Processing, and Disposing of Solid Waste. Solid waste shall be generated, collected, transported, stored, processed, and disposed of only in accordance with these regulations.

B. Storage of Wastes. No solid waste shall be stored or allowed to be stored in such a manner that it may cause a nuisance or health hazard, as determined by the administrative authority.

C. Access to Facilities. The administrative authority or his representative shall have access to the premises of all facilities used for the management of solid waste for all purposes authorized under R.S. 30:2154 et seq., particularly R.S. 30:2012. These inspections are usually conducted during normal operating hours; however, the department reserves the right to conduct inspections before and after operating hours. Upon request of the operator or permit holder, the administrative authority or his representative shall discuss the preliminary findings of any such investigation before leaving the premises.

D. Reporting of Unauthorized Discharge. Any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land of the state in contravention of the act, these regulations, or the terms and conditions of a permit issued thereunder, or any accident, fire, explosion, or other emergency that results in such unauthorized solid waste discharge, shall be reported by any person causing, allowing, or suffering said discharge or by any person with knowledge of the discharge to the department, as required by the notification regulations and procedures for unauthorized discharges (LAC 33:I.Chapter 39).

E. Cleanup of Unauthorized Discharge. The cleanup, isolation, removal, or otherwise rendering safe of solid waste processed or disposed of in a manner not authorized by these regulations, or at a facility not permitted to receive such wastes, shall be conducted in accordance with the terms and conditions of any order issued by the administrative authority. Such orders shall not preclude other enforcement action under R.S. 30:2025.

F. Notice of Damage to Structures in a Solid Waste Facility. The Office of Environmental Compliance shall be notified within 48 hours by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us or other means of communication when damage to or degradation of any structure of a solid waste facility occurs that would impair the ability of the facility to meet the conditions of its permit.

G. Hazardous or Nuclear Wastes in Solid Waste Facilities. No hazardous waste or nuclear material regulated under the Louisiana hazardous waste rules and regulations or Louisiana radiation regulations shall be processed or disposed of at a solid waste facility except in conformance with those regulations. Collectors, transporters, processors, and disposers of solid waste must determine, according to approved methods, that the waste is not hazardous before collecting, transporting, processing, or disposing of it.

H. Compliance with Other Regulations. All facilities may be subject to applicable federal and state laws and regulations, including but not limited to, Section 402 (NPDES) and Section 404 (Dredge and Fill) of the Clean Water Act; the Coastal Zone Management Act and Federal Aviation Administration regulations; the National Historic Preservation Act of 1966, as amended; the Endangered Species Act; the Wild and Scenic Rivers Act; the Fish and Wildlife Coordination Act; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection Research and Sanctuary Act; the Resource Recovery and Conservation Act; and the Federal Insecticide, Fungicide, and Rodenticide Act.

I. Contamination of the Waters of the State. No person(s) shall cause, allow, or permit solid waste to be disposed of in such a manner that it enters the waters of the state. This does not apply to discharges into waters of the

state in accordance with state or federal wastewater-discharge permits.

J. Open burning of solid waste is prohibited, except as otherwise provided in these regulations.

K. Spent Bauxite Waste and By-Product Gypsum and Related Wastes

1. The administrative authority may give special consideration to landfills that receive only by-product gypsum and related wastes (resulting from the production of phosphoric acid, phosphate fertilizers, and hydrofluoric acid), which is generated on-site, with regard to standards for receipt of liquid waste, standing water, specific design and operation of liners and leachate collection and removal systems, daily cover, and final cover, which may include waiver or modification of these standards.

2. The administrative authority may give special consideration to surface impoundments that receive only spent bauxite waste and related wastes (resulting from production of alumina), which is generated on-site, with regard to standards for liners and final cover, which may include waiver or modification of these standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

## Chapter 4. Administration, Classifications, and Inspection Procedures for Solid Waste Management Systems

### §401. Notification

A. Except as provided for in Subsection B of this Section, persons who generate industrial solid waste and/or persons who transport, process, or dispose of solid waste shall, within 30 days after they become subject to these regulations, notify the Office of Environmental Services, Permits Division, in writing, of such activity. A form to be used for notification shall be obtained from the Office of Environmental Services, Permits Division or through the department's website at www.deq.state.la.us.

B. Persons who generate industrial solid waste and persons who transport, process, or dispose of solid waste who have previously notified the department of such activity are not required to renotify, unless changes are warranted.

C. Owners or operators of pickup stations are required to notify the Office of Environmental Services, Permits Division of such activities within 30 days after they become subject to these regulations. Existing facilities that have previously notified the department are not required to renotify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §403. Existing Facilities Classification

A. Classification

1. Existing facilities that have not been previously regulated, classified, or issued a standard permit shall be classified by the administrative authority to the classification categories of "closure" or "upgrade."

2. Within 120 days after the review and acknowledgment of the notification by the administrative authority, a representative of the department shall perform an on-site investigation of the facility to determine its classification. At the time of the classification inspection, the processor and/or disposer shall provide the representative with a map clearly depicting the location and size of each facility (and units thereof) to be classified and a schematic of the waste entering each unit of a facility to be classified.

3. Within 30 days after the classification inspection, any person who processes or disposes of solid waste shall file with the Office of Environmental Services, Permits Division a notice of his intent to upgrade or close a facility.

B. Existing Facilities Not Operating under a Standard Permit. All facilities without a standard permit, whether operating or inactive, shall be upgraded or closed in accordance with LAC 33:VII.Subpart 1 unless they have previously been satisfactorily closed in accordance with LAC 33:VII.Subpart 1.

C. Permits for Existing Facilities Operating Without a Standard Permit. All existing solid waste facilities classified for upgrading shall apply for a standard permit according to these regulations.

D. Existing facilities that have not previously been classified or that are not operating under a standard permit shall be classified for upgrade or closure by the following criteria and procedure:

1. classification criteria are based on compliance with standards detailed in LAC 33:VII.Chapters 5, 7, and 8, with emphasis on the following:

a. potential for pollution of surface water;

b. potential for pollution of groundwater;

c. potential for pollution of air;

d. location in flood plains or in wetlands;

e. potential for danger to health due to disease vectors, use of waste-filled lands for food crops, and similar health-related practices;

f. safety considerations, including danger from explosive gases, from fires, and from birds attracted to the site that might obstruct the glide path of aircraft; and

g. threat to endangered species; and

2. the classification procedure comprises identifying, evaluating, and preliminary classification of facilities:

a. an ongoing effort shall be made to identify all solid waste facilities; and

b. the facilities shall be evaluated on the basis of the criteria listed in this Subsection and based on the needs and plans of the facility.

E. Issuance of Temporary Permits

1. The administrative authority may issue a temporary permit for upgrading to persons who process or dispose of solid waste. The temporary permit shall require the submission of a permit application. The temporary permit will allow the facility to continue operations in accordance with an approved interim operational plan pending the standard permit application process.

2. The administrative authority may issue a temporary permit for closure to persons who process or dispose of solid waste. The temporary permit shall require the submission of a closure plan permit application and implementation schedule. The temporary permit may allow the facility to continue operations in accordance with an approved interim operational plan pending the closure process.

3. Temporary permits are subject to annual permit maintenance fees as provided in LAC 33:VII.1505.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§405. Categorization of Facilities**

A. All existing and proposed facilities shall be categorized as one of the following:

1. Type I. Industrial disposal facilities (landfills, surface impoundments, or landfarms);

2. Type I-A. Industrial processing facilities (incinerator waste-handling facilities, compactors, balers, shredders, or transfer stations);

3. Type II. Nonindustrial disposal facilities (landfills, surface impoundments, or landfarms);

4. Type II-A. Nonindustrial processing facilities (incinerator waste-handling facilities, compactors, balers, shredders, transfer stations, or refuse-derived fuel facilities); and

5. Type III. Construction/demolition-debris and woodwaste landfills, separation facilities, composting facilities, or other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§407. Inspection Types and Procedures**

A. Classification Inspection. A classification inspection is required for all existing facilities not previously classified, and each facility's initial classification is based on this inspection. It is performed after the department receives notification of operations (LAC 33:VII.401).

B. Compliance Inspections. The department shall inspect each facility and each facility's records periodically to determine the facility's compliance with the terms of standard or temporary permits and these regulations.

C. Initial Start-Up Inspection—Newly Permitted Facilities

1. For existing facilities, the initial start-up inspection shall be made after a standard permit has been issued, all upgrading measures are completed, new activities as a result of upgrade are implemented, and certification is submitted to the Office of Environmental Services, Permits Division, by a registered engineer licensed in the state of Louisiana, that the facility is constructed and has been upgraded in accordance with the permit.

2. For new facilities, the initial start-up inspection shall be made after a standard permit has been issued, construction measures have been completed, and certification is submitted to the Office of Environmental Services, Permits Division, by a registered engineer licensed in the state of Louisiana, that the facility is constructed in accordance with the permit.

3. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Assessment, Environmental Technology Division, unless a longer time period is set by mutual agreement.

4. Within 15 working days after a new or existing facility has undergone the initial start-up inspection, the administrative authority shall either issue an order authorizing commencement of operation or a written notice of deficiency to the permittee, unless a longer time period is set by mutual agreement.

D. Construction Inspections. At least 10 days prior to commencing construction of a liner, leak-detection system, leachate-collection system, or monitoring well at a Type I or Type II facility, the permit holder shall notify the Office of Environmental Assessment, Environmental Technology Division, in writing, of the date on which construction will begin, in order to allow a representative of the division the opportunity to witness the construction.

E. Unit Start-Up Inspections—All Facilities

1. Start-up inspections for new units of a standard permitted facility shall be conducted after completion of all construction measures and after submittal of certification to the Office of Environmental Services, Permits Division, by a registered engineer licensed in the state of Louisiana, that the unit is constructed in accordance with the permit.

2. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Services, Permits Division.

3. Within 10 working days after a new unit of a facility has undergone a unit start-up inspection, the administrative authority shall issue either an approval of the construction or a notice of deficiency. The unit may commence operation only upon approval of the construction of the unit by the administrative authority.

F. Modification Start-Up Inspections—All Facilities

1. Start-up inspections for modified construction of a standard permitted facility shall be conducted after construction measures of the modification are completed and certification is submitted to the Office of Environmental Services, Permits Division, by a registered engineer licensed in the state of Louisiana, that the modified feature/unit has been constructed in accordance with the modification approved by the administrative authority and any conditions specified in such approval.

2. After a modified unit/feature of a facility has successfully undergone a start-up inspection and after the permit holder has been notified, in writing, of this, operation of the modified unit/feature may commence.

G. Closure Inspections. Closure inspections will be conducted within 30 days after the Office of Environmental Services, Permits Division has received written notice from the permit holder that closure requirements have been met in accordance with the approved closure plan and the permit holder has filed a request for a closure inspection. Closure inspections must be conducted before backfilling of a facility takes place. The administrative authority reserves the right to determine if a facility has been closed properly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

## Chapter 5. Permit Process and Application

### Subchapter A. Permit System for Facilities Classified for Upgrade or Closure

**§501. Permit System**

A. Scope. A permit must be secured by any person who processes and/or disposes of solid waste, with the exception of those wastes or processing and disposal facilities described in LAC 33:VII.301, 302, 303, and 305. Facilities (existing and proposed) subject to the permitting

requirements detailed in these regulations are defined in LAC 33:VII.115 and 405.A.

B. Permits for New Facilities. No new solid waste facilities shall be constructed or operated without a permit issued by the administrative authority in accordance with these regulations.

C. Construction of New or Modified Facilities. No construction of a new facility or modification of an existing facility may commence without a permit.

D. The following will not be required to secure permits:

1. generators who are not processors or disposers of solid waste. Generators of industrial solid waste must notify the Office of Environmental Services, Permits Division in accordance with LAC 33:VII.401.A. Generators of industrial solid waste are subject to the applicable standards provided in LAC 33:VII.601;

2. transporters who are not processors or disposers of solid waste. Transporters of solid waste must notify the Office of Environmental Services, Permits Division in accordance with LAC 33:VII.401A. Transporters of solid waste are subject to the applicable standards provided in LAC 33:VII.605;

3. storers who are not processors or disposers of solid waste. Storers of solid waste are subject to the applicable standards provided in LAC 33.VII.603; and

4. pickup stations at which no solid waste is processed or disposed of. Pickup stations are subject to the standards found in LAC 33:VII.603 and 607 and must notify the Office of Environmental Services, Permits Division in accordance with LAC 33:VII.401.

E. Types of Permits

1. Temporary Permit

a. A temporary permit allows continued operation of an existing facility in accordance with an interim operational plan, but does not allow the expansion or modification of the facility without prior approval of the administrative authority. The administrative authority may issue a temporary permit in the following situations:

i. to allow operations to continue at an existing facility while a standard permit application is being processed;

ii. to allow operations to continue at an existing facility while a closure plan permit application is being processed or while a facility is being closed in accordance with a closure plan; or

iii. to allow an applicant for a permit for a proposed facility to begin construction on a limited basis while an application for a proposed facility is being processed for good cause shown.

b. The types of temporary permits issued on or after February 20, 1993, will correspond to the facility categories defined in LAC 33:VII.405.A: Type I, Type I-A, Type II, Type II-A, and Type III.

c. Temporary permits that may have been issued in the form of administrative orders, compliance orders to upgrade, orders to upgrade, compliance orders to close, orders to close, and settlement agreements, prior to February 20, 1993, may remain in effect until otherwise determined by the administrative authority. Notwithstanding this Subparagraph, any such temporary permit holder must comply with applicable upgrade requirements and deadlines in LAC 33:VII.502.

2. Standard Permit. Standard permits may be issued by the administrative authority to applicants for solid waste processing and/or disposal facilities that have successfully completed the standard permit application process. The types of standard permits issued on or after February 20, 1993, will correspond to the facility categories defined in LAC 33:VII.405.A: Type I, Type I-A, Type II, Type II-A, and Type III.

F. Existing Facilities Not Previously Classified or Not Presently Operating Under a Standard Permit

1. Only those existing facilities that the administrative authority classifies for upgrading may apply for a standard permit. The person(s) notifying the Office of Environmental Services, Permits Division shall be issued a temporary permit and may continue operations in accordance with the interim operational plan, pending a decision on the standard permit application.

2. Facilities classified for closure will be issued a temporary permit. That permit may allow operations to continue in accordance with the interim operational plan until closure activities are accomplished and may require that closure and/or post-closure activities be conducted in accordance with the approved closure plan.

G. Duration of Permit

1. Temporary permits are issued for a period not to exceed three years.

2. Standard permits are issued for a period not to exceed 10 years.

a. Processing and/or disposal facilities with an effective standard permit shall submit to the Office of Environmental Services, Permits Division a new permit application at least 455 days before the expiration date of the standard permit, unless permission for later filing is granted by the administrative authority. If the reapplication is submitted on or before the deadline above, and the administrative authority does not issue a final decision on the reapplication on or before the expiration date of the standard permit, the standard permit shall remain in effect until the administrative authority issues a final decision.

b. Permits for processing and/or disposal facilities that have been issued with an expiration date greater than 10 years after the effective date of the permit shall expire 10 years after the date the permit was effective or on August 1, 1996, whichever is later. These facilities shall be subject to the provisions in Subparagraph G.2.a of this Section.

H. Property Rights. Permits issued by the administrative authority do not convey any property rights of any sort or any exclusive privilege.

I. Public Hearings

1. Public hearings will be held concerning standard permits for facilities when the administrative authority determines that there is sufficient public interest.

2. Public hearings will be held concerning major modifications of standard permits when the administrative authority determines that there is sufficient public interest.

3. Public hearings will not be held concerning mandatory modifications, which are considered an enhancement of a standard permitted facility.

4. Public hearings shall be conducted in accordance with the rules of procedure of the administrative authority for fact-finding hearings or other hearing procedures

developed by the administrative authority and the Administrative Procedure Act (R.S. 49:950 et seq.).

J. Other Requirements

1. The applicant may be required to obtain additional permits from other local state and federal agencies. A listing of typical permits that may be needed are as follows:

a. NPDES (Section 402 of the Clean Water Act);

b. Louisiana Water Discharge Permit;

c. Louisiana Coastal Use Permit (issued by the Department of Natural Resources, Coastal Management Division);

d. Louisiana Air Emissions Permit;

e. U.S. Army Corps of Engineers Permit (Dredge and Fill, Section 404 of the Clean Water Act); or

f. appropriate local permits, licenses, certification, registration, or approval.

2. It is the responsibility of the applicant to identify the other applicable permits that may be required. A listing of the permits that the applicant intends to apply for shall be included in the solid waste permit application.

3. The applicant shall provide appropriate documentation to the Office of Environmental Services, Permits Division that the proposed use does not violate zoning or other land-use regulations that exist at the time of the submittal of the standard permit application.

K. Suspension or Revocation of Permit. The administrative authority may review a permit at any time. After review of a permit, the administrative authority may, for cause, suspend or revoke a permit in whole or in part in accordance with the procedures outlined in LAC 33:VII.Chapter 9 and R.S. 30:2025.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§502. Mandatory Modifications Requirements**

A. This Section applies to facilities that have submitted mandatory modification applications to the department. Mandatory modifications were required by the regulations promulgated on February 20, 1993. Subsections B-N of this Section are an upgrade schedule for those facilities.

B. Existing Type I Landfills and Type I Landfarms

1. Permit holders for existing Type I landfills and Type I landfarms operating under a standard permit must submit to the Office of Environmental Services, Permits Division a mandatory modification document to address these regulations.

2. Existing Type I landfills and Type I landfarms shall be upgraded in accordance with these regulations.

C. Existing Type II Landfills

1. Permit holders of existing Type II landfills operating under a standard permit must submit to the department a mandatory modification document to address these regulations.

2. Except as provided in Paragraph C.3 of this Section, existing Type II landfills shall be upgraded in accordance with these regulations.

3. Special Subtitle D Upgrade Requirements. Notwithstanding Paragraphs C.1 and 2 of this Section, the following upgrade schedule applies:

a. existing Type II landfills must be upgraded to comply with LAC 33:VII.701.A.4 (regarding airports), 703.A.2.a, b, and c (regarding restriction of public access), 703.A.6 and 711.A.2 (regarding hazardous-waste exclusion), 703.A.7 (regarding discharges to surface water), 705.D.2 (regarding unstable areas), 707.B.1 (regarding 100-year floodplains), 707.B.2 and 3 (regarding run-on/runoff control), 719.C.1 (regarding daily cover), 711.A.2.a (regarding open burning), 719.D.1.c (regarding liquid waste exclusion), 711.C.1 (regarding methane monitoring), and 719.D.3.b (regarding vector control) no later than October 9, 1993;

b. units of Type II landfills that did not receive solid waste prior to October 9, 1993, must comply with LAC 33:VII.701.A.8 (regarding wetlands demonstrations), 701.A.10 (regarding fault areas), 705.D.1 (regarding seismic impact zones), 805 (regarding groundwater monitoring) and 719.C.2 and 3 (regarding plans and specifications for leachate collection and liners) before receiving solid waste;

c. units of Type II landfills that are less than one mile from a drinking water intake must be upgraded to comply with LAC 33:VII.805 (regarding groundwater monitoring);

d. units of Type II landfills that are less than two miles from a drinking water intake must be upgraded to comply with LAC 33:VII.805 (regarding groundwater monitoring);

e. units of Type II landfills that are greater than two miles from a drinking water intake must be upgraded to comply with LAC 33:VII.805 (regarding groundwater monitoring);

f. the administrative authority may extend the date for compliance with Subparagraph C.1.a of this Section to April 9, 1994, for qualified existing Type II landfill units;

g. the administrative authority may extend the post-closure waste acceptance dates in LAC 33:VII.719.F.2.a and b to April 9, 1994, for existing units of qualified Type II landfills; and

h. for the purposes of Subparagraphs C.3.f and g of this Section, a qualified Type II landfill is one that:

i. received no more than 100 tons per day of solid waste between October 9, 1991, and October 9, 1992, based on a calendar daily average; and

ii. received no more than 100 tons per day of solid waste based on a daily average computed each month between October 9, 1993, and April 9, 1994.

D. All Other Existing Type I, Type I-A, Type II, and Type II-A Facilities

1. Permit holders for all other Type I, Type I-A, Type II, and Type II-A facilities operating under a standard permit must submit to the department a mandatory modification document to address these regulations.

2. Existing Type I, Type I-A, Type II, and Type II-A facilities shall be upgraded in accordance with these regulations.

E. Financial Assurance. Existing Types I, II, or III facilities that are owned or operated by local governments must comply with the financial assurance requirements in LAC 33:VII.Chapter 13. The administrative authority may waive the requirements of this Section for up to one year for good cause if an owner or operator demonstrates that the effective date for the requirements of this Section does not provide sufficient time to comply with these requirements and that such a waiver will not adversely affect human

health and the environment. All other facilities must comply by February 20, 1995.

F. Units of existing Type II landfills that are not upgraded in accordance with these regulations must cease accepting waste and complete closure.

G. Units of facilities, other than Type II landfills, that are not upgraded in accordance with these regulations must cease accepting waste and complete closure on or before their respective upgrade deadlines provided in Subsection C of this Section.

H. Permit holders of facilities that have earthen ditches that lead to or from units of the facility and receive solid waste must:

1. submit a plan to the department to:

a. upgrade the ditches to meet these regulations (This plan must be in the form of a permit modification and may be included in the mandatory modification document for the facility.);

b. remove the solid waste from the ditches and line them with materials capable of preventing groundwater contamination; or

c. remove the solid waste from the ditches and cease disposing of solid waste in the ditches.

2. upgrade the ditches in accordance with these regulations and the permit modification by February 1, 1998.

I. Type I and II facilities with closure plans approved prior to and that do not receive solid waste on or after October 9, 1993, may complete closure and post-closure under the terms of the approved closure plan, except that Type II landfills that received solid waste on or after October 9, 1991, must meet standards for placement and maintenance of final cover in LAC 33:VII.719.E and F.

J. The permit holder of a Type II facility must submit to the department a new or amended closure plan and a post-closure plan in the form of a permit modification to address these regulations no later than October 9, 1993, or by the initial receipt of waste, whichever is later.

K. Municipal solid waste landfills that commenced construction, reconstruction, or modification or began accepting waste on or after May 30, 1991, are subject to 40 CFR Part 60, Subpart WWW - Standards of Performance for Municipal Solid Waste Landfills. Described landfills may be required to have an operating permit under the air quality regulations, LAC 33:III.

L. Municipal solid waste landfills that accepted waste on or after November 8, 1987, or for which construction, reconstruction, or modification was commenced before May 30, 1991, may be subject to 40 CFR Part 60, Subpart Cc - Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills. Described landfills may be required to have an operating permit under the air quality regulations, LAC 33:III.

M. Existing Facilities Operating Under a Temporary Permit with Pending Permit Applications. Permit holders of existing facilities operating under a temporary permit must submit to the department, no later than January 1, 1994, an addendum to the permit application to address these regulations. Existing facilities that do not hold a standard permit must be upgraded in accordance with the applicable deadlines according to facility type described in this Section, unless earlier deadlines are required by the administrative authority.

N. Applicants of Proposed Facilities With Pending Permit Applications

1. Applicants of proposed facilities with permit applications on file with the department must submit to the department (Office of Environmental Services, Permits Division), no later than January 1, 1994, an addendum to their application to address these regulations.

2. Failure to submit an addendum to the application by January 1, 1994, shall be considered a withdrawal of the permit application and shall require no further action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§503. Permit Process for Upgrading Existing Facilities and for Proposed Facilities**

A. Applicant Public Notice

1. No sooner than 45 days prior to the submittal of a standard permit application to the Office of Environmental Services, Permits Division, the prospective applicant shall publish a notice of intent to submit an application for a standard permit. This notice shall be published one time, as a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of this state and the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state will be the only public notice required.

2. The public notice shall be published in accordance with the form provided in Appendix A of this Chapter.

3. Proof of publication of the notice shall be included in all applications for existing and proposed facilities submitted to the administrative authority.

B. Permit Application Requirements

1. Any person who generates, transports, or stores solid waste, who is not issued a permit, but is under the jurisdiction of the department, must comply with the applicable provisions of these regulations.

2. Submittal of Permit Applications

a. Any applicant for a standard permit for existing or proposed processing and disposal facilities shall complete Part I, Part II, and Part III of the standard permit application, following the instructions for the appropriate facility class in LAC 33:VII.407, 501, and 503, and submit four copies to the Office of Environmental Services, Permits Division. Each individual copy of the application shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc. shall be marked with appropriate tabs.

b. Each application for which a standard permit application fee is prescribed shall be accompanied by a remittance in the full amount of the appropriate standard permit application review fee. No application shall be accepted or processed prior to payment of the full amount specified.

c. The completed separate standard permit application for each existing facility shall be submitted to the Office of Environmental Services, Permits Division within 180 days after issuance of the temporary permit.

C. Notices to Parish Governing Authorities. As provided in R.S. 30:2022, upon receipt of a permit application the Office of Environmental Services, Permits Division shall provide written notice on the subject matter to the parish governing authority, who shall promptly notify each parish municipality affected by the application.

D. Permit Application Review and Evaluation

1. LAC 33:VII.Chapters 5, 7, and 8 establish the evaluation criteria used by the administrative authority.

2. The applicant shall make available to the department the assistance of professional engineers or other trained individuals responsible for the design of the facility to explain the design and operation.

3. The applicant shall furnish all other technical information the department may require to evaluate the standard permit application, monitor the performance of the facility, and insure that the purposes of this program are met.

E. Standard Permit Applications Deemed Unacceptable or Deficient

1. Applications deemed unacceptable for technical review will be rejected. For the administrative authority to reconsider the application, the applicant must resubmit the entire standard permit application to the Office of Environmental Services, Permits Division, including the review fee, by a reasonable due date set by the administrative authority.

2. Applicants submitting applications that are acceptable for technical review, but lack the information outlined in these regulations will be informed of such deficiencies. These deficiencies must be corrected by the submission of supplementary information by a reasonable due date set by the administrative authority.

F. Standard Permit Applications Deemed Technically Complete

1. Applications that have been deemed technically complete shall be accepted for public review. When the permit is accepted for public review, the administrative authority shall request an additional five copies, or more if necessary. The copies will be distributed for public review as follows:

a. one copy to the local parish governing authority;

b. one copy to the parish public library;

c. one copy to the appropriate regional office; and

d. two copies to remain in the department's headquarters in Baton Rouge.

2. Each copy of the permit application shall be provided as a standard three-ring-bound document (8 1/2 by 11 inches). The application shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing for all appendices, figures, etc. Permit applications that present revisions made during the review process as a separate supplement to the application will not be accepted.

3. After the five copies are submitted to the Office of Environmental Services, Permits Division, notices shall be placed in the department's bulletin (if one is available), the official journal of the state, and in the official journal of the parish where the facility is located. The Office of Environmental Services, Permits Division shall publish a notice of acceptance for review one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required. The notices will solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper shall be reviewed by the Office of Environmental Services, Permits Division. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Permits Division. The applicant is responsible for providing the Office of Environmental Services, Permits Division with proof of publication.

4. Public hearings will be held for all facilities when the administrative authority determines, on the basis of comments received and other information, that a hearing is necessary.

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice (Paragraph F.3 of this Section), request that the administrative authority consider whether a public hearing is necessary. If the administrative authority determines that the requests warrant it, a public hearing will be scheduled. If the administrative authority determines that the requests do not raise genuine and pertinent issues, the Office of Environmental Services, Permits Division shall send the person requesting the hearing written notification of the determination. The request for a hearing must be in writing and must contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, notices shall be published at least 20 days before a fact-finding hearing in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required. Those persons on the Office of Environmental Services, Permits Division's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

7. Receipt of Comments Following a Public Hearing. Comments received by the Office of Environmental Services, Permits Division until the close of business 30 days after the date of a public hearing shall be reviewed by the Office of Environmental Services, Permits Division.

G. Issuance or Denial of a Permit

1. The administrative authority shall issue a standard permit or shall issue a standard permit application denial, including reasons for the denial.

2. A temporary permit may be issued to allow closure activities to be accomplished at a facility that has been issued a standard permit application denial.

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§505. Permit Process for Existing Facilities Classified for Closure**

A. Closure Plan Review and Evaluation. LAC 33:VII.403 and Chapters 7 and 8 establish the evaluation criteria used by the Office of Environmental Services, Permits Division.

B. Submittal of Closure Plans

1. Permit holders for facilities classified for closure shall submit to the Office of Environmental Services, Permits Division four bound copies of a closure plan within 60 days after issuance of the temporary permit for the facility. Each individual copy of the plan shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

2. The following sections of the regulations must be addressed and incorporated in the closure plan for all solid waste processing and disposal facilities. All responses and exhibits must be identified in the following sequence to facilitate the evaluation. All applicable sections of LAC 33:VII.Chapters 5, 7, and 8 must be addressed and incorporated into the closure plan:

a. LAC 33:VII.509, Permit Application Form, Part I;

b. a map clearly delineating the location of the facility;

c. LAC 33:VII.701.A.10.a and b, Wells and Faults, respectively (only required for Type I and II facilities with on-site closure);

d. LAC 33:VII.517, Facility Characteristics;

e. LAC 33:VII.519, Facility Surface Hydrology;

f. LAC 33:VII.521.A, General Facility Geology (only required for Type I and II facilities that have not undergone clean closure);

g. LAC 33:VII.521.B, Subsurface Characterization (only required for Type I and II facilities that have not undergone clean closure);

h. LAC 33:VII.521.C, Groundwater Monitoring (only required for Type I and II facilities that have not undergone clean closure);

i. LAC 33:VII.523.A.4, Facility Plans and Specifications (only required for Type I and II facilities with on-site closure and with a potential to produce gases);

j. types (including chemical and physical characteristics) and sources of waste processed or disposed of at the facility;

k. LAC 33:VII.531.A, Facility Closure;

l. LAC 33:VII.531.B, Facility Closure (only required for Type I and II facilities and Type III woodwaste and construction/demolition-debris landfills);

m. LAC 33:VII.533.A, Facility Post Closure;

n. LAC 33:VII.533.B, Facility Post Closure (only required for Type I and II facilities that have not undergone clean closure);

o. the name of the person who currently owns the land;

p. LAC 33:VII.535.A.4, Financial Responsibility; and

q. a detailed implementation schedule for closure of the facility with built-in flexibility to coincide with the date of approval of the closure plan.

3. Each closure plan for which a closure fee is prescribed shall be accompanied by a remittance in the full amount of the closure plan's review fee. No closure plans shall be accepted or processed prior to payment of the full amount specified.

C. Closure Plans Determined Unacceptable or Deficient

1. Closure plans that are determined unacceptable for a technical review will be rejected. The permit holder shall be required to resubmit the entire application to the Office of Environmental Services, Permits Division, including the review fee, by a date set by the administrative authority.

2. Permit holders submitting closure plans that lack the information contained in Paragraph B.2 of this Section and the applicable standards of LAC 33:VII.Chapters 7 and 8 will be informed of such in a closure plan deficiency letter; these must be corrected by submission of supplementary information within 30 days after receipt of the closure plan deficiency letter.

D. Closure Plans Deemed Technically Complete. Closure plans that have been deemed technically complete will be approved. Within 30 days after receipt of closure plan approval, the permit holder shall submit to the Office of Environmental Services, Permits Division three copies of the closure plan that incorporates all revisions made during the closure plan review process. Additional copies will be required if deemed necessary by the administrative authority. Each copy shall be provided as a standard three-ring-bound document measuring 8 1/2 by 11 inches and shall include appropriate tabbing for all appendices, figures, etc. Closure plans must incorporate revisions made during the review process. Closure plans that present revisions made during the review process as a separate supplement to the closure plan shall not be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§507. Modification of Permits and Other Authorizations to Operate**

A. Modification Requests

1. The permit holder shall notify the Office of Environmental Services, Permits Division in advance of any change in a facility or deviation from a permit. Such notification shall detail the proposed modification and shall include an assessment of the effects of the modification on the environment and/or the operation. Modification details shall include, but not be limited to, a summary detailing the modification request and all appropriate drawings, narratives, etc., which shall illustrate and describe the originally permitted representations and the proposed modifications thereto. New language requested in the permit narrative and existing language requested to be deleted from the permit narrative shall be identified therein.

a. Initially, four copies of all modification requests shall be provided to the Office of Environmental Services, Permits Division. Each individual copy of the document shall be 8 1/2" by 11" and shall be bound in a standard three-ring binder(s).

b. Each permit modification request for which a permit modification review fee is prescribed shall be accompanied by remittance of the fee. No permit modification requests shall be accepted or processed prior to payment in full of the amount specified.

2. All notifications of proposed changes in ownership of a permit for a facility are the responsibility of the permittee and shall include the following, to be submitted to the Office of Environmental Services, Permits Division:

a. a statement from the proposed permit holder assuming liability for existing violations and conditions;

b. proof of financial responsibility by the proposed permit holder, as required by LAC 33:VII.1301.A and 1303.A; and

c. information required in LAC 33:I.1701.

B. Public Notice of Modifications

1. If not otherwise specified, the administrative authority shall determine whether or not a modification warrants public notice. Modifications to a permit that require public notice include, but are not limited to, the following:

a. change in the type(s) of waste to be received at a facility;

b. increase in the volume or rate of waste to be received at a facility;

c. physical expansion of the service area;

d. change in the capacity of a facility;

e. decrease in the personnel or equipment of a facility;

f. changes in the hours or days of operation;

g. change to the facility that may have an impact on traffic patterns;

h. reduction in the number of groundwater sampling parameters or the number of groundwater monitoring wells;

i. lateral or vertical expansion of the permitted area(s) for waste disposal; or

j. other changes in the permit that tend to make the permit requirements less stringent.

2. Permit modifications that require public notice and that have been determined by the Office of Environmental Services, Permits Division to be technically complete will be accepted for public review. When the permit is accepted for public review, the administrative authority will request an additional five copies, or more if necessary. The copies will be distributed for public review as follows:

a. one copy to the local parish governing authority;

b. one copy to the parish public library;

c. one copy to the appropriate regional office; and

d. two copies to remain in the department's headquarters in Baton Rouge.

3. Each copy of the permit modification shall be provided as a standard three-ring-bound document (8 1/2 by 11 inches). The modification shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing, if applicable, for all appendices, figures, etc.

4. Upon submittal of the five copies to the Office of Environmental Services, Permits Division, the department shall send a sample public notice to the applicant who shall be responsible for the publication of the notice. The cost of publication shall be borne by the applicant. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Permits Division. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state, one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located, and in the department's bulletin (if one is available). If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required. The notice will solicit comments from interested individuals and groups. Comments delivered or received within 30 days after the date the notices are published shall be reviewed by the Office of Environmental Services, Permits Division. The applicant is responsible for providing the Office of Environmental Services, Permits Division with proof of publication of the notice.

5. Mandatory modifications are considered to be enhancements and will require neither public notice nor public hearing.

C. No modification may be effected without the written approval of the administrative authority.

D. Operation of a modified construction feature or unit of a standard permitted facility may commence after the provisions of LAC 33:VII.407.F are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**Subchapter B. Permit Application**

**§509. Part I: Permit Application Form**

A. The applicant shall complete a standard permit application Part I Form obtained from the Office of Environmental Services, Permits Division or through the department's website at www.deq.state.la.us. The following items refer to the items on the form requiring that information:

1. name of applicant (prospective permit holder) applying for a standard permit;

2. facility name;

3. description of the location of the facility (identify by street and number, by intersection of roads, or by mileage and direction from an intersection);

4. geographic location (section, township, range, and parish where the facility is located and the coordinates (as defined by the longitude and latitude to the second) of the centerpoint of the facility);

5. mailing address of the applicant;

6. contact person for the applicant (position or title of the contact person is acceptable);

7. telephone number of the contact person;

8. type and purpose of operation (check each applicable box);

9. status of the facility (if leased, state the number of years of the lease and provide a copy of the lease agreement);

10. operational status of the facility;

11. total site acreage and the amount of acreage that will be used for processing and/or disposal;

12. list of all environmental permits that relate directly to the facility represented in this application;

13. zoning of the facility (if the facility is zoned, note the zone classification and zoning authority and include a zoning affidavit or other documentation stating that the proposed use does not violate existing land-use requirements);

14. types, maximum quantities (wet tons/week), and sources (percentage of the on-site or off-site-generated waste to be received) of waste to be processed or disposed of by the facility;

15. the specific geographic area(s) to be serviced by the solid waste facility;

16. attached proof of publication of the notice regarding the submittal of the permit application as required in LAC 33:VII.503.A;

17. the signature, typed name, and title of the individual authorized to sign the application. Proof of the legal authority of the signatory to sign for the applicant must be provided; and

18. any additional information required by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§511. Compliance Information**

A. All applicants for solid waste permits shall comply with the requirements of LAC 33:I.1701.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154 and 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§513. Part II: Supplementary Information, All Processing and Disposal Facilities**

A. The information in LAC 33:VII.513- 539 is required in the permit application for solid waste processing and disposal facilities. All responses and exhibits must be identified in the same sequence to facilitate the evaluation. Additionally, all applicable sections of LAC 33:VII.Chapters 5, 6, 7, 8, 13, and 15 must be addressed and incorporated into the application responses. If a section does not apply, the applicant must state that it does not apply and explain why.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§515. Location Characteristics**

A. Standards pertaining to location characteristics are contained in LAC 33:VII.701.A. The following information on location characteristics is required for all facilities:

1. area master plans;

2. access to facilities;

3. a letter concerning the traffic flow for facilities receiving waste generated off-site;

4. distance to airport runway and proof of notification to affected airport and Federal Aviation Administration;

5. existing land use;

6. aerial photograph;

7. environmental characteristics;

8. wetlands demonstration, if applicable;

9. demographic information; and

10. information regarding wells, faults, and utilities, which is required for Type I and II facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§517. Facility Characteristics**

A. Standards concerning facility characteristics are contained in LAC 33:VII.703.A. A facility plan, including drawings and a narrative, describing the information required below must be provided:

1. elements of the process or disposal system employed;

2. the perimeter barrier and other control measures;

3. a buffer zone;

4. fire-protection and medical care measures;

5. landscaping and other beautification efforts;

6. devices or methods to determine, record, and monitor incoming waste;

7. NPDES discharge points (existing and proposed); and

8. other features, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§519. Facility Surface Hydrology**

A. The following information regarding surface hydrology is required for all facilities:

1. a description of the method to be used to prevent surface drainage through the operating areas of the facility;

2. a description of the facility runoff/run-on collection system;

3. the rainfall amount from a 24-hour/25-year storm event;

4. the location of aquifer recharge areas in the site or within 1,000 feet of the site perimeter, along with a description of the measures planned to protect those areas from the adverse impact of operations at the facility; and

5. if the facility is located in a flood plain, a plan to ensure that the facility does not restrict the flow of the 100-year base flood or significantly reduce the temporary water-storage capacity of the flood plain, and documentation indicating that the design of the facility is such that the flooding does not affect the integrity of the facility or result in the washout of solid waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§521. General Facility Geology, Subsurface Characterization, and Facility Groundwater Monitoring**

A. General facility geology standards governing facility geology are contained in LAC 33:VII.801. The following information regarding general facility geology is required for Type I, Type I-A, Type II, Type II-A, and Type III facilities:

1. demonstration that the person who characterized the subsurface soil and groundwater conditions at the facility is qualified;

2. demonstration that the facility has natural soils of low permeability as provided in LAC 33:VII.801.A.2; and

3. design for surfacing natural soils that do not meet the low permeability standard as provided in LAC 33:VII.801.A.3.

B. Subsurface Characterization. Standards governing subsurface characterization are contained in LAC 33:VII.803.

1. Type I, II, and III facilities must demonstrate that the facility meets the boring requirements provided in LAC 33:VII.803.A.

2. Type I and II facilities must demonstrate that:

a. the facility meets the piezometer requirements as provided in LAC 33:VII.803.B; and

b. the facility meets the geology and groundwater flow characterization requirements provided in LAC 33:VII.803.C.

C. Facility Groundwater Monitoring. Standards governing facility groundwater monitoring are contained in LAC 33:VII.805. The following information regarding groundwater monitoring is required for Type I and II facilities:

1. designation of each zone that will be monitored;

2. a map for each groundwater monitoring zone that depicts the location of all monitoring wells (including any proposed monitoring wells) that are screened in a particular zone and each zone's relevant point of compliance, along with information that demonstrates that monitoring wells meet the standards in LAC 33:VII.805.A.1 and 2. If a monitoring well(s) is being proposed, the response to this requirement shall provide an implementation schedule for submitting a revised well location map(s) showing all existing monitoring wells that are screened in each particular zone;

3. a geologic cross section(s) along the perimeter of the facility showing screen intervals for existing and proposed monitoring wells, along with other applicable information required in LAC 33:VII.803.C.2.a. If a monitoring well(s) is being proposed, the response to this requirement shall include an implementation schedule for revising applicable geologic cross sections to include the screen interval of the newly installed monitoring well(s) and other applicable information required in LAC 33:VII.803.C.2.a;

4. designation of each monitoring well (including any proposed monitoring wells) as either background or downgradient, per zone that will be monitored;

5. a table displaying pertinent well construction details for each monitoring well, including elevation of the reference point for measuring water levels (msl), elevation of the ground surface (msl), drilled depth (feet), the depth to which the well is cased (feet), depth to the top and bottom of the bentonite seal (feet), depth to the top and bottom of the screen (feet), slot size, casing size, type of grout, and as-built diagrams (cross sections) of each well providing the aforementioned well construction details. If a monitoring well(s) is being proposed, the response to this requirement shall provide an implementation schedule for submitting the information specified in this requirement;

6. demonstration that the monitoring wells are constructed according to the standards in LAC 33:VII.805.A.3. If a monitoring well(s) is being proposed, the response to this requirement shall provide an implementation schedule for submitting the information specified in this requirement;

7. for an existing facility, provide all data on samples taken from monitoring wells in place at the time of the permit application. (If this data exists in the department records, the administrative authority may allow references to the data in the permit application.) For an existing facility with no wells, groundwater data shall be submitted within 90 days after the installation of monitoring wells. For a new facility, groundwater data (one sampling event) shall be submitted before waste is accepted;

8. a sampling and analysis plan that meets the standards in LAC 33:VII.805.B and includes a table that specifies each parameter, analytical method, practical quantitation limit, and Chemical Abstracts Service registry number (CAS RN); and

9. a plan for detecting, reporting, and verifying changes in groundwater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§523. Facility Plans and Specifications**

A. Facility plans and specifications are required for all facilities. Standards must address the following requirements, when applicable:

1. the person who prepared the permit application must provide the certification required in LAC 33:VII.705.A.1;

2. for Type I and II facilities:

a. detailed plan-view drawing(s) showing original contours, proposed elevations of the base of units prior to installation of the liner system, and proposed final contours;

b. representative cross sections showing original and final grades, drainage, the water table, groundwater conditions, the location and type of liner, and other pertinent information;

c. a description of the liner system, which shall include calculations of anticipated leachate volumes,

rationale for particular designs of such systems, and drawings;

d. a description of the leachate collection and removal system, which shall include calculations of anticipated leachate volumes, rationale for particular designs of such systems, and drawings;

e. detailed drawings of slopes, levees, and other pertinent features; and

f. the type of material and its source for levee construction. Calculations shall be submitted demonstrating that an adequate volume of material is available for the required levee construction;

3. for Type I, II, and III landfills:

a. approximate dimensions of daily fill and cover; and

b. the type of cover material and its source for daily, interim, and final cover. Calculations shall be submitted demonstrating that an adequate volume of material is available for daily, interim, and final cover;

4. the facility plans and specifications for Type I and II facilities must address standards for facilities located in seismic impact zones and unstable areas (LAC 33:VII.705.D.1 and 2); and

5. the facility plans and specifications for Type I and II landfills and surface impoundments (surface impoundments with on-site closure and a potential to produce gases, LAC 33:VII.719.C.4 and 721.C.2) must provide a gas collection and treatment or removal system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§525. Facility Administrative Procedures**

A. In accordance with standards in LAC 33:VII.709, the following information on administrative procedures is required for all facilities:

1. annual report submitted to the administrative authority;

2. recordkeeping system, types of records to be kept, and the use of records by management to control operations, as required;

3. an estimate of the minimum personnel, listed by general job classification, required to operate the facility; and

4. the maximum hours of operation per operating days and week (the maximum hours of operation within a 24-hour day);

B. Administrative procedures for facilities receiving residential and commercial solid waste shall include the number of facility operators certified by the Louisiana Solid Waste Operator Certification and Training Program (R.S. 37:3151 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§527. Facility Operational Plans**

A. The following information on operational plans is required for all facilities:

1. types of waste (including chemical, physical, and biological characteristics of industrial wastes generated on-site), maximum quantities of wastes per year, and sources of waste to be processed or disposed of at the facility;

2. waste-handling procedures from entry to final disposition, which could include shipment of recovered materials to a user;

3. minimum equipment to be furnished at the facility;

4. plan to segregate wastes, if applicable;

5. procedures planned in case of breakdowns, inclement weather, and other abnormal conditions (including detailed plans for wet-weather access and operations);

6. procedures, equipment, and contingency plans for protecting employees and the general public from accidents, fires, explosions, etc., and provisions for emergency care should an accident occur (including proximity to a hospital, fire and emergency services, and training programs); and

7. provisions for controlling vectors, dust, litter, and odors.

B. The following information on operational plans is required for Type I and II facilities:

1. comprehensive operational plan;

2. salvaging procedures and control, if applicable;

3. scavenging control; and

4. for facilities receiving waste with a potential to produce gases, a comprehensive air monitoring plan.

C. The following information on operational plans is required for Type I and II landfarms:

1. the following items to be submitted regardless of land use:

a. a detailed analysis of waste, including but not limited to, pH, phosphorus, nitrogen, potassium, sodium, calcium, magnesium, sodium-adsorption ratio, and total metals (as listed in LAC 33:VII.723.D.3.a);

b. soil classification, cation-exchange capacity, organic matter, content in soil, soil pH, nitrogen, phosphorus, metals (as listed in LAC 33:VII.723.D.3.a), salts, sodium, calcium, magnesium, sodium-adsorption ratio, and PCB concentrations of the treatment zone;

c. annual application rate (dry tons per acre) and weekly hydraulic loading (inches per acre); and

d. an evaluation of the potential for nitrogen to enter the groundwater.

2. the following items to be submitted in order for landfarms to be used for food-chain cropland:

a. a description of the pathogen-reduction method for septage, domestic sewage sludges, and other sludges subject to pathogen production;

b. crops to be grown and the dates for planting;

c. PCB concentrations in waste;

d. annual application rates of cadmium and PCBs; and

e. cumulative applications of cadmium and PCBs.

3. the following items to be submitted for landfarms to be used for nonfood-chain purposes:

a. description of the pathogen-reduction method in septage, domestic sewage sludges, and other sludges subject to pathogen production; and

b. description of control of public and livestock access.

D. The following information on operational plans is required for Type I-A and II-A incinerator waste-handling facilities:

1. a description of the method used to handle process waters and other water discharges that are subject to NPDES permit and state water discharge permit requirements and regulations; and

2. a plan for the disposal and periodic testing of ash (all ash and residue must be disposed of in a permitted facility).

E. The following information on operational plans is required for Type I-A and II-A refuse-derived energy facilities:

1. a description of the method used to handle process waters and other water discharges that are subject to NPDES permit and state water discharge permit requirements and regulations;

2. a plan for the disposal and periodic testing of ash (all ash and residue must be disposed of in a permitted facility); and

3. a description of marketing procedures and control.

F. The following information on operational plans is required for Type III separation and composting facilities:

1. a description of the testing to be performed on the fuel or compost;

2. a description of the uses for and the types of fuel/compost to be produced.; and

3. a description of marketing procedures and control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§529. Implementation Plan**

A. All facilities must have an implementation plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§531. Facility Closure**

A. The closure plan for all facilities must include the following:

1. the date of final closure;

2. the method to be used and steps necessary for closing the facility; and

3. the estimated cost of closure of the facility, based on the cost of hiring a third party to close the facility at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive.

B. The closure plan for Type I and II landfills and surface impoundments must include:

1. a description of the final cover and the methods and procedures used to install the cover;

2. an estimate of the largest area of the facility ever requiring a final cover at any time during the active life;

3. an estimate of the maximum inventory of solid waste ever on-site over the active life of the facility; and

4. a schedule for completing all activities necessary for closure.

C. The closure plan for all Type I and II facilities and Type III woodwaste and construction/demolition debris facilities shall include the following:

1. the sequence of final closure of each unit of the facility, as applicable;

2. a drawing showing final contours of the facility; and

3. a copy of the document that will be filed upon closure of the facility with the official parish recordkeeper, indicating the location and use of the property for solid waste disposal, unless the closure plan specifies a clean closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§533. Facility Post-Closure**

A. The post-closure plan for all facilities must include the following:

1. specification of the long-term use of the facility after closure, as anticipated; and

2. the cost of conducting post-closure of the facility, based on the estimated cost of hiring a third party to conduct post closure activities in accordance with the closure plan.

B. The post-closure plan for Type I and II facilities must include the following:

1. the method for conducting post-closure activities, including a description of the monitoring and maintenance activities and the frequency at which they will be performed;

2. the method for abandonment of monitoring systems, leachate collection systems, gas-collection systems, etc.;

3. measures planned to ensure public safety, including access control and gas control; and

4. a description of the planned uses of the facility during the post-closure period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§535. Financial Responsibility**

A. Standards governing financial responsibility are contained in LAC 33:VII.Chapter 13. A section documenting financial responsibility according to LAC 33:VII.Chapter 13, which contains the following information, must be included for all facilities:

1. the name and address of the person who currently owns the land and the name and address of the person who will own the land if the standard permit is granted (if different from the permit holder, provide a copy of the lease or document that evidences the permit holder's authority to occupy the property); or

2. the name of the agency or other public body that is requesting the standard permit; or, if the agency is a public corporation, its published annual report; or, if otherwise, the names of the principal owners, stockholders, general partners, or officers;

3. evidence of liability coverage, including:

a. personal injury, employees, and the public (coverage, carriers, and any exclusions or limitations);

b. property damage (coverage and carrier);

c. environmental risks; and

4. evidence of a financial assurance mechanism for closure and/or post-closure care and corrective action for known releases when needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§537. Special Requirements**

A. The administrative authority may require additional information for special processes or systems and for supplementary environmental analysis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§539. Part III: Additional Supplementary Information**

A. The following supplementary information is required for all solid waste processing and disposal facilities. All responses and exhibits must be identified in the following sequence to facilitate the evaluation:

1. a discussion demonstrating that the potential and real adverse environmental effects of the facility have been avoided to the maximum extent possible;

2. a cost-benefit analysis demonstrating that the social and economic benefits of the facility outweigh the environmental-impact costs;

3. a discussion and description of possible alternative projects that would offer more protection to the environment without unduly curtailing nonenvironmental benefits;

4. a discussion of possible alternative sites that would offer more protection to the environment without unduly curtailing nonenvironmental benefits; and

5. a discussion and description of the mitigating measures that would offer more protection to the environment than the facility, as proposed, without unduly curtailing nonenvironmental benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**Appendix A**

Example of a Public Notice to be Placed in the Local Newspaper for Intention to Submit a Permit Application to the Office of Environmental Services, Permits Division for Existing/Proposed Solid Waste Facilities:

PUBLIC NOTICE
OF
INTENT TO SUBMIT PERMIT APPLICATION
(NAME OF APPLICANT/FACILITY)
FACILITY (location), PARISH (location), LOUISIANA

Notice is hereby given that (name of applicant) does intend to submit to the Department of Environmental Quality, Office of Environmental Services, Permits Division, an application for a permit to operate a (type of solid waste facility) in (parish name), Range__, Township__, Section__, which is approximately (identify the physical location of the site by direction and distance from the nearest town).

Comments concerning the facility may be filed with the secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality
Office of Environmental Services
Permits Division
Post Office Box 82135
Baton Rouge, Louisiana 70884-2135.

## Chapter 6. General Standards for Nonpermitted Facilities

**§601. Standards Governing Industrial Solid Waste Generators**

A. Annual Reports

1. Generators of industrial solid waste shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division listing the types and quantities, in wet-weight tons per year, of industrial solid waste they have disposed of off-site.

2. The generator's annual report shall name the transporter(s) who removed the industrial solid waste from the generator's site and the permitted solid waste processing or disposal facility or facilities that processed or disposed of the waste. The form to be used shall be obtained from the department or through the department's website at www.deq.state.la.us.

3. The reporting period shall be from July 1 through June 30.

4. The report shall be submitted to the Office of Environmental Services, Environmental Assistance Division by August 1 of each reporting year.

5. Generators of industrial solid waste shall maintain, for two years, all records concerning the types and quantities of industrial solid waste disposed of off-site.

B. Generator Notification and Waste Testing

1. Prior to the initial transport of an industrial solid waste off-site, generators of industrial solid waste shall:

a. submit to the Office of Environmental Services, Permits Division a generator notification form (that is to be provided by the administrative authority) that includes analysis, analytical data, and/or process knowledge that confirms that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:Part V or by federal regulations; and

b. obtain an industrial waste code number from the Office of Environmental Services, Permits Division.

2. Subsequent movements of the same industrial waste off-site shall not require new waste testing or a new industrial waste code number, unless the process that generates the waste or the characteristics of the waste change. However, the waste characterization data and the waste code required in Paragraph B.1 of this Section must be maintained by the generator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§603. Standards Governing Solid Waste Accumulation and Storage**

A. Solid Waste Accumulation

1. No solid waste shall be stored or allowed to be stored long enough to cause a nuisance, health hazard, or detriment to the environment as determined by the administrative authority.

2. Containers used for solid waste shall prevent access by rodents and insects, shall minimize the escape of odors, and shall keep out water.

3. On-site processing or disposal, other than the exclusions provided for in LAC 33:VII.301, 302, 303, or 305, is not allowed on the sites of commercial or industrial generators, unless a permit is obtained.

B. Solid Waste Stored in Tanks

1. Storage tanks shall be designed, constructed, and operated to prevent release of their solid waste contents into the surrounding environment.

2. A storage vessel that is partially buried underground must meet the definition of tank provided in LAC 33:VII.115 in order to be considered a tank; otherwise, it will be considered a surface impoundment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§605. Standards Governing Collectors and Off-Site Transporters of Solid Waste**

A. Vehicle Requirements

1. The type and size of vehicles shall comply with the regulations and licensing of the Department of Transportation and Development and with applicable local ordinances governing weight and size for the streets that must be traveled for solid waste pickup.

2. Cover

a. The bodies of vehicles used to transport trees, tree limbs, construction materials, or metals shall contain such waste without allowing materials to fall or blow off the vehicle.

b. The bodies of vehicles used to collect or transport all other solid waste shall be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching waste, inhibits access by rodents and insects, prevents waste from falling or blowing from the vehicle, minimizes escape of odors, and does not create a nuisance.

c. The bodies of vehicles used for the transportation of ash shall be leak-resistant and covered so as to prevent emissions.

3. The bodies of all vehicles used to transport solid waste that produces leachate shall be equipped with a collection and containment system to ensure that leachate from the waste is not discharged in violation of these regulations.

4. The interior and exterior of the body of a vehicle used to transport putrescible solid waste shall be washed down as often as needed to ensure that odors generated by putrescible matter are minimized.

B. Vehicle Washdown Area

1. The vehicle washdown area shall be designed, constructed, and operated to prevent leakage that may lead to groundwater contamination or uncontrolled contaminated surface runoff.

2. Water collected shall be discharged and the containment system thoroughly cleaned as often as is needed to minimize odors. The leachate and the cleanout water shall be discharged in accordance with all applicable state and federal regulations.

C. Standards Governing Waste Transportation by Other Modes

1. Barge and Ship Transport

a. Barge and ship transport shall be governed by Paragraphs A.2, 3, and 4 and Paragraphs B.1 and 2 of this Section.

b. Loading and unloading facilities shall comply with LAC 33:VII.607, as applicable.

2. Pipelines

a. Transfer points, pumping stations, and other facilities with a potential for spillage shall be located above grade, or in watertight compartments, and shall be in containment areas constructed to hold the maximum potential spill.

b. Containment areas shall consist of a base and dikes constructed of concrete, compacted clay, or other impervious materials. All joints must be sealed.

3. Rail

a. Rail car transport shall be governed by Paragraphs A.2, 3, and 4 and Paragraphs B.1 and 2 of this Section.

b. Loading and unloading facilities shall comply with LAC 33:VII.607, as applicable.

4. Other. Collectors and off-site transporters utilizing facilities not covered by Subsections A and C of this Section shall apply to the administrative authority for regulations governing the proposed facility.

D. Transportation to Processing and Disposal Facilities. Solid waste shall be transported, for processing or disposal, only to facilities permitted to receive such waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§607. Standards Governing Pickup Stations for Solid Waste**

A. Pickup stations must comply with existing local zoning and comprehensive land-use regulations and ordinances. They must also occupy sufficient land so that vehicles using the station will not block traffic or otherwise constitute a hazard or endanger public safety.

B. Containers shall provide complete containment of waste, thereby preventing litter, discharges, odor, and other pollution of adjoining areas. Pickup stations must meet the standards found in LAC 33:VII.603.A.

C. Cleanup of the station must be timed at intervals in order to comply with the requirements of LAC 33:VII.605.B.1 and 2.

D. No processing or disposal shall occur at a pickup station unless a standard permit is obtained.

E. Each person must provide written notice to the parish governing authority, at least 30 days prior to construction, of his intent to operate a pick-up station for the offloading and/or transloading of processed solid waste and sewage sludge destined for disposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

## Chapter 7. Solid Waste Standards

## Subchapter A. Standards Governing All Solid Waste Facilities

### §701. Location Characteristic Standards

A. The information on location characteristics listed in this Subsection is required for all solid waste facilities, as outlined in LAC 33:VII.515. Type I-A and II-A facilities and minor processors and disposers must meet only the standards in Paragraphs A.2, 4, and 7 and Subsection B of this Section.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings must be legible. Area master plans shall show:

a. the facility;

b. the road network;

c. major drainage systems;

d. drainage-flow patterns;

e. the location of the closest population center(s);

f. the location of the public-use airport(s) used by turbojet aircraft or piston-type aircraft;

g. the location of the l00-year flood plain; and

h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents; and the surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. A letter shall be acquired from the appropriate agency or agencies regarding those facilities receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

4. Facilities that process or dispose of putrescible solid waste shall not be located within 10,000 feet of any public-use airport runway end used by turbojet aircraft or within 5,000 feet of any public-use airport runway end used by only piston-type aircraft. Permit applicants for proposed Type II landfills to be located within a five-mile radius of any airport runway must notify the affected airport and the Federal Aviation Administration.

5. A description shall be included of the total existing land use within three miles of the facility (by approximate percentage) including, but not limited to:

a. residential;

b. health-care facilities and schools;

c. agricultural;

d. industrial and manufacturing;

e. other commercial;

f. recreational; and

g. undeveloped.

6. A current aerial photograph, representative of the current land use, of a one-mile radius surrounding the facility is required. The aerial photograph shall be of sufficient scale to depict all pertinent features. (The administrative authority may waive the requirement for an aerial photograph for Type III facilities.)

7. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations. The following information on environmental characteristics shall be provided:

a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps and marshes, wetlands, habitats for endangered species, and other sensitive ecologic areas within l,000 feet of the facility perimeter or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, wetlands, habitats for endangered species, and other sensitive ecologic areas within l,000 feet of the facility; and

c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility;

8. Units of a disposal facility that have not received waste prior to October 9, 1993, shall not be located in wetlands, unless the permit holder or applicant can make the following demonstrations to the administrative authority:

a. where applicable under Section 404 of the Clean Water Act or applicable state wetlands laws, the presumption that a practicable alternative to the proposed landfill is available that does not involve wetlands is clearly rebutted;

b. the construction and operation of the facility will not:

i. cause or contribute to violations of any applicable state water-quality standard;

ii. violate any applicable toxic effluent standard or prohibition under section 307 of the Clean Water Act;

iii. jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973; and

iv. violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;

c. the facility will not cause or contribute to significant degradation of wetlands. The owner or operator must demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:

i. erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the facility;

ii. erosion, stability, and migration potential of dredged and fill materials used to support the facility;

iii. the volume and chemical nature of the waste managed in the facility;

iv. impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

v. the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

vi. any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

d. to the extent required under Section 404 of the Clean Water Act or applicable state wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by Subparagraph A.8.a of this Section; then, minimizing unavoidable impacts to the maximum extent practicable; and, finally, offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of manmade wetlands); and

e. sufficient information is available to make a reasonable determination with respect to these demonstrations.

9. The estimated population density within a three-mile radius of the facility boundary, based on the latest census figures is required of all facilities.

10. Well, Fault, and Utility Requirements for Type I and II Facilities

a. Wells. A map is required showing the locations of all known or recorded shot holes and seismic lines, private water wells, oil and/or gas wells, operating or abandoned, within the facility and within 2,000 feet of the facility perimeter and the locations of all public water systems, industrial water wells, and irrigation wells within one mile of the facility. A plan shall be provided to prevent adverse effects on the environment from the wells and shot holes located on the facility.

b. Faults

i. A scale map is required showing the locations of all recorded faults within the facility and within one mile of the perimeter of the facility; and

ii. A demonstration, if applicable, is required of alternative fault set-back distance. Units of a disposal facility that have not received waste prior to October 9, 1993, shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the permit holder or applicant demonstrates to the administrative authority that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

c. Utilities. A scale map showing the location of all pipelines, power lines, and rights-of-way within the site is required.

B. All facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§703. Facility Characteristic Standards**

A. The following information on facility characteristics is required for all solid waste facilities, as outlined in LAC 33:VII.517:

1. elements of the process of disposal system employed, including, as applicable, property lines, original contours (shown at not greater than five-foot intervals), buildings, units of the facility, drainage, ditches, and roads. Type I-A, II-A, and minor processors and disposers are exempt from this standard;

2. perimeter barriers and other control measures, such as security and signs as specified below:

a. facilities must have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry;

b. during operating hours, each facility entry point shall be continuously monitored, manned, or locked;

c. during nonoperating hours, each facility entry point shall be locked; and

d. facilities that receive wastes from off-site sources shall post readable signs that list the types of waste that can be received at the facility.

3. buffer zones (the requirements for which are stated in this Paragraph) shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner and occupants. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property. Buffer zone requirements may be waived or modified by the administrative authority for areas of landfills that have been closed in accordance with LAC 33:VII.307. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

a. All Type I, II, I-A, and II-A facilities shall have a buffer zone of not less than 200 feet between the facility and the property line. In addition, composting facilities that receive sewage sludge, septage, or residential or commercial waste must meet this requirement.

b. All other facilities, except beneficial-use facilities as described in LAC 33:VII.Chapter 11, shall have a buffer zone of not less than 50 feet between the facility and the property line.

4. All facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

5. All proposed facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, must provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods of Receiving and Monitoring Incoming Wastes

a. Each processing or disposal facility shall be equipped with a device or method to determine quantity (by wet-weight tonnage), sources (whether the waste was generated in-state or out-of-state and, if it is industrial solid waste, where it was generated), and types of incoming waste (i.e., commercial, residential, infectious). The facility shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous waste, PCB waste, and unauthorized or unpermitted solid waste). At type II landfills, this method shall include random inspections of incoming waste loads at a frequency to reasonably ensure exclusion of such prohibited wastes.

b. Each facility shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph A.6.a of this Section.

7. Discharges from operating units of all facilities must be controlled and must conform to applicable state and federal laws, including the federal Clean Water Act and Louisiana Water Pollution Control Law. Applications for applicable state and federal discharge permits must be filed before a standard permit may be issued.

B. The following information is required for Type I and II facilities:

1. areas for isolating nonputrescible waste or incinerator ash and borrow areas; and

2. location of leachate collection/treatment/removal system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§705. Facility Plans and Specifications**

A. Plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities must be prepared under the supervision of and certified by a registered engineer, licensed in the state of Louisiana.

1. Certification. The person who prepared the permit application must provide the following certification.

> "I certify under penalty of law that I have personally examined and I am familiar with the information submitted in this permit application and that the facility, as described in this permit application, meets the requirements of the solid waste rules and regulations (LAC 33:VII). I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment."

B. The following standards apply to construction of levees for all facilities:

1. levees or other protective measures must be provided in order to protect the facility against the 100-year flood so as to prevent the washout of solid waste; and

2. if levees are required to protect the facility against the 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion, shall have a grass cover or other protective cover to preserve structural integrity, and shall provide adequate freeboard above the 100-year flood elevation.

C. Additional plans and specification standards regarding daily and interim cover and leachate management can be found for Type I and II landfills in LAC 33:VII.719.C.1 and 2. Type III facility standards can be found in LAC 33:VII.727.

D. The following standards are applicable to Type I and Type II facilities:

1. units of a facility located in a seismic impact zone that have not received waste prior to October 9, 1993, shall be designed and operated so that all containment structures, including liners, leachate collection systems, and surface water control systems, can withstand the stresses caused by the maximum horizontal acceleration in lithified earth material for the site; and

2. facilities shall not be located in an unstable area unless the permit holder or applicant can demonstrate that the facility is designed to ensure the integrity of structural components, such as liners, leak-detection systems, leachate collection, treatment and removal systems, final covers, run-on/runoff systems (or any other component used in the construction and operation of the facility that is necessary for the protection of human health or the environment). In determining whether an area is unstable, the permit holder or applicant must consider, at a minimum, the following factors:

a. on-site or local soil conditions that may result in significant differential settling;

b. on-site or local geologic or geomorphological features; and

c. on-site or local human-made features or events (both surface and subsurface).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§707. Facility Surface Hydrology**

A. Specific standards governing facility surface hydrology are contained in LAC 33:VII.719.B (Type I and II landfills), 721.B (Type I and II surface impoundments), and 723.B (Type I and II landfarms).

B. The following standards apply to all facilities:

1. facilities located in the 100-year flood plain must be filled to bring site elevation above flood levels or perimeter levees or other measures must be provided to maintain adequate protection against the 100-year flood elevation;

2. facilities located in or within 1,000 feet of an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility;

3. surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover to adjoining areas during a 24-hour/25-year storm event. When maximum rainfall records are not available, the design standard shall be 12 inches of rainfall below 31 degrees north latitude and 9 inches of rainfall above 31 degrees north latitude. If the 24-hour/25-year storm-event level is lower, the design standard shall be required; and

4. facilities located in the 100-year flood plain shall not restrict the flow of the 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§709. Facility Administrative Procedures**

A. Reports

1. The permit holder shall submit annual reports to the administrative authority indicating quantities and types of solid waste (expressed in wet-weight tons per year; for landfarms, expressed in both wet and dry-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to

determine the amounts of solid waste received for disposal during the annual reporting period and to determine remaining capacity shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or through the department's website at www.deq.state.la.us.

2. The reporting period for the disposer and/or processor annual report shall be from July l through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

3. Annual reports shall be submitted to the administrative authority by August l of each reporting year.

4. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

5. A facility that receives industrial solid waste shall utilize, in its annual report, the seven-digit industrial waste number that has been assigned by the administrative authority to the industrial solid waste generator.

6. The annual reports for composting facilities and separation facilities shall identify the quantity (expressed in wet-weight tons per year) and types of solid waste distributed for reuse and/or recycling and the ultimate use of the product.

7. The annual report for composting facilities, separation facilities, incinerator waste-handling facilities, shredders, balers, compactors, and transfer stations shall identify the quantity (expressed in wet-weight tons per year) and types of solid waste transported for disposal. The report shall also identify the permitted facility used for disposal of the waste.

8. The annual report for portable air curtain destructors shall identify the site and quantity of solid waste processed at each individual site.

B. Recordkeeping

1. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

2. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

3. Records kept on site for all facilities shall include, but not be limited to:

a. copies of the current Louisiana solid waste rules and regulations;

b. the permit;

c. the permit application; and

d. permit modifications.

4. The following additional records shall be kept for Type I and Type II facilities, including landfarms:

a. certified field notes for construction;

b. operator training programs;

c. daily log;

d. quality-assurance/quality-control records;

e. inspections by the permit holder or operator including, but not limited to, inspections to detect incoming hazardous waste loads;

f. Board of Certification and Training for Solid Waste Disposal System Operators certificates (if applicable);

g. records demonstrating that liners, leachate-control systems, and leak-detection and cover systems are constructed or installed in accordance with appropriate quality assurance procedures (if applicable);

h. records on the leachate volume and results of the leachate sampling (if applicable);

i. monitoring, testing, or analytical data;

j. any other applicable or required data deemed necessary by the administrative authority;

k. records on groundwater sampling results;

l. post-closure monitoring reports;

m. copies of all documents received from and submitted to the department; and

n. additional information in the annual report for landfarms shall be submitted as provided in LAC 33:VII.723.C.

C. Personnel

1. Facilities shall have the personnel necessary to achieve the operational requirements of the facility. All personnel involved in waste handling at the facility must be trained adequately in procedures to recognize and exclude receipt or disposal of hazardous wastes and PCB wastes.

2. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department. No person shall operate a solid waste facility unless the Board of Certification and Training for Solid Waste Disposal System Operators has certified the competency of the operators. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators. The requirements of this Paragraph are not applicable to facilities meeting the criteria of LAC 33:VII.305.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§711. Facility Operations**

A. Facility Limitations

1. The receipt of hazardous waste and PCB waste shall be strictly prohibited and prevented. Permit holders of Type II landfills must implement a program of random inspections of incoming loads to detect and prevent the disposal of hazardous waste or PCB waste and must keep records of these inspections. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

2. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

3. Open burning of solid waste shall not be practiced at Type I or II landfills.

4. Salvaging shall be prevented unless approved by the administrative authority.

5. Scavenging shall be prevented.

6. The following waste receipt limitations apply:

a. incinerator ash, industrial solid waste, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action may be disposed of only in Type I facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes;

b. industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be processed only in Type I-A facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes.

7. The receipt of mercury and/or cadmium-bearing batteries by Type I-A and II-A incinerator waste-handling facilities is strictly prohibited.

B. General Facility Operational Plans

1. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing or disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (particular attention should be given to maintenance of access roads and to water management);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;

f. the engineering protocols and testing frequencies that will be used to ensure that the grade and slope of both the on-site drainage system and the run-on diversion system are maintained and serve their intended functions;

g. the engineering protocols and testing frequencies that will be used to ensure that:

i. for surface impoundments, the designed capacity remains unchanged; or

ii. for landfills, the leachate collection and treatment system is functioning as designed; and

h. the measuring protocol to be used and the frequency with which the depth of leachate within the collection system will be checked, as well as how the leachate will be removed and transported to the treatment facility.

2. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

3. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the administrative authority and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph B.3.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the administrative authority.

C. Operational Standards for Type I and II Disposal Facilities

1. Facilities receiving waste with a potential to produce methane gas shall be subject to the air-monitoring requirements.

a. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Permits Division a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

b. The type and frequency of monitoring must be determined based on the following factors:

i. soil conditions;

ii. hydrogeologic conditions surrounding the facility;

iii. hydraulic conditions surrounding the facility; and

iv. the location of facility structures and property boundaries.

c. The minimum frequency of monitoring shall be quarterly.

d. If methane gas levels exceeding the limits specified in Subparagraph C.1.a of this Section are detected, the owner or operator must:

i. immediately take all necessary steps to ensure protection of human health and notify the administrative authority;

ii. within seven days of detection, submit a report to the administrative authority that provides the methane gas levels detected and a description of the steps taken to protect human health; and

iii. within 30 days of detection, submit a remediation plan for the methane gas releases to the administrative authority. The plan shall describe the nature and extent of the problems and the proposed remedy and shall include an implementation schedule. The plan must be implemented within 60 days of detection.

e. The permit holder shall notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance when strong odors occur at facility boundaries or when methane gas levels exceed the limit specified in Subparagraph C.1.a of this Section.

f. Records of inspections, surveys, and gas monitoring results shall be maintained at the facility.

g. Odors shall be controlled by the best means practicable.

h. Facilities must ensure that the units do not violate any applicable requirements developed under a state implementation plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

2. Waste Testing. The following operational standards apply to waste testing for facilities receiving domestic sewage sludge, industrial solid waste, incinerator ash, or nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action:

a. facilities that receive domestic septage or sewage sludge from publicly owned treatment works shall require the waste be tested for toxicity characteristics leachate procedure (TCLP) analysis and priority pollutants prior to acceptance of the waste and annually for two years following acceptance. Every year thereafter, the generator must certify that the waste remains unchanged;

b. facilities that receive industrial waste (Type I) shall require testing for TCLP constituents prior to acceptance of the waste and annually thereafter, or documented process knowledge that confirms that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:V.Subpart 1 or by federal regulations. Any waste that has a concentration equal to or higher than the TCLP test parameter limits shall not be accepted at the facilities, even if the waste is classified as nonhazardous. Nonhazardous petroleum-contaminated media and debris generated from underground storage tanks (UST) corrective action shall require testing for the appropriate constituents of TCLP prior to acceptance of the waste; and

3. Type I facilities that receive incinerator ash shall require testing of the ash for TCLP metals and dioxins prior to acceptance and thereafter quarterly for TCLP metals and annually for dioxins.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§713. Facility Implementation Plans**

A. The implementation plans for all facilities must include the following:

1. a construction schedule for existing facilities, which shall include beginning and ending time-frames and time-frames for the installation of all major features, such as monitoring wells and liners. (Time-frames must be specified in days, with day one being the date of standard permit issuance); and

2. details on phased implementation if any proposed facility is to be constructed in phases.

B. The implementation plans for Type I and II facilities must include a plan for closing and upgrading existing operating areas if the application is for expansion of a facility or construction of a replacement facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§715. Facility Closure**

A. Specific standards governing facility closure are contained in LAC 33:VII.719.E (Type I and II landfills), 721.E (Type I and II surface impoundments), 723.E (Type I and II landfarms), 725.B (Type I-A and II-A facilities), 727.D (construction and demolition debris and woodwaste landfills), 729.C (Type III composting facilities), and 731.B (Type III separation facilities).

B. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division, in writing, at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

1. date of planned closure;

2. changes, if any, requested in the approved closure plan; and

3. closure schedule and estimated cost.

C. For effective drainage, side slopes for disposal facilities shall be no steeper than 3(H):1(V), and the top slope of the unit of a facility shall be a minimum of 4 percent slope.

D. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder must submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§717. Facility Post-Closure**

A. Standards governing post-closure requirements are contained in LAC 33:VII.719.F (Type I and II landfills), 721.F (Type I and II surface impoundments), 723.F (Type I and II landfarms), and 727.E (Type III construction and demolition debris and woodwaste landfills).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**Subchapter B. Specific Facility Standards**

**§719. Specific Standards Governing Landfills (Type I and II)**

A. The topics presented in the subsections of this Section will be addressed in the permit application.

B. Facility Surface Hydrology

1. Trenches or areas used for waste disposal shall be graded to facilitate drainage.

2. A run-on control system shall be installed to prevent run-on during the peak discharge from a 25-year storm event.

3. Runoff from operating areas or areas that contain solid waste and have not yet received interim compacted cover or final cover shall be considered contaminated and shall not be allowed to mix with noncontaminated surface runoff.

C. Facility Plans and Specifications

1. Daily and Interim Cover Requirements

a. Cover material must:

i. minimize vector-breeding areas and animal attraction by controlling:

(a). fly, mosquito, and other insect emergence and entrance;

(b). rodent burrowing for food and harborage; and

(c). bird and animal attraction;

ii. control leachate generation by:

(a). minimizing external-moisture infiltration;

(b). minimizing erosion; and

(c). utilizing materials with minimum free-liquid content and minimum concentrations of constituents monitored in leachate;

iii. reduce fire-hazard potential by minimizing inward movement of atmospheric oxygen;

iv. minimize blowing paper and litter;

v. reduce noxious odors by minimizing outward movement of methane and other gases;

vi. provide an aesthetic appearance to the landfill operation; and

vii. allow accessibility regardless of weather.

b. Silty or sandy clays applied a minimum of 6 inches thick at the end of each operating day are satisfactory for daily cover, and silty clays applied a minimum of 1 foot thick are satisfactory for interim cover.

c. Alternative daily cover materials may be approved by the administrative authority provided the standards of Subparagraph C.1.a of this Section are met. The administrative authority reserves the right to require testing to confirm acceptability. The administrative authority may waive the requirements for daily cover, for Type I landfills only, if the permit holder or applicant can demonstrate that the nature of the waste is such that daily cover is not necessary. Daily cover requirements may not be waived for Type II landfills.

d. Alternative daily cover materials submitted for approval shall be available on a regular basis and demonstrate reasonably consistent composition and performance characteristics.

e. Interim cover or interim compacted cover shall be applied on all operating areas of a facility that will not receive solid waste for a period longer than 60 days. Interim cover or interim compacted cover must be applied within 48 hours of the last receipt of solid waste in the operating area. Facilities that provide interim cover or interim compacted cover shall also implement an erosion control plan.

f. Daily and interim cover must be applied and maintained in a condition that will meet the purposes of Subparagraph C.1.a of this Section.

g. The source of daily and interim cover must be accessible regardless of weather.

2. Leachate Control, Collection, Treatment, and Removal Systems

a. The standards in Paragraph C.2 of this Section apply to leachate control, collection, treatment, and removal systems for proposed landfills and units of existing landfills that receive waste on or after the required upgrade date specified in LAC 33:VII.502. These standards also apply to units of Type II landfills that have not received waste prior to October 9, 1993.

b. Leachate Control, Collection, Treatment, and Removal Standards

i. Leachate shall not be managed by allowing the leachate to be absorbed in the waste.

ii. Infiltration of water into the waste shall be minimized by daily, interim, and final cover, as required by these regulations.

iii. The impact of leachate on the environment shall be minimized by a leachate collection and removal system and a leachate treatment system designed to ensure positive removal and treatment of generated leachate.

iv. Leachate removed shall be handled in such a manner that it does not adversely affect the environment.

v. Migration of leachate shall be prevented by liners or other barriers.

vi. Representative samples of raw leachate shall be collected and analyzed annually for the same parameters that are required for the facility groundwater monitoring wells in LAC 33:VII.Chapter 8, Appendix A, Table 2.

c. Minimum Standards for Leachate Collection and Removal Systems

i. The leachate collection system shall be located above the primary liner.

ii. All leachate collection pipes shall be perforated, a minimum of 6 inches in diameter, and constructed of materials resistant to the leachate.

iii. Leachate cleanout risers or manholes must be provided for each leachate collection line. The maximum length of leachate collection lines shall not exceed the capabilities of the cleanout device.

iv. A granular leachate collection drainage blanket, consisting of natural or synthetic material with a permeability of $1x10^{-3}$ cm/sec or higher, must be provided to trap fines and prevent waste from entering the leachate removal system while allowing the passage of leachate. If natural material is used for the drainage blanket, the thickness of the material shall be at least 12 inches, unless otherwise approved by the administrative authority.

v. The flow path of leachate on the liner surface shall be no greater than 100 feet to the point of collection (For the purpose of determining this distance, the permit holder or applicant may assume that the leachate flow path is perpendicular to the leachate collection pipe.).

vi. The slope on the surface of the liner toward the leachate collection lines shall be a minimum of 2 percent.

vii. The slope of all leachate collection pipes shall be a minimum of 1 percent.

viii. The leachate head shall be maintained in a pumped-down condition, such that not more than 1 foot of head shall exist above the lowest bottom elevation of the leachate collection lines.

ix. The equipment used to remove leachate from the collection system shall be adequately sized to accommodate normal facility operations.

x. Trenches or swales shall be provided to protect the leachate collection pipes.

xi. The leachate collection lines shall be sloped down toward the perimeter of the unit.

xii. An adequate thickness of gravel shall be placed on all sides of the leachate pipes.

xiii. Gravel size shall be selected carefully to ensure that it is larger than the perforations in the collection pipe.

xiv. A geotextile shall be used to line the base and sidewalls of all leachate collection trenches or swales. The migration of fines into the tops of the trenches shall be minimized by a properly designed, graded soil filter or geotextile.

xv. Materials such as limestone and dolomite shall not be used in the leachate collection system. However, the administrative authority may allow alternate materials to be used in construction of the leachate collection system if the

permit holder or applicant can demonstrate that the materials can provide equivalent or superior performance.

xvi. Leachate lines (and other engineering structures) shall not penetrate the liner. The administrative authority may waive this requirement to allow horizontal penetration of the liner only if the permit holder or applicant can demonstrate that special or unusual circumstances warrant such a waiver and that liner integrity can be protected.

xvii. An antiseep collar should be placed around the leachate line that penetrates the liner. A minimum of three feet of recompacted clay or equivalent material shall be placed around the collar.

xviii. All leachate transfer (force-main) lines shall be pressure tested prior to their use.

xix. All control systems for pumps, valves, and meters shall be designed to be operated from the ground level.

3. Liners

a. The standards in Paragraph C.3 of this Section apply to liners for proposed landfills and units of existing landfills that receive waste on or after the required upgrade date in LAC 33:VII.502. These standards also apply to units of Type II landfills that did not receive waste before October 9, 1993, as provided in LAC 33:VII.502.

b. The permit holder or applicant must provide and implement a quality-control and quality-assurance plan for liner construction and maintenance that will ensure that liners are designed, constructed, installed, and maintained properly. All facilities must have quality-control plans for the excavations. All excavations and liners shall be inspected and certified by a registered engineer, licensed in the state of Louisiana, with the appropriate expertise.

c. The permit holder or applicant must demonstrate that the liner is placed upon a base that provides the following:

i. adequate support for the contents;

ii. maximum resistance to settlement of a magnitude sufficient to affect the integrity of the liner or the proper positioning of the leachate collection or leak-detection system;

iii. maximum resistance to hydrostatic heave on the sides or bottom of the excavation; and

iv. maximum resistance to desiccation.

d. Units of landfills shall be lined along the sides and bottom with a liner system installed under the supervision of a registered engineer licensed in the state of Louisiana and with the appropriate expertise, which consists of the following, in descending order:

i. a leachate collection system designed and constructed in accordance with Paragraph C.2 of this Section; and

ii. a composite liner that consists of a geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3-foot recompacted clay liner having a hydraulic conductivity no greater than $1 \times 10^{-7}$ cm/sec (If the geomembrane component is high-density polyethylene, then the geomembrane component must be at least 60-mil thick. Any geomembrane liner used must be compatible with the solid waste and leachate in the unit); or

iii. subject to the approval of the administrative authority, an alternative liner. Permit holders or applicants seeking to use an alternative liner must successfully make the following demonstration to the administrative authority:

(a). the unit receives and will receive only industrial solid waste generated on site; and

(b). the alternative liner system will provide equivalent or greater groundwater protection at the site as compared to the composite liner design in Clause C.3.d.ii of this Section, as demonstrated by generally accepted modeling techniques and based on factors specific to the site and to the solid wastes received. The burden of proof of adequacy of the alternative liner design shall be on the permit holder or applicant.

e. Secondary liners may be constructed below and in addition to the required composite liner. The specifications of secondary liners must be approved by the administrative authority on an individual basis.

f. A leak-detection system may be constructed between the required composite liner and any secondary liner.

g. Special design conditions may be required in areas where the groundwater table is high or where other circumstances warrant such conditions as determined by the administrative authority. These special design standards may include more protective or stringent standards, such as secondary liners (described in Subparagraph C.3.e of this Section) or leak-detection systems, or other conditions.

4. Gas Collection and Treatment or Removal System

a. Each unit of the facility with a potential for methane gas production and migration shall be provided with a methane gas collection and treatment or removal system.

b. The collection system shall be vented to the atmosphere or connected to a dispersal system or resource recovery system in accordance with accepted practices.

c. The gas collection and treatment or removal system shall be such that it limits methane gas to lower-explosive limits at the facility boundary and to 25 percent of the lower explosive limits in facility buildings.

d. Sampling protocol, chain of custody, and test methods shall be established for all gas collection and treatment or removal systems.

D. Facility Operations

1. Specific Facility Limitations

a. Only infectious waste from hospitals or clinics that has been properly packaged and identified and is certified noninfectious by the Department of Health and Hospitals may be deposited in Type I or II landfills.

b. Grazing of domestic livestock shall not be allowed on operating areas.

c. Liquid wastes shall not be disposed of in a landfill, and facilities that plan to accept liquid wastes shall provide a means for solidifying and an appropriate quality assurance/quality-control program, except as follows:

i. bulk or noncontainerized liquid shall not be placed in a landfill unless the waste is residential waste, other than septic waste; and

ii. containers holding liquid waste shall not be placed in a landfill unless:

(a). the container is a small container similar to that normally found in residential waste;

(b). the container is designed to hold liquids for use other than storage; or

(c). the waste is residential waste.

d. Residential, commercial, and other wastes deemed acceptable by the administrative authority on a site-specific basis may be disposed of in Type I and II landfills. A comprehensive quality-assurance/quality-control plan shall be provided for facilities receiving friable asbestos and dewatered domestic wastewater treatment plant sludge.

e. No solid waste shall be deposited in standing water.

2. Facility Operational Plans. In addition to the general standards described in LAC 33:VII.711.B, the following specific standards in regard to segregation of wastes are required:

a. white goods may be stored in a unit separate from other solid wastes and shall be removed every 30 days. The facility shall maintain a log of dates and volumes of white goods removed from the facility;

b. tree limbs, leaves, clippings, and similar residues may be segregated and deposited in a permitted unit separate from other solid waste and shall be covered every 30 days or more often if necessary to control blowing and prevent rodent harborage; and

c. construction material and woodwastes may be deposited in a permitted unit separate from other solid wastes and covered every 30 days. This unit must meet the standards provided in this Subsection and in LAC 33:VII.721.

3. Specific Operational Standards. In addition to the general standards described in LAC 33:VII.711.B, the following specific standards are required:

a. waste shall be deposited under facility supervision in the smallest practicable area, spread in layers, and compacted to approximately 2 feet thick or, if baled, stacked and daily cover applied; and

b. in regard to vector control standards:

i. food or harborage shall be denied to rats, insects, and birds to the extent possible by using proper cover or other means acceptable on a site-specific basis. Where necessary, an approved pesticide shall be applied in accordance with applicable state and federal laws; and

ii. a schedule of the type and frequency of vector control measures to be used shall be submitted to the administrative authority for approval in the operational plan.

E. Facility Closure Requirements

1. Preclosure Requirements

a. Final cover installation shall be initiated no later than 30 days after, and shall be completed no later than 90 days after, final grades are reached in each unit of a facility or the date of known final receipt of solid waste in the unit, whichever comes first. These deadlines may be extended by the administrative authority, if necessary, due to inclement weather or other circumstances to a maximum of 60 days for initiation and a maximum of 180 days for completion.

b. Standing water shall be solidified or removed.

c. The runoff-diversion system shall be maintained until the final cover is installed.

d. The runoff-diversion system shall be maintained and modified to prevent overflow of the landfill to adjoining areas.

e. Insect and rodent inspection is required to be documented before installation of final cover, and extermination measures must be provided if required as a result of the facility inspection.

f. Final machine compacting and grading shall be completed before capping.

g. All facilities with a potential for gas production or migration shall provide a gas collection and treatment or removal system.

2. Closure Requirements

a. Final Cover

i. Final cover shall be placed on top of the daily or intermediate cover that is used as the grading layer to provide a stable base for subsequent layers.

ii. Final cover shall be a minimum of 24 inches of recompacted clay with a permeability of less than $1 \times 10^{-7}$ cm/sec or shall be at least as impermeable as the liner system beneath the cover, whichever is less.

iii. The Office of Environmental Compliance, Surveillance Division shall be notified after the final cover is applied, but prior to the planting of ground cover. The permit holder shall also notify the Office of Environmental Compliance, Surveillance Division once the ground cover is established.

iv. A minimum of 6 inches of topsoil shall be installed on top of the soil cover to support vegetative growth, to prevent erosion, and to return the facility location to a more natural appearance.

v. Quality-control procedures must be developed and implemented to ensure that the final cover is designed, constructed, and installed properly. An engineering certification verifying that the facility meets the final cover requirements shall be prepared under the supervision of a registered engineer licensed in the state of Louisiana. This certification shall be submitted to the Office of Environmental Assessment, Environmental Technology Division for approval.

vi. Other covers that satisfy the purposes of minimizing infiltration of precipitation, fire hazards, odors, vector food, and harborage, as well as discouraging scavenging and limiting erosion, may be submitted for consideration by the administrative authority.

vii. Synthetic material or a combination of clay and synthetic material approved by the administrative authority may also be used as a final cover.

viii. Alternate final cover used in accordance with Clauses E.2.a.vi and vii of this Section must provide performance equivalent to or better than the final cover requirements in Clauses E.3.a.ii and iv of this Section.

ix. For effective drainage, the side slopes shall be no steeper than 3(H):1(V) and the top of the final cap shall be at minimum a 4 percent slope.

b. Landfills must be closed in a manner that minimizes the need for further maintenance and minimizes the post-closure release of leachate to ground or surface waters to the extent necessary to protect human health and the environment.

c. The permit holder shall update the parish mortgage and conveyance records by entering the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in Appendix C of this

Chapter. The latest version of this form can be found on the department's web site, www.deq.state.la.us. The facility shall provide the Office of Environmental Services, Permits Division with a true copy of the document filed and certified by the parish clerk of court.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. A request for the release of this fund shall be submitted to the Office of Management and Finance, Financial Services Division.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Permits Division approves closure. The length of the post-closure care period for landfills may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13, and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. Post-Closure Care Length

a. Facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility .

b. Existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

c. However, if the facility received waste on or after October 9, 1991, the final cover must be maintained, as specified in Subparagraph F.3.a of this Section, for 30 years after closure.

3. The post-closure care, except as otherwise specified above, must consist of at least the following:

a. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover, and providing annual reports to the Office of Environmental Compliance, Surveillance Division on the integrity of the final cap. The Office of Environmental Assessment, Environmental Technology Division and the Office of Environmental Compliance, Surveillance Division shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover;

b. maintaining and operating the leachate collection and removal system until leachate is no longer generated or until the permit holder can demonstrate that the leachate no longer poses a threat to human health or the environment in accordance with LAC 33:I.Chapter 13;

c. maintaining and operating the gas collection and treatment or removal system and the gas-monitoring system; and

d. maintaining the groundwater-monitoring system and monitoring the groundwater in accordance with LAC 33:VII.805.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§721. Standards Governing Surface Impoundments (Type I and II)**

A. General standards for location characteristics, facility characteristics, facility plans and specifications, facility administrative procedures, facility operational plans, and implementation plans are addressed in other sections of this Chapter.

B. Facility Surface Hydrology

1. Existing surface impoundments, including existing ditches that receive solid waste, that are designed to collect or transport run-on (e.g., stormwater) are not required to comply with any of the requirements of Paragraph B.2 of this Section and LAC 33:VII.707.B.3 and 4. This Subsection does not relieve such facilities from compliance with the Louisiana water quality regulations (LAC 33:Part IX).

2. Surface run-on from outside the facility shall be diverted and prevented from entering the facility, with provisions for maintaining adequate freeboard above the requirements of LAC 33:VII.705.B.1. A run-on control system shall be installed to prevent run-on during the peak discharge from a 25-year storm event.

3. Adequate freeboard shall be provided to prevent over-topping by wave action.

C. Facility Plans and Specifications

1. Plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities must be prepared under the supervision of and certified by a registered engineer licensed in the state of Louisiana.

2. Liners

a. The standards in this Paragraph apply to liners for Type I and II proposed surface impoundments and for surface impoundments constructed subsequent to the required upgrade date specified in LAC 33:VII.503 (Units of surface impoundments on which construction is completed prior to the upgrade date specified in LAC 33:VII.503 and that have received a temporary permit or standard permit prior to February 1, 1993, are not governed by these liner standards.)

b. The permit holder or applicant must provide and implement a quality-control and quality-assurance plan for liner construction and maintenance that will ensure that liners are designed, constructed, installed, and maintained properly. All facilities must have quality-control plans for the excavations. All excavations and liners shall be inspected and certified by a registered engineer licensed in the state of Louisiana and with the appropriate expertise.

c. The permit holder or applicant must demonstrate that the liner is placed upon a base that provides the following:

i. adequate support for the contents;

ii. maximum resistance to settlement of a magnitude sufficient to affect the integrity of the liner or the proper positioning of the leachate-collection or leak-detection system;

iii. maximum resistance to hydrostatic heave on the sides or bottom of the excavation; and

iv. maximum resistance to desiccation.

d. Units of surface impoundments shall be lined along the sides and bottom with a composite liner consisting of a geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a three-foot recompacted clay liner having a hydraulic conductivity no greater than $1 \times 10^{-7}$ cm/sec that has been installed under the supervision of a registered engineer licensed in the state of Louisiana and with the appropriate expertise. (If the geomembrane component is high-density polyethylene, then the geomembrane component must be at least 60-mil thick. Any geomembrane liner used must be compatible with the solid waste and leachate in the unit.) An alternative liner system that will provide equivalent or greater groundwater protection at the site as compared to the composite liner, as demonstrated by generally accepted modeling techniques and based on factors specific to the site and to the solid wastes received, may be used. The burden of proof of adequacy of the alternate liner design shall be on the permit holder or applicant.

e. Secondary liners may be constructed below and in addition to the required composite liner. The specifications of secondary liners must be approved by the administrative authority on an individual basis.

f. A leak-detection system may be constructed between the required composite liner and any secondary liner. The specifications of the leak-detection system must be approved by the administrative authority on an individual basis.

g. Special design conditions may be required in areas where the groundwater table is high or where other circumstances warrant such conditions, as determined by the administrative authority. These special design standards may include more protective or stringent standards such as secondary liners (described in Subparagraph C.2.e of this Section) or leak-detection systems or other conditions.

3. Gas Collection and Treatment or Removal System. The following standards apply to Type I and II surface impoundments not performing clean closure:

a. each unit of the facility with a potential for methane gas production and migration shall be provided with a methane gas collection and treatment or removal system;

b. the collection system shall be vented to the atmosphere or connected to a dispersal system or resource recovery system in accordance with accepted practices;

c. the gas collection and treatment or removal system shall be such that it limits methane gas to lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings; and

d. sampling protocol, chain of custody, and test methods shall be established for all gas collection and treatment or removal systems.

D. Facility Operations

1. Specific facility operational plans shall address the methods and inspection frequencies that will be used to establish that the levees and required freeboards are maintained.

2. Specific Facility Operational Standards

a. Surface impoundments shall be designed, constructed, maintained, and operated to prevent overtopping by overfilling, wave action, or action of storms.

b. Surface impoundments shall be inspected daily and after storms to detect evidence of deterioration of the dikes and levees, overtopping, malfunctions, or improper operation. Excessive vegetative growth that prevents proper access, inspection, or operation or may provide a conduit for groundwater contamination shall be removed.

c. If a leak in an impoundment is found, the administrative authority shall be notified in accordance with LAC 33:I.Subpart 2.

E. Facility Closure Requirements

1. Preclosure Requirements. The following standards apply to preclosure requirements for surface impoundments with on-site closure:

a. all facilities with a potential for gas production or migration shall provide a gas collection and treatment or removal system; and

b. the runoff-diversion system shall be maintained and modified to prevent overflow of the facility to adjoining areas.

2. Closure Requirements

a. Surface liquids and sludges containing free liquids shall be dewatered or removed.

b. If a clean closure is achieved, there are no further post-closure requirements. The closure plan must reflect a method for determining that all waste has been removed and such a plan shall, at a minimum, include the following:

i. identification (waste analysis) of the wastes that have entered the facility;

ii. selection of the indicator parameters to be sampled that are intrinsic to the waste that have entered the facility in order to establish clean-closure criteria. Justification of the parameters selected shall be provided in the closure plan;

iii. sampling and analyses of the uncontaminated soils in the general area of the facility for a determination of background levels using the indicator parameters selected. A diagram showing the location of the area proposed for the background sampling, along with a description of the sampling and testing methods, shall be provided. In addition, the Office of Environmental Compliance, Surveillance Division shall be notified at least five days prior to any sampling event;

iv. a discussion of the sampling and analyses of the "clean" soils for the selected parameters after the waste and contaminated soils have been excavated. Documentation regarding the sampling and testing methods (i.e., including a plan view of the facility, sampling locations, and sampling quality-assurance/quality-control programs) shall be provided;

v. a discussion of a comparison of the sample(s) from the area of the excavated facility to the background sample. Concentrations of the selected parameter(s) of the bottom and side soil samples of the facility must be equal to or less than the background sample to meet clean closure criteria;

vi. analyses to be sent to the Office of Environmental Services, Permits Division confirming that clean closure has been achieved;

vii. identification of the facility to be used for the disposal of the excavated waste; and

viii. a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services, Permits Division before backfilling takes place. The administrative authority shall determine whether the facility has been closed properly.

c. If solid waste remains at the facility, the closure and post-closure requirements for industrial (Type I) solid waste landfills or nonindustrial (Type II) landfills shall apply.

3. If the permit holder demonstrates that removal of most of the solid waste to achieve an alternate level of contaminants based on indicator parameters in the contaminated soil will be adequately protective of human health and the environment (including groundwater) in accordance with LAC 33:I.Chapter 13, the administrative authority may decrease or eliminate the post-closure period.

a. If levels of contamination at the time of closure meet residential standards, as specified in LAC 33:I.Chapter 13, and approval of the administrative authority is granted, the requirements of Subparagraph E.3.b of this Section shall not apply. The requirements of Subsection F of this Section (Facility Post-Closure Requirements) shall apply.

b. With the exception of those sites closed in accordance with Subparagraph E.3.a of this Section, within 90 days after a closure is completed, the permit holder must have recorded in the mortgage and conveyance records of the parish in which the property is located, a notation stating that solid waste remains at the site and providing the indicator levels obtained during closure.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Permits Division approves closure. The length of the post-closure care period for surface impoundments may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13 and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. The following standards regarding post-closure requirements apply to surface impoundments with on-site closure:

a. Post-Closure Care Length

i. facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility;

ii. existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility; and

iii. however, if the facility received waste on or after October 9, 1991, the final cover must be maintained, as specified in Subparagraph F.2.b of this Section, for 30 years after closure.

b. The post-closure care, except as otherwise specified above, must consist of at least the following:

i. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover, and providing annual reports to the Office of Environmental Compliance, Surveillance Division on the integrity of the final cap;

ii. maintaining and operating, if applicable, the leak-detection system;

iii. maintaining and operating the gas-collection and treatment or,removal system and the gas-monitoring system; and

iv. maintaining and monitoring the groundwater-monitoring system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§723. Standards Governing Landfarms (Type I and II)**

A. General standards for location characteristics, facility characteristics, facility plans and specifications, facility administrative procedures, facility operational plans, and implementation plans are addressed in other parts of this Chapter.

B. Facility Surface and Subsurface Hydrology

1. A run-on control system shall be installed to prevent run-on during the peak discharge from a 25-year storm event.

2. Land slope shall be controlled to prevent erosion.

3. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

4. Landfarms shall be located in a hydrologic section where the high-water table is at a minimum three-foot depth below the zone of incorporation, or the water table at the facility shall be controlled to a minimum of a three-foot depth below this zone.

C. Facility Administrative Procedures

1. Additional records shall be kept for Type I and Type II landfarms as follows:

a. a copy of the semiannual soil waste mixtures tests and analyses of the results with conclusions shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, semiannually, or more frequently if deemed necessary by the administrative authority;

b. test parameters shall consist of cation-exchange capacity, soil pH, total nitrogen, phosphorus, organic matter, salts (intrinsic to the waste), cumulative metals, and others as deemed necessary on a site and waste specific basis;

c. annual reports shall be kept of the analysis of all tests results on the soils, including land-use, crop information, calculated amounts of waste applied per acre, total amounts of nitrogen applied per acre, and cumulative-metals loading; and

d. annual reports shall be submitted to the Office of Environmental Assessment, Environmental Technology Division for a minimum of three years (Type II landfarms) and 10 years (Type I landfarms) after closure and shall contain analyses of all test results of the soils. The post-closure monitoring annual reporting may be reduced for certain types of landfarms if the permit holder demonstrates to the administrative authority's satisfaction that such reduction is warranted.

D. Facility Operations

1. Facility Limitations

a. Grazing by animals whose products are consumed by humans shall be prevented.

b. Only waste that is demonstrated to be biodegradable will be considered for disposal in a landfarm.

c. A comprehensive quality-assurance/quality-control plan shall be provided to ensure that incoming wastes are in conformance with the facility permit.

2. Facility operational plans shall include a comprehensive operational management plan for the facility that indicates with calculations that the acreages and methods are adequate for treating the type and volume of wastes anticipated. The plan shall include contingencies for variations.

3. Facility Operational Standards

a. The maximum allowable lifetime metal loading shall be restricted to the limits specified in the following table. It varies depending upon the value of the soil cation-exchange capacity ( soil CEC).

| Maximum Allowable Metal Loading (lb/acre)* | | | |
|---|---|---|---|
| **Soil CEC (meq/100g)** | **<5** | **5-15** | **>15** |
| Lead (Pb) | 500 | 1000 | 2000 |
| Zinc(Zn) | 250 | 500 | 1000 |
| Copper (Cu) | 125 | 250 | 500 |
| Nickel (Ni) | 125 | 250 | 500 |
| Cadmium (Cd) | 5 | 10 | 20 |

*Other metals not listed may be subject to restrictions based upon the metal content of the waste.

b. Surface application of liquid waste shall not exceed 2 inches per week.

c. Soils shall maintain a sufficiently high cation-exchange capacity (CEC) to absorb metallic elements in the solid waste by natural (pH range of soil) or artificial (additives) means. Soil in the zone of incorporation must be monitored to assess the effectiveness of ongoing treatment, management needs, and soil integrity.

d. Nitrogen concentrations in the waste must be within the limits deemed acceptable, as determined by plant-nitrogen uptake and soil and waste analyses (which shall indicate the movement of all forms of nitrogen). The potential for nitrogen to enter the groundwater shall be addressed.

e. Waste shall be applied to the land surface or incorporated into the soil within 3 feet of the surface.

f. A comprehensive quality-assurance/quality-control plan shall be provided to ensure that all incoming wastes are in conformance with the facility permit and these regulations.

g. Tests of soil/waste mixtures and analyses of the results, with conclusions, shall be conducted semiannually, or more frequently if deemed necessary by the administrative authority. Test parameters shall consist of CEC, soil pH, total nitrogen, phosphorus, salts intrinsic to waste, cumulative metals, organic matter, and others deemed necessary by the administrative authority.

h. The administrative authority may provide additional requirements necessary on a site-specific basis depending on waste type and method of application.

i. Landfarms that Receive Domestic Sewage Sludge and Septic Tank Pumpings

i. If spread on or incorporated in non-food-chain cropland, waste shall be treated by a process to significantly reduce pathogens (see Appendix A of this Chapter) prior to application or incorporation, and public access shall be controlled for 12 months following the final application. Grazing by animals whose products are consumed by humans shall be prevented for at least 30 days.

ii. If spread on or incorporated into land used to grow crops for human consumption, the waste must be treated by a process to further reduce pathogens (see Appendix B of this Chapter) before application or incorporation. If there is no contact between the waste and edible portions of the crop, or if crops are grown more than 18 months after application or incorporation, the conditions specified in Clause D.3.j.i of this Section apply.

iii. The administrative authority may provide additional requirements necessary on a site-specific basis, depending upon waste type, land use, and methods of application.

j. Land Use Requirements

i. Food-Chain Cropland

(a). The pH of the solid waste and soil mixture shall be maintained at or above 6.5.

(b). The annual application of cadmium from the waste shall not exceed 0.5 lb/acre.

(c). Cumulative application of cadmium from sewage sludge for soils with a background pH of less than 6.5 shall not exceed five lb/acre unless the pH of the sludge and soil mixture is adjusted and maintained at 6.5 or greater whenever food-chain crops are grown.

ii. Land Used for Animal Feed Only

(a). The pH of the waste-soil mixture must be 6.5 or greater at the time of solid waste application or when the crop is planted, whichever occurs later, and this pH level must be maintained whenever food-chain crops are grown. Crops requiring a lower pH will be considered on a site-specific basis.

(b). An operating plan for the facility shall be filed with the Office of Environmental Services, Permits Division that demonstrates how the animal feed will be distributed to preclude ingestion by humans and that describes the measures to be taken to safeguard against possible health hazards from the entry of cadmium or other heavy metals into the food chain, as may result from alternative land use.

(c). Solid waste with concentrations of polychlorinated biphenyls (PCBs) of l0 mg/kg or more shall not be allowed.

E. Facility Closure. During the closure period the permit holder must:

1. continue with all operations (including pH control) necessary to continue normal waste treatment within the treatment zone;

2. maintain the run-on control system;

3. maintain the runoff management system;

4. control wind dispersal of odors and/or waste; and

5. continue to comply with any prohibitions or conditions concerning growth of food-chain crops.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Permits Division approves closure. The length of the post-closure care period for landfarms may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13, and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. Type I Landfarms. For facilities that receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under LAC 33:VII.715 for 10 years after closure. For facilities that did not receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under LAC 33:VII.715 for three years after closure.

3. Post-Closure Requirements of Type II Landfarms

a. The permit holder shall continue to comply with any prohibitions or conditions under LAC 33:VII.715 for three years after closure.

b. Annual reports shall be submitted to the Office of Environmental Compliance, Surveillance Division for a period of three years after closure and shall contain results of analysis of all soil/waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§725. Specific Standards Governing All Solid Waste Processors (Type I-A and II-A)**

A. Facility Operational Standards

1. All containers shall provide containment of the wastes and thereby control litter, odor, and other pollution of adjoining areas.

2. Provisions shall be made for at least daily cleanup of the facility, including equipment and waste-handling areas.

3. No solid waste shall be stored long enough to cause a nuisance, health hazard, or detriment to the environment.

4. Treatment facilities for washdown and other contaminated water shall be provided.

5. Facilities that employ incineration shall develop an ash-management plan that includes, at a minimum, testing, handling, transportation, and disposal of ash at a permitted facility.

6. Facilities shall have a plan for handling contaminated water.

7. Specific Operational Standards for Incinerator Waste-Handling Facilities

a. Handling. Ash shall be properly wetted and contained so as to ensure that there are no dust emissions during loading, transporting, or unloading.

b. Testing

i Testing procedures, schedules, and methods must be submitted to the Office of Environmental Services, Permits Division for review and approval before disposal operations begin. Disposal of ash shall be only in a permitted Type I facility. Processing of ash shall be only in a permitted Type I-A facility.

ii. Testing of ash shall be performed quarterly for TCLP metals and annually for dioxins.

B. Facility Closure Requirements

1. An insect and rodent inspection is required and shall be documented before closure. Extermination measures, if required, must be provided.

2. All remaining waste shall be removed to a permitted facility for disposal.

3. The permit holder shall verify that the underlying soils have not been contaminated due to the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.721.E.2, 3, and 4 must be provided to the administrative authority. The Office of Environmental Compliance, Surveillance Division shall conduct a closure inspection to verify that the facility was cleaned in accordance with the approved closure plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§727. Construction and Demolition Debris and Woodwaste Landfills and Processing Facilities**

A. Facility Plans and Specifications

1. Interim Cover Requirements

a. Cover material must:

i. minimize vector-breeding areas and animal attraction by controlling:

(a). fly, mosquito, and other insect emergence and entrance;

(b). rodent burrowing for food and harborage; and

(c). bird and animal attraction;

ii. control leachate generation by:

(a). minimizing external-moisture infiltration;

(b). minimizing erosion; and

(c). utilizing materials with minimum free-liquid content and minimum concentrations of constituents monitored in leachate;

iii. reduce fire hazard potential by minimizing inward movement of atmospheric oxygen;

iv. minimize blowing paper and litter;

v. reduce noxious odors by minimizing outward movement of methane and other gases;

vi. provide aesthetic appearance to the landfill operation; and

vii. allow accessibility regardless of weather.

2. Wastes shall be deposited in the smallest practical area each day and compacted. The wastes shall be covered with silty clays, applied a minimum of 12 inches thick, at least every 30 days.

3. Levee construction shall be in accordance with LAC 33:VII.705.B.

B. Facility Operations

1. Facility Limitations

a. The following types of waste may be disposed of:

i. construction/demolition debris as defined in LAC 33:VII.115 and a maximum of 5 percent by volume of paper waste associated with such debris;

ii. woodwastes as defined in LAC 33:VII.115; and

iii. yard waste as defined in LAC 33:VII.115.

b. The disposal of liquid waste, infectious waste, residential waste, industrial waste, commercial waste, friable asbestos, and putrescible waste shall be strictly prohibited and prevented.

2. Facility Operational PlansCSegregation of Wastes. Waste determined to be unacceptable at a woodwaste/construction/demolition-debris landfill shall be removed from the facility at least every seven days. Storage of this waste shall be in a closed container that prevents vector and odor problems. The facility shall maintain a log of dates and volumes of waste removed from the facility.

C. Facility Closure Requirements

1. Preclosure Requirements

a. Final cover shall be applied within 30 days after final grades are reached in each unit of a facility. This deadline may be extended by the administrative authority if necessary due to inclement weather or other circumstances.

b. Standing water shall be solidified or removed.

c. The runoff-diversion system shall be maintained until the final cover is installed.

d. The runoff-diversion system shall be maintained and modified to prevent overflow of the landfill to adjoining areas.

e. Insect and rodent inspection is required to be documented before installation of final cover, and extermination measures must be provided, if required, according to the facility inspection.

f. Final machine compacting and grading shall be completed before capping.

2. Closure Requirements

a. Final Cover

i. Final cover shall consist of a minimum of 24 inches of silty clays and six inches of topsoil cover for supporting vegetative growth; however, other covers that provide a more practical answer and satisfy the purposes of minimizing fire hazards, odors, vector food and harborage, and infiltration of precipitation, as well as discouraging scavenging and limiting erosion, may be submitted for approval by the administrative authority. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

ii. The Office of Environmental Compliance, Surveillance Division shall be notified prior to planting a ground cover, and the permit holder shall notify the Office of Environmental Compliance, Surveillance Division once the ground cover is established.

iii. Quality-control procedures must be developed and implemented to ensure that the final cover is designed, constructed, and installed properly. An engineering certification verifying that the facility meets the final cover requirements shall be prepared under the supervision of a registered engineer licensed in the state of Louisiana. This certification shall be submitted to the Office of Environmental Assessment, Environmental Technology Division for approval.

iv. A combination of clay and synthetic material, approved by the administrative authority, may also be used as final cover.

b. The permit holder shall update the parish mortgage and conveyance records by recording the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. A form to be used for this purpose is provided in LAC 33:VII.Chapter 11, Appendix D. The facility shall provide the Office of Environmental Services, Permits Division with a true copy of the document filed and certified by the parish clerk of court.

D. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Permits Division approves closure. The time-frame of post-closure care may be lengthened, if necessary, to protect human health or the environment in accordance with LAC 33:I.Chapter 13.

2. The integrity of the grade and cap must be maintained for no less than three years after the date of the administrative authority's approval of the closure of the facility. The Office of Environmental Assessment, Environmental Technology Division and the Office of Environmental Compliance, Surveillance Division shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover.

3. Annual reports concerning the integrity of the cap shall be submitted to the Office of Environmental Compliance, Surveillance Division for a period of three years after closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§729. Composting Facilities**

A. Facility Plans and Specifications

1. Levee construction shall be in accordance with LAC 33:VII.705.B.

2. Leachate Management

a. Leachate produced in the composting process must be collected and treated or disposed of at a permitted facility.

b. Leachate may also be reused in the composting process as a source of moisture.

B. Facility Operations

1. Facility Limitations

a. The following types of wastes may be processed:

i. yard trash and woodwaste as defined in LAC 33:VII.115;

ii. manure as defined in LAC 33:VII.115;

iii. sewage sludge or septage as defined in LAC 33:VII.115;

iv. residential or commercial solid waste as defined in LAC 33:VII.115; and

v. other materials deemed acceptable by the administrative authority.

b. The processing of infectious waste and asbestos waste shall be strictly prohibited and prevented.

c. No solid waste shall be deposited in standing water.

2. Facility Operational Standards

a. Composting facilities that receive domestic septage or sewage sludge from publicly owned treatment works shall require that the waste be tested for toxicity characteristics leachate procedure (TCLP) analysis and priority pollutants prior to acceptance of the waste and annually for two years following acceptance. Each year thereafter, the generator must certify that the waste remains unchanged.

b. The operation of composting facilities shall be by methods that result in the aerobic, biochemical decomposition of the organic material received.

c. The facility must be designed and operated to control vectors, odors, dust, and litter.

d. The construction and turning frequency (if turning is necessary) of a composting facility must be sufficient to maintain aerobic conditions and to produce a compost product in a time-frame that is consistent with the level of technology employed and acceptable to the administrative authority.

e. In-vessel composting shall be conducted in accordance with the manufacturer's specifications and these regulations.

f. The following special requirements apply to facilities handling sewage sludge, septage, and residential or commercial waste:

i. if the compost is to be used exclusively for application to non-food-chain cropland, the criteria for a process to significantly reduce pathogens (see Appendix A of this Chapter) must be met. Otherwise, the facility must meet the criteria for a process to further reduce pathogens (see Appendix B of this Chapter); and

ii. the facility must include the following components:

(a). a receiving area, mixing area, curing area, compost storage area, drying and screening areas, and truck wash area located on surfaces capable of preventing groundwater contamination (periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated);

(b). runoff collection system; and

(c). leachate collection and on-site/off-site treatment system.

g. The following parameters are to be monitored and recorded during the operation in the time-frame specified (the samples taken for these parameters shall be representative of the compost unit):

i. temperature, daily;

ii. process odors, daily;

iii. blower operation, daily; and

iv. other parameters as deemed appropriate by the administrative authority.

h. Compost shall be classified based on the type of waste processed, compost maturity, particle size, and organic matter. The following characteristics shall be used:

i. Compost Maturity. A plot of time versus temperature (to indicate that the temperature of the compost has stabilized over a period of time) or other acceptable methods may be used to determine the level of maturity of compost, as defined in this Clause.

(a). *Fresh Organic Matter*—raw material before undergoing decomposition (or at beginning of process).

(b). *Fresh Compost*—organic matter that has been through the thermophilic stage and has undergone partial decomposition.

(c). Semimature Compost—compost material that is at the mesophilic stage.

(d). Mature Compost—a highly stabilized product that results from exposing compost to a prolonged period of humidification and mineralization, beyond the stage of maturity. Mature compost shall have been cured for at least 60 days after the mesophilic stage is complete. Minimum starting moisture content for curing semimature compost should be above 45 percent (by weight) and should be raised to this value if necessary.

ii. Particle Size. Particle size shall be determined by using the screen sizes, listed in this Clause, that the compost passed through. Organic matter content shall be determined by measuring the volatile solids content using the Environmental Protection Agency's (EPA's) approved methods.

(a). Fine: < 12 mm and organic matter > 25 percent.

(b). Medium: < 15 mm and organic matter > 30 percent.

(c). Coarse: < 30 mm and organic matter > 35 percent.

iii. Moisture Content. In the finished compost, moisture content shall not exceed 55 percent (by weight). The moisture content shall be determined by using the EPA's approved methods.

iv. Concentration Levels. The concentration level of finished compost shall be as shown in the following table.

**Concentration Levels of Finished Compost (shown in mg/kg in dry weight)**

| Parameter | Category 1 | Category 2 |
|---|---|---|
| Cadmium | <15 | 15 - 25 |
| Copper | <450 | 450 - 1000 |
| Lead | <200 | 200 - 800 |
| Nickel | <50 | 50 - 100 |
| Zinc | <1000 | 1000 - 2000 |

i. Finished Compost

i. The finished compost shall be sufficiently stable that it can be stored or applied to land without causing a health hazard, detriment, or nuisance to the environment, as determined by the administrative authority.

ii. All distributed compost must be accompanied with a label or leaflet that indicates, at a minimum, the type of waste from which the compost was derived, any restriction on the use of the product, and recommended application rates.

iii. Compost derived from sewage sludge, septage, or residential or commercial waste must meet the criteria of the process to significantly reduce pathogens (see Appendix A of this Chapter) or the process to further reduce pathogens

(see Appendix B of this Chapter) as provided in Clause B.2.f.i of this Section. Such compost shall not be offered for sale to, or otherwise distributed to, the general public unless it meets the criteria of the process to further reduce pathogens.

iv. Any compost made from solid waste that cannot be used in accordance with these regulations shall be reprocessed or disposed of in an approved solid waste facility.

v. Waste received at a composting facility shall be used as compost, sold as compost, or disposed of at a permitted disposal facility within 36 months after receipt.

vi. The sampling and testing methods shall be the EPA's approved methods.

vii. Compost produced outside of the state of Louisiana that is used or sold for use within the state shall comply with the requirements of these regulations.

viii. Classes of Finished Compost

(a). Class M1—compost made only from manure or manure with yard trash and/or woodwaste that is mature or semimature, fine or medium, and that meets the metals concentrations of Category 1 of Clause B.2.h.iv of this Section shall have unrestricted distribution except as provided in Clause B.2.f.i of this Section.

(b). Class M2—compost made only from manure or manure with yard trash and/or woodwaste, that is mature or semimature, fine or medium, and that meets the metals concentrations of Category 2 (but not of Category 1) of Clause B.2.h.iv of this Section shall be restricted to use with non-food-chain crops.

(c). Class S1—compost made from solid waste, other than only manure or manure with yard trash and/or woodwaste that is mature, fine, and that meets the metals concentrations in Category 1 of Clause B.2.h.iv of this Section shall have unrestricted distribution except as provided in Clause B.2.f.i of this Section.

(d). Class S2—compost made from solid waste, other than only manure or manure with yard trash and/or woodwaste, that is mature or semimature, fine or medium and that meets concentrations in Category 1 or Category 2 of Clause B.2.h.iv of this Section, but which does not meet the requirements of Class S1 compost, shall be restricted to use with non-food-chain crops and shall not be used in areas where public contact is likely, such as parks or recreation areas.

(e). Class YW—compost made only from yard trash and/or woodwaste that is mature or semimature, fine or medium shall have unrestricted distribution, except as provided in Clause B.2.f.i of this Section.

ix. All classes of compost shall be used in accordance with the maximum-loading rates provided in the following table and are subject to the restrictions provided in Clause B.2.f.i of this Section. The following loading rates apply unless soil analyses of cation-exchange capacity and pH justify higher loadings.

| Maximum Applied Metal (lb/acre) | |
|---|---|
| Lead | 500 |
| Zinc | 250 |
| Copper | 125 |
| Nickel | 125 |
| Cadmium | 5 |

x. Testing of Finished Compost. Composite samples of batches produced at compost facilities shall be analyzed in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication SW-846 at intervals of every three months (see *Liquid Waste* definition) for the following parameters:

(a). moisture;
(b). total nitrogen;
(c). total phosphorus;
(d). total potassium;
(e). pH;
(f). cadmium;
(g). copper;
(h). lead;
(i). nickel;
(j). zinc; and
(k). fecal coliform (analyzed in accordance with Standard Methods for the Examination of Water and Wastewater, 18th edition).

3. Segregation of Waste

a. Composting facilities involving residential and commercial solid waste shall provide a waste-segregation plan and a recyclables separation program, which shall be instituted prior to composting operations.

b. Wastes not intended for composting shall be removed from the facility to a permitted facility at least every seven days. Storage of wastes not intended for composting shall be in a closed container that prevents vector and odor problems. The facility shall maintain a log of dates and volumes of waste removed from the facility due to its inability to be composted.

c. Recyclable waste removed from the waste stream shall be stored in a manner that prevents vector and odor problems and shall be removed from the facility at least every 90 days. The facility shall maintain a log of dates and volumes of recycled waste removed from the facility.

C. Facility Closure Requirements

1. An insect and rodent inspection is required, and shall be documented, before closure. Extermination measures, if required, must be provided.

2. All remaining waste shall be removed to a permitted facility for disposal, and documentation shall be provided.

3. The permit holder shall verify that the underlying soils have not been contaminated in the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.721.E.2, 3, and 4 must be provided to the Office of Environmental Services, Permits Division. The Office of Environmental Compliance, Surveillance Division shall conduct a closure inspection to verify that the facility was cleaned in accordance with the approved closure plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§731. Separation and Woodwaste Processing Facilities (Type III)**

A. Facility Operational Standards

1. All containers shall provide containment of the wastes and thereby control litter, odor, and other pollution of adjoining areas.

2. Provisions shall be made for at least daily cleanup of the facility, including equipment and waste-handling areas.

3. No solid waste shall be stored long enough to cause a nuisance, health hazard, or detriment to the environment.

4. Treatment facilities for washdown and other contaminated water shall be provided.

5. Facilities shall have a plan for handling contaminated water.

B. Facility Closure Requirements

1. An insect and rodent inspection is required, and shall be documented, before closure. Extermination measures, if required, must be provided.

2. All remaining waste shall be removed to a permitted facility for disposal or properly disposed of on-site as provided for in LAC 33:VII.305.H. If waste is removed from the facility, documentation must be provided that the material was properly disposed of in a permitted facility.

3. The permit holder shall verify that the underlying soils have not been contaminated from the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.721.E.2, 3, and 4 must be provided to the Office of Environmental Services, Permits Division. The Office of Environmental Compliance, Surveillance Division shall conduct a closure inspection to verify that the facility was cleaned in accordance with the approved closure plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**Appendix A**

| Processes to Significantly Reduce Pathogens | |
|---|---|
| Aerobic Digestion | A process conducted by agitating sludge with air or oxygen to maintain aerobic conditions at residence times ranging from 60 days at 15°C to 40 days at 20°C, with a volatile-solids reduction of at least 38 percent. |
| Air Drying | A process that allows liquid sludge to drain and/or dry on under-drained sand beds or on paved or unpaved basins in which the depth of the sludge is 9 inches. A minimum of three months is needed for this process; during two of these months daily temperatures must average above 0° C. |
| Anaerobic Digestion | A process conducted in the absence of air during a residence time ranging from 60 days at 20°C to 15 days at 35-55°C, with a volatile-solids reduction of at least 38 percent. |
| Composting | A process conducted by either the within-vessel, static-aerated-pile or windrow method whereby the solid waste is maintained at minimum operating conditions of 40°C for five days. For four hours during this period, the temperature must exceed 55°C. |
| Lime Stabilization | A process in which sufficient lime is added to produce a pH of 12 after two hours of contact. |
| Other Methods | Other methods or operating conditions for significantly reducing pathogens may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods. |

**Appendix B**

| Processes to Further Reduce Pathogens | |
|---|---|
| Composting | A process conducted by either the within-vessel, static aerated-pile, or windrow method. If the within-vessel or static-aerated-pile method is used, the solid waste is maintained at operating conditions of 55°C or greater for three days. If the windrow method is used, the solid waste attains a temperature of 55°C or greater for at least 15 days during the composting period, and the windrow is turned at least five times during this high-temperature period. |
| Heat Drying | A process in which dewatered sludge cake is dried by direct or indirect contact with hot gases and moisture content is reduced to 10 percent or less. Sludge particles reach temperatures well in excess of 80° C or the wet-bulb temperature of the gas stream, in contact with the sludge at the point where it leaves the dryer, is in excess of 80° C. |
| Heat Treatment | A process in which liquid sludge is heated to temperatures of 180° C for 30 minutes. |
| Thermophilic Aerobic Digestion | A process in which liquid sludge is agitated with air or oxygen to maintain aerobic conditions at residence times of 10 days at 55-60° C, with a volatile-solids reduction of at least 38 percent. |
| Other Methods | Other methods or operating conditions for further reducing pathogens may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods. |
| Any of the processes listed below, used in conjunction with the processes described above, will further reduce pathogens. The processes listed below will not, however, reduce the attraction of disease vectors if they are not used in conjunction with one of the above processes, and therefore are not sufficient alone. | |
| Beta-Ray Irradiation | A process in which sludge is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (approximately 20° C). |
| Gamma-Ray Irradiation | A process in which sludge is irradiated with gamma rays from certain isotopes, such as $^{60}$Cobalt and $^{137}$Cesium, at dosages of at least 1.0 megarad at room temperature (approximately 20° C). |
| Pasteurization | A process in which sludge is maintained for at least 30 minutes at a minimum temperature of 70° C. |
| Other Methods | Other methods or operating conditions may be acceptable if pathogens are reduced to an extent equivalent to the reduction achieved by any of the above add-on methods. |

## Appendix C

**Document to be Filed in the Parish Records Upon Final Closure of a Solid Waste Disposal Facility**

(Name of permit holder) hereby notifies the public that the following described property was used for the disposal of solid waste. This site was closed on (date facility was closed) in accordance with the *Louisiana Administrative Code*, Title 33, Part VII. Inquiries regarding the contents of (the facility) may be directed to (name of person with knowledge of the contents of the facility) at (address of person with knowledge of the contents of the facility).

Property Description

(Provide the specific description of the location of the facility)

_____

Signature of Person Filing Parish Record

_____

Typed Name and Title of Person Filing Parish Record

_____

Date

(A true copy of the document must be certified by the parish clerk of court.)

## Appendix D

**Examples of agricultural wastes that may be managed under approved best management practice plans:**

Sugar mill bagasse ash
Bagasse
Filter press mud from sugar mills
Chicken litter
Dead poultry carcasses
Rice hulls
Rice hull ash
Shells from crawfish and shellfish processing
Potato peels from potato processing
Cotton gin trash

## Chapter 8. Standards Governing General Facility Geology, Subsurface Characterization, and Facility Groundwater Monitoring (Type I, I-A, II, II-A, III)

### §801. General Facility Geology

A. The following standards regarding facility geology are applicable to all Type I, Type I-A, Type II, Type II-A, and Type III facilities:

1. the subsurface soils and groundwater conditions at facilities shall be characterized by a geologist or by a registered engineer licensed in the state of Louisiana, with expertise in geotechnical engineering and geohydrology;

2. except as provided in Paragraph A.3 of this Section, facilities shall have natural soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that should provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other permeable strata that would provide a conduit to such aquifers; and

3. a design for surfacing natural soils that do not meet the requirement in Paragraph A.2 of this Section shall be prepared and installed under the supervision of a registered engineer licensed in the state of Louisiana, with expertise in geotechnical engineering and geohydrology. Written certification by the engineer that the surface satisfies the requirements of Paragraph A.2 of this Section shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §803. Subsurface Characterization

A. Boring Requirements

1. Boring Requirements Applicable to All Type I, II, and III Facilities

a. The number, spacing, and depths of borings shall be sufficient to adequately characterize the subsurface soils and groundwater conditions for the facility.

b. Borings shall be installed and plugged and abandoned in accordance with the standards in this Chapter, as well as the guidelines established in the latest versions of the department's and the Louisiana Department of Transportation and Development's (LDOTD) *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook* and the LDOTD's Water Well Rules, Regulations, and Standards in LAC 70:XIII. The administrative authority may approve other forms of geological investigation for Type III facilities, such as hand augered borings, test pits, excavations, etc., provided that subsurface conditions are characterized by an individual that meets the requirements in LAC 33:VII.801.A, and any holes, test pits, etc., are properly plugged and abandoned.

c. Geotechnical field tests and laboratory tests shall be conducted according to the standards of the American Society for Testing and Materials (ASTM) or the EPA or other applicable standards approved by the administrative authority.

d. Boring logs shall be submitted for each borehole, including boreholes for monitoring wells and piezometers, and shall include information for boring logs established in the latest versions of the department's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook* and the LDOTD's Water Well Rules, Regulations, and Standards in LAC 70:XIII, including the ground surface elevation with respect to mean sea level, lithology and intervals that were cored continuously, and depth of first encountered groundwater.

e. A plan view map(s) shall be provided that shows existing topographic contours and locations of all borings, monitoring wells, and piezometers with respect to the facility.

f. A detailed plan-view drawing shall be provided that shows the proposed elevations of the base of units prior to installation of the liner system and boring locations.

g. Logs of borings and other forms of geological investigation approved by the administrative authority for Type III facilities shall be submitted on a geologic cross section(s) and shall include applicable information required in Subparagraph C.2.a of this Section.

2. Requirements Applicable to Type I and Type II Facilities

a. Geotechnical borehole spacing shall be no greater than 450 feet (minimum of four borings required) except for Type II landfarms that require a sufficient spacing between

borings to adequately characterize the subsurface soils and groundwater conditions for the facility.

b. The elevation (msl) of the lowest point of excavation shall be provided.

c. All boreholes shall extend to a depth of at least 30 feet below the elevation (msl) of the lowest point of the excavation (or the lowest point of the zone of incorporation for landfarms). At least 10 percent of the borings (minimum of three borings) shall extend to 100 feet below grade level to characterize the shallow geology.

d. All borings shall be continuously sampled to at least 30 feet below the elevation (msl) of the lowest point of excavation (or lowest point of the zone of incorporation for landfarms), with the use of thin-wall and/or split-spoon devices or similar coring devices. After 30 feet, samples shall be at a maximum of five-foot intervals. The administrative authority may approve other forms of borehole logging on a case by case basis and with proper justification.

B. Groundwater Flow Determination Requirements Applicable to Type I and II Facilities

1. Groundwater flow direction(s) shall be determined using a minimum of three piezometers or monitoring wells in each water-bearing zone including zone(s) that comprise the uppermost aquifer and uppermost water-bearing permeable zone (if present).

2. Piezometers and monitoring wells that are used to characterize groundwater flow direction(s) must be constructed in accordance with the applicable well construction standards in LAC 33:VII.805.A.3.

3. As-built diagrams for each piezometer and monitoring well used to determine groundwater flow direction(s) shall be submitted in accordance with applicable sections of LAC 33:VII.805.A.3.

4. The reference point of each piezometer and monitoring well that is used for measuring water levels shall be surveyed by a licensed surveyor.

5. Water levels of piezometers and monitoring wells that are used for determining groundwater flow direction(s) shall be measured at least four times in a one-year period (quarterly) to provide seasonal and temporal fluctuations in groundwater flow rate(s) and direction(s).

C. Geology and Groundwater Flow Characterization Requirements Applicable to Type I and II Facilities

1. Regional Geology and Groundwater Flow Characterization

a. A geologic cross-section from available published information that depicts the stratigraphy to a depth of at least 200 feet below the ground surface shall be provided.

b. The areal extent, thickness, and depth to the upper surface and any interconnection of aquifers, from all available information, shall be provided for all recognized aquifers that have their upper surfaces within 200 feet of the ground surface.

c. The rate(s) and direction(s) of groundwater flow shall be provided for all recognized aquifers that have their upper surface within 200 feet of the ground surface, shown on potentiometric maps.

2. Facility Geology and Groundwater Flow Characterization

a. Geologic cross sections shall be provided for each transect (line of borings) and shall depict the following information in relation to mean sea level (msl):

i. lithologic and boring log data from all borings drilled at the facility, including borings for existing as well as plugged and abandoned monitoring wells and piezometers;

ii. boring locations, including monitoring wells and piezometers and depths;

iii. excavation depths (or depths of the zone of incorporation for landfarms) on applicable cross section(s);

iv. screen intervals of all existing and plugged and abandoned monitoring wells and piezometers;

v. other applicable features such as faults, slurry walls, groundwater dewatering systems, etc.; and

vi. identification of individual stratigraphic units, including units that comprise the uppermost aquifer, uppermost water-bearing permeable zone (if present), lower confining unit, and confining unit that underlies the uppermost water-bearing permeable zone (if present).

b. The areal extent, depths, and thickness of all saturated permeable zones to a depth of at least 30 feet below the lowest point of excavation (or zone of incorporation for landfarms) shall be provided on structure maps (top and/or bottom of zone maps) and isopach maps, including the zone(s) that comprise the uppermost aquifer and uppermost water-bearing permeable zone (if present). Structure maps and isopach maps must display the location of the facility, boring locations, and corresponding elevation or thickness measurement at each boring location.

c. The areal extent, depths, and thickness of the lower confining unit for the uppermost aquifer and the confining unit underlying the uppermost water-bearing permeable zone (if present) shall be provided on structure maps (top and/or bottom of zone maps) and isopach maps. Structure maps and isopach maps must display the location of the facility, boring locations, and corresponding elevation or thickness measurement at each boring location.

d. Any faults that are mapped as existing through the facility shall be displayed on structure maps and shall show the fault trace and arrows pointing to the downthrown side of fault.

e. At least four scaled potentiometric surface maps shall be provided over a one-year period (quarterly) for each saturated permeable zone to a depth of at least 30 feet below the lowest point of excavation (or zone of incorporation for landfarms), including the zone that comprises the uppermost aquifer and uppermost water-bearing permeable zone. Scaled potentiometric surface maps shall display the location of the facility, monitoring well and piezometer locations, and corresponding water level elevation measurement at each well location.

f. Characterization of groundwater flow direction(s) shall be provided between saturated permeable zones that are interconnected and relatively thick saturated permeable zones. The characterization shall include the use of various illustrations such as potentiometric surface maps, flow nets depicting vertical and horizontal flow directions, etc.

g. Discussion of any change in groundwater flow direction anticipated to result from any facility activities shall be provided.

h. Establishment of zone(s) that comprise the uppermost aquifer, uppermost water-bearing permeable zone (if present), and lower confining unit shall be provided.

i. Groundwater flow rate(s) and calculations shall be provided for each zone(s) that comprises the uppermost aquifer and uppermost water-bearing permeable zone (if present).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§805. Facility Groundwater Monitoring**

A. Groundwater Monitoring System

1. At each facility, a groundwater-monitoring system must be installed that consists of a sufficient number of wells, installed at appropriate locations and depths, to yield groundwater samples from the uppermost aquifer and from the uppermost water-bearing permeable zone (if this zone is present at the facility and the administrative authority deems that it is subject to the groundwater monitoring requirements of this Section for providing adequate groundwater monitoring at the facility) which will yield sufficient quantities of water for sampling that:

a. represent the quality of the background groundwater that has not been affected by leakage from a unit; and

b. represent the quality of groundwater passing the relevant point of compliance. For the purposes of these regulations, the relevant point of compliance is the vertical surface that is located no more than 150 meters downgradient from the unit(s) being monitored and extends down into the uppermost aquifer underlying the facility and any other permeable zones being monitored. The relevant point of compliance must be on property owned or controlled by the permit holder and must be selected and subject to the approval of the administrative authority based on at least the following factors:

i. hydrological characteristics of the facility and the surrounding land;

ii. volume and physical and chemical characteristics of the leachate;

iii. quantity, quality, and direction of flow of groundwater;

iv. proximity and withdrawal rate of the groundwater users;

v. availability of alternative drinking water supplies;

vi. existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater, and whether the groundwater is currently used or reasonably expected to be used for drinking water;

vii. public health, safety, and welfare effects; and

viii. practicable capability of the owner or operator.

2. Location of Wells

a. Enough monitoring wells must be located hydraulically upgradient of the facility to yield samples that represent background groundwater quality as required in Paragraph A.1 of this Section.

b. A minimum of one upgradient well per zone monitored is required.

c. Monitoring wells other than upgradient of the facility may be sampled for background groundwater quality if:

i. hydrologic conditions do not allow the permit holder to determine which wells are hydraulically upgradient; or

ii. sampling at other wells will provide an indication of background groundwater quality that is more representative than sampling of upgradient wells.

d. Enough monitoring wells must be located hydraulically downgradient from the facility to yield samples that are representative of the groundwater passing the relevant point of compliance. Downgradient monitoring well locations and screen intervals shall target the most likely contaminant pathway(s). At least two downgradient wells per zone monitored must be provided. The downgradient wells must be screened in the same zone as the upgradient wells. Spacing between downgradient wells shall not exceed 800 feet.

e. The number, spacing, and depths of monitoring wells shall be determined based upon site-specific technical information that must include thorough characterization of:

i. aquifer thickness, groundwater flow rate, groundwater flow direction including seasonal and temporal fluctuations in groundwater flow; and

ii. saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer, including, but not limited to, thickness, stratigraphy, lithology, hydraulic conductivities, porosities, and effective porosities.

f. The administrative authority will consider for approval multi-unit groundwater monitoring systems, provided these systems meet the requirements of Paragraph A.1 of this Section and will be as protective of human health and the environment as groundwater monitoring systems for individual units.

g. The administrative authority may modify the requirements of this Subsection for site-specific considerations in approving groundwater monitoring systems for ditches.

3. Well Construction

a. Well construction shall be in accordance with LDOTD's Water Wells Rules, Regulations, and Standards in LAC 70:XIII, as well as the latest version of the department's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*.

b. Construction of monitoring wells for facilities regulated by the department shall require approval of the administrative authority prior to construction.

c. In addition to the construction standards set forth in LDOTD's Water Wells Rules, Regulations, and Standards in LAC 70:XIII, the following is required for monitoring wells:

i. all wells must have protective casing with locking covers and a secure locking device in place;

ii. all wells must have guard posts firmly anchored outside the well slab, but not in contact with the slab;

iii. the maximum allowable screen length must not exceed 10 feet; and

iv. a sign or plate must be permanently affixed to the protective well casing and must prominently display:

(a). well identification number;

(b). identification of well as upgradient or downgradient;

(c). elevation of top of well casing in relation to mean sea level;

(d). screen depth in relation to mean sea level; and

(e). date of well installation and any subsequent repairs.

4. Post Construction. Within 90 days after construction of the wells, the permit holder or applicant must submit to the Office of Environmental Services, Permits Division well-completion details to verify that the wells were constructed according to the approved specifications and to document construction procedures. A permit modification fee will not be required. Well-completion details shall include, but are not limited to:

a. daily field notes documenting construction procedures and any unusual occurrences, such as grout loss, etc.;

b. boring log for each well including surface elevation(s) with respect to mean sea level or comparable reference points; and

c. as-built diagrams for each well showing all pertinent features, such as elevation of reference point for measuring groundwater levels, screen interval, and ground surface. If features change from the approved plans, then a permit-modification request must be submitted in accordance with LAC 33:VII.507.

5. Plugging and Abandonment of Monitoring Wells and Geotechnical Borings

a. LDOTD's Water Wells Rules, Regulations, and Standards in LAC 70:XIII, as well as the latest version of the department's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*, shall apply to all plugging and abandonment of wells and holes including, but not limited to, observation wells, monitoring wells, piezometer wells, leak-detection wells, assessment wells, recovery wells, abandoned pilot holes, test holes, and geotechnical boreholes.

b. In addition to the standards in LAC 70:XIII and the latest version of the department's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*, the following standards shall apply to plugging and abandonment:

i. for any well, the primary method of plugging and abandonment shall be removal of the well's casing and other components of the well including, but not limited to, the screen, grout, bentonite seal, filter pack, concrete slab, protective casing, guard posts, and native soil in immediate contact with the grout and subsequent installation of cement-bentonite grout, from the bottom of the resulting borehole to the ground surface using the tremie method;

ii. in areas where all or a part of the well's casing and other components of the well cannot be plugged and abandoned in accordance with the procedure stated in Clause A.5.b.i of this Section, the well shall be plugged and abandoned by installation of cement-bentonite grout inside the well's casing, from the bottom of the well to the ground surface, provided that the annular seal is demonstrated to be adequately sealed and the following items are submitted:

(a). supporting documentation, prior to plugging the well, that demonstrates that removal of all or part of the well's casing and other components of the well in accordance with the procedure stated in Paragraph A.5 of this Section will be detrimental to the environment; and/or

(b). certification and supporting documentation by a qualified professional that shows that removal of the well's casing was attempted and that continued attempts to remove all or a part of the well's casing and other components of the well, as stated in Paragraph A.5 of this Section, would have been detrimental to the environment;

iii. after plugging and abandoning a well, all surface features of the well including, but not limited to, the concrete slab, guard posts and protective casing, shall be dismantled and disposed of in an environmentally sound manner and the surface shall be restored to its original condition; and

iv. the permit holder must notify the Office of Environmental Assessment, Environmental Technology Division of the plugging and abandonment of monitoring wells or geotechnical borings and keep records of such abandonments.

6. Monitoring wells, piezometers, and other measurement, sampling, and analytical devices must be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

B. Groundwater Sampling and Analysis Requirements

1. A groundwater-monitoring program must be implemented at each facility that includes consistent sampling and analysis procedures that ensure monitoring results are representative of groundwater quality at the background and downgradient well locations.

2. A groundwater sampling and analysis plan must be prepared that meets the requirements of Paragraph B.2 of this Section, as well as the requirements of Appendix B of this Chapter, and that includes procedures and techniques for:

a. sample collection that ensures that collected samples are representative of the zone(s) being monitored and prevents cross-contamination of or tampering with samples;

b. sample preservation and shipment that ensure the integrity and reliability of the sample collected for analysis;

c. chain of custody control;

d. quality-assurance/quality-control, including detection limits, precision and accuracy of analyses, field blanks, and laboratory spikes and blanks; and

e. statistical evaluation of the groundwater monitoring data for each parameter or constituent sampled at each monitoring well.

3. The sampling and analysis plan must provide the sampling frequency and include the:

a. selection of parameters or constituents to be sampled and analyzed during detection monitoring and justification for parameters or constituents where applicable;

b. identification of analytical procedures to be followed (reference source of analytical method); and

c. practical quantitation limit for each parameter or constituent.

4. The practical quantitation limit (pql) for each groundwater monitoring parameter or constituent shall be:

a. the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility; and

b. equal to or lower than the groundwater protection standard for that parameter or constituent as set in accordance with LAC 33:I.Chapter 13 when applicable.

5. Background groundwater quality must be established for the facility in a hydraulically upgradient well(s), or other well(s) as provided in Subparagraph A.2.c of this Section, for each groundwater parameter or constituent.

6. Statistical Methods

a. The number of samples collected to establish groundwater quality data must be consistent with the appropriate statistical procedures used.

b. One of the following statistical methods to be used in evaluating groundwater data must be specified in the sampling and analysis plan for each parameter or constituent to be monitored. The statistical test chosen shall be conducted separately for each parameter or constituent in each well:

i. a parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each parameter or constituent;

ii. an analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each parameter or constituent;

iii. a tolerance or prediction interval procedure in which an interval for each parameter or constituent is established from the distribution of the background data, and the level of each parameter or constituent in each compliance well is compared to the upper tolerance or prediction limit;

iv. a control chart approach that gives control limits for each parameter or constituent; and

v. another statistical test method that meets the performance standards of Subparagraph B.6.c of this Section. The permit holder must place a justification for this alternative in the operating record and notify the administrative authority of the use of this alternative test. The justification must demonstrate that the alternative method meets the performance standards of Subparagraph B.6.c of this Section.

c. Any statistical method chosen under Subparagraph B.6.b of this Section shall comply with the following performance standards, as appropriate:

i. the statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of the parameters or constituents. If the distribution of the chemical parameters or constituents or hazardous parameters or constituents is shown by the permit holder to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the parameters or constituents differ, more than one statistical method may be needed;

ii. if an individual well comparison procedure is used to compare an individual compliance well parameter or constituent concentration with background parameters or constituent concentrations or a groundwater protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experimentwide error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts;

iii. if a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter or constituent values shall be protective of human health and the environment. The parameters or constituents shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each parameter or constituent of concern;

iv. if a tolerance interval or a predictional interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, shall be protective of human health and the environment. These parameters or constituents shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each parameter or constituent of concern;

v. the statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit (pql) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility; and

vi. if necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

d. The permit holder must determine whether or not there is a statistically significant increase over background values for each parameter or constituent required in the particular groundwater monitoring program that applies to the facility, as determined under Subsections C and D of this Section.

i. In determining whether a statistically significant increase has occurred, the permit holder must compare the groundwater quality of each parameter or constituent at each monitoring well designated in accordance with Subparagraph A.1.b of this Section to the background value of that parameter or constituent, according to the statistical procedures and performance standards specified under Subparagraphs B.6.b and c of this Section.

ii. Within 90 days after the date of sampling, the permit holder must determine whether there has been a statistically significant increase over background at each monitoring well.

C. Detection Monitoring Program

1. All Type I and II facilities must conduct a detection monitoring program as described in Subsection C of this Section.

2. Initial Sampling

a. For a new facility, monitoring wells must be sampled and the groundwater monitoring data for a sampling event must be submitted to the Office of Environmental Assessment, Environmental Technology Division before waste is accepted.

b. For an existing facility with no wells in place at the time of the application submittal or at the time at which the facility becomes subject to these regulations, the groundwater monitoring data shall be submitted to the Office of Environmental Assessment, Environmental Technology Division within 90 days after installation of the monitoring wells.

c. A minimum of four independent samples from each well (upgradient and downgradient) must be collected and analyzed during the initial sampling event for a facility. The initial sampling event shall consist of quarterly sampling over a one-year period. Thereafter, at least one sample must be collected and analyzed at each well for each sampling event.

3. For the first year of monitoring and thereafter, sampling and analysis of all wells must be conducted every six months.

4. The groundwater monitoring program must be conducted for the life of the facility and for the duration of the post-closure care period of the facility, which is specified in LAC 33:VII.719.F, 721.F, or 723.F. Groundwater monitoring may be extended beyond the period specified if deemed necessary by the administrative authority.

5. The permit holder or applicant must submit three bound copies (8 1/2 by 11 inches) of a report of all groundwater sampling results to the Office of Environmental Assessment, Environmental Technology Division no later than 90 days after each sampling event. The reports must be submitted on forms provided by the administrative authority and shall include at a minimum:

a. documentation of the chain of custody of all sampling and analyses;

b. scaled potentiometric surface maps showing monitoring well and piezometer locations and groundwater elevations with respect to mean sea level for each stratum monitored;

c. plots by well showing concentration of parameters or constituents versus time. If the facility is conducting assessment or corrective action monitoring, then in addition to the plots by well of concentration versus time, an isopleth map shall be submitted for each zone monitored; and

d. a statement of whether a statistically significant difference in concentration over background concentrations is detected.

6. If a statistically significant increase over background concentrations is determined for one or more parameters or constituents required to be monitored, the permit holder must:

a. submit to the Office of Environmental Assessment, Environmental Technology Division:

i. within 14 days after the determination is made, a report that identifies which parameters or constituents were determined to have shown statistically significant changes over background; and

ii. written notification for conducting any verification resampling events at least 14 days prior to conducting the resampling events; and

b. within 90 days after the determination is made:

i. initiate an assessment monitoring program for the facility meeting the requirements of Subsection D of this Section; or

ii. submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating that a source other than the facility being sampled caused the contamination or that the statistically significant increase resulted from an error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration, in writing, the permit holder may continue the detection monitoring program. If the administrative authority does not approve the demonstration, in writing, the permit holder must establish an assessment monitoring program meeting the requirements of Subsection D of this Section within 90 days after the determination in Paragraph C.6 of this Section is made.

7. Detection Monitoring Parameters or Constituents

a. During detection monitoring, Type I landfills and Type I surface impoundments (except Type I landfills that are also Type II landfills and Type I surface impoundments that are associated with such Type I landfills) shall monitor for at least 10 chemical parameters or constituents, both inorganic and organic, which are indicator parameters or constituents or reaction products of the waste and that provide a reliable indication of the presence of contaminants in the groundwater. The administrative authority may reduce the number of parameters if appropriate based on site-specific and waste-specific consideration. Selection of these parameters or constituents is subject to the approval of the administrative authority and must be based on the following factors:

i. types, quantities, and concentrations of constituents in the wastes disposed of at the facility;

ii. mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the facility;

iii. detectability of indicator parameters, waste constituents, or their reaction products in the groundwater; and

iv. concentrations or values and coefficients of variation of the proposed monitoring parameters or constituents in the background groundwater at the facility.

b. During detection monitoring, Type II landfills, including Type II surface impoundments associated with Type II landfills, shall be monitored for all the parameters or constituents listed in Appendix B, Table 1 of this Chapter.

c. During detection monitoring, Type I landfarms, including runoff and containment areas (ROCAs) or surface impoundments associated with Type I landfarms, shall be monitored for the same parameters or constituents as provided for Type II landfarms in Subparagraph C.7.d of this Section and also for at least six parameters or constituents, both organic and inorganic, which are intrinsic to the wastes

being disposed at the facility. The intrinsic parameters or constituents shall be selected on the basis of the factors in Clauses C.7.a.i-iv of this Section and shall be subject to the approval of the administrative authority.

d. During detection monitoring, Type II landfarms that receive domestic sewage sludge and any runoff and containment areas (ROCAs) or surface impoundments associated with such landfarms shall be monitored for five-day biochemical oxygen demand ($BOD_5$), fecal coliform, total dissolved solids (TDS), nitrate, total Kjeldahl nitrogen, and polychlorinated biphenyls (PCBs), if applicable.

e. Type II surface impoundments that receive domestic sewage sludge shall be monitored for the same parameters or constituents as provided for Type II landfarms in Subparagraph C.7.d of this Section.

f. The administrative authority may waive or require additional parameters or constituents, based on site-specific or waste-specific information.

D. Assessment Monitoring Program for Type I and Type II Facilities

1. An assessment monitoring program as described in this Subsection is required to be conducted at Type I and Type II facilities whenever a statistically significant increase over background concentrations is detected for one or more of the parameters or constituents sampled and analyzed during the detection monitoring program.

2. The assessment monitoring parameters for:

a. Type II landfills and associated Type II impoundments shall be the parameters listed on Table 2 of Appendix B of this Chapter; and

b. Type I and Type II facilities, other than Type II landfills and associated Type II impoundments, shall be the detection monitoring parameters or constituents although the administrative authority may add additional parameters or constituents on a site-specific and waste-specific basis.

3. Within 90 days of triggering an assessment monitoring program, and annually thereafter, the permit holder must sample and analyze the groundwater for the assessment monitoring parameters. A minimum of one sample from each downgradient well must be collected and analyzed during each sampling event. For any parameter or constituent detected in the downgradient wells as a result of sampling for the assessment monitoring parameters or constituent, a minimum of four independent samples from each well (background and downgradient) must be collected and analyzed to establish background for the parameters or constituents. The administrative authority:

a. may specify an appropriate subset of the wells to be sampled and analyzed for assessment monitoring parameters or constituents during assessment monitoring; and

b. may delete any of the assessment monitoring parameters or constituents for a facility if it can be shown that the omitted parameters or constituents are not reasonably expected to be in or derived from the waste contained in the unit.

4. No later than 90 days after the completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Subparagraph E.4.b of this Section, the permit holder must submit a report to the Office of Environmental Assessment, Environmental Technology Division identifying the assessment monitoring parameters or constituents that have been detected. No later than 180 days after completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Paragraph D.3 of this Section, the permit holder must:

a. resample all wells and analyze for all detection monitoring parameters or constituents and for those assessment monitoring parameters or constituents that are detected in response to Paragraph D.3 of this Section. At least one sample must be collected from each well (background and downgradient) during these sampling events. This sampling must be repeated semiannually thereafter;

b. establish background groundwater concentrations for any parameter or constituent detected in accordance with Paragraph D.3 or 4 of this Section; and

c. establish groundwater protection standards for all parameters or constituents detected in accordance with Paragraph D.3 or 4 of this Section. The groundwater protection standards shall be established in accordance with Paragraph D.8 of this Section.

5. If the concentrations of all assessment monitoring parameters or constituents are shown to be at or below background values, using the statistical procedures in Paragraph B.6 of this Section, for two consecutive sampling events, the permit holder must notify the Office of Environmental Assessment, Environmental Technology Division, and upon written approval of the administrative authority, may return to detection monitoring.

6. If the concentrations of any assessment monitoring parameters or constituents are above background values, but all concentrations are below the groundwater protection standard established under Paragraph D.8 of this Section, using the statistical procedures in Paragraph B.6 of this Section, the permit holder must continue assessment monitoring.

7. If one or more assessment monitoring parameters or constituents are detected at statistically significant levels above the groundwater protection standard established under Paragraph D.8 of this Section, in any sampling event, using the statistical procedures in Paragraph B.6 of this Section, the permit holder must, within 14 days of the determination, notify all appropriate local government officials and submit a report to the Office of Environmental Assessment, Environmental Technology Division identifying the assessment monitoring parameters or constituents that have exceeded the groundwater protection standard. The permit holder must also:

a. within 90 days after the determination is made, submit four bound copies (8 1/2 x 11 inches) of an assessment plan to the Office of Environmental Assessment, Environmental Technology Division, as well as any necessary permit modification to the Office of Environmental Services, Permits Division that provides for:

i. characterization of the nature and extent of the release by installing and sampling additional monitoring wells as necessary;

ii. installation of at least one additional monitoring well at the facility boundary in the direction of the contaminant migration and sampling of this well in accordance with Subparagraph D.4.b of this Section; and

iii. a schedule for implementing the plan;

b. notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off site as indicated by the sampling of the wells in accordance with Subparagraph D.7.a of this Section; and

c. upon consultation with and approval of the administrative authority, implement any interim measures necessary to ensure the protection of human health and the environment. Interim measures should, to the greatest extent practicable, be in accordance with LAC 33:I.Chapter 13 and be consistent with the objectives of and contribute to the performance of any remedy that may be required in accordance with Subsection F of this Section. The following factors must be considered by a permit holder in determining whether interim measures are necessary:

i. time required to develop and implement a final remedy;

ii. actual or potential exposure of nearby populations or environmental receptors to hazardous parameters or constituents;

iii. actual or potential contamination of drinking water supplies or sensitive ecosystems;

iv. further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;

v. weather conditions that may cause hazardous parameters or constituents to migrate or be released;

vi. risk of fire or explosion, or potential for exposure to hazardous parameters or constituents as a result of an accident or failure of a container or handling system; and

vii. other situations that may pose threats to human health and the environment; and

d. initiate an assessment of corrective measures as required by Subsection E of this Section; or

e. may submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating that a source other than the facility being sampled caused the contamination, or the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration in writing, the permit holder must continue assessment monitoring at the facility in accordance with this Subsection or may return to detection monitoring if the assessment monitoring parameters or constituents are below background as specified in Paragraph D.5 of this Section. Until such a written approval is given, the permit holder must comply with Paragraph D.7 of this Section, including initiating an assessment of corrective action measures.

8. The permit holder must establish a groundwater protection standard for each assessment monitoring parameter or constituent detected in the groundwater. The groundwater protection standard shall be in accordance with LAC 33:I.Chapter 13 and shall be:

a. for parameters or constituents for which a maximum contaminant level (MCL) has been promulgated under the federal Safe Drinking Water Act, the MCL for that parameter or constituent;

b. for parameters or constituents for which the state of Louisiana has promulgated a MCL, the MCL for that parameter or constituent;

c. for parameters or constituents for which MCLs have not been promulgated, the background concentration for the parameter or constituent established from wells in accordance with this Subsection or the administrative authority may allow the standard to be set in accordance with LAC 33:I.Chapter 13 on a case-by-case basis;

d. for Type I facilities, as may be allowed by the administrative authority, the standard for all parameters or constituents set in accordance with LAC 33:I.Chapter 13 on a case-by-case basis;

e. for parameters or constituents for which the background level is higher than the MCL identified under Subparagraph D.8.a or b of this Section, the background concentration for the parameter or constituent established from wells in accordance with this Subsection; or

f. as may be established by the administrative authority, a more stringent groundwater protection standard, if necessary, to protect human health or the environment.

E. Assessment of Corrective Measures at Type I and Type II Facilities

1. Within 90 days of finding that any of the assessment monitoring parameters or constituents have been detected at a statistically significant level exceeding the groundwater protection standards defined under Paragraph D.8 of this Section, the permit holder must initiate an assessment of corrective measures.

2. The permit holder must continue to monitor in accordance with the assessment monitoring program throughout the period of corrective action, as specified in Subsection D of this Section.

3. The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described under Subsection F of this Section, addressing at least the following:

a. performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

b. time required to begin and complete the remedy;

c. costs of remedy implementation; and

d. institutional requirements such as state or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy.

4. For Type II landfills and associated surface impoundments, the results of the corrective measures assessment must be discussed by the permit holder, in a public meeting prior to the selection of remedy, with interested and affected parties.

F. Selection of Remedy and Corrective Action Plan at Type II Landfills and Associated Surface Impoundments

1. Based on the results of the corrective measures assessment conducted under Subsection E of this Section, the permit holder must select a remedy that, at a minimum, meets the standards of Paragraph F.2 of this Section. Within 180 days after initiation of the corrective measures assessment required in Subsection E of this Section, the permit holder must submit four bound copies (8 ½ by 11 inches) of a corrective-action plan to the Office of Environmental Assessment, Environmental Technology Division, describing the selected remedy, which will meet

the requirements of Paragraphs F.2-4 of this Section and be in accordance with LAC 33:I.Chapter 13. The corrective-action plan must also provide for a corrective-action groundwater monitoring program as described in Subparagraph G.1.a of this Section.

2. Remedies must:

a. be protective of human health and the environment;

b. attain the groundwater protection standard as specified in accordance with Paragraph D.8 of this Section;

c. control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of assessment monitoring parameters or constituents into the environment that may pose a threat to human health or the environment; and

d. comply with standards for management of wastes as specified in Paragraph G.7 of this Section;

3. In selecting a remedy that meets the standards of Paragraph F.2 of this Section, the permit holder shall consider the following evaluation factors:

a. long-term and short-term effectiveness and protectiveness of the potential remedy(s), along with the degree of certainty that the remedy will prove successful based on consideration of the following:

i. magnitude of reduction of existing risks;

ii. magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;

iii. type and degree of long-term management required, including monitoring, operation, and maintenance;

iv. short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal of containment;

v. time until full protection is achieved;

vi. potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;

vii. long-term reliability of the engineering and institutional controls; and

viii. potential need for replacement of the remedy;

b. effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:

i. extent to which containment practices will reduce further releases; and

ii. extent to which treatment technologies may be used;

c. ease or difficulty of implementing a potential remedy(s) based on consideration of the following types of factors:

i. degree of difficulty associated with constructing the technology;

ii. expected operational reliability of the technologies;

iii. need to coordinate with and obtain necessary approvals and permits from other agencies;

iv. availability of necessary equipment and specialists; and

v. available capacity and location of needed treatment, storage, and disposal services;

d. practicable capability of the permit holder, including a consideration of the technical and economic capability; and

e. degree to which community concerns are addressed by a potential remedy(s).

4. The permit holder shall specify, as part of the selected remedy, a schedule(s) for initiating and completing remedial activities. Such a schedule must require the initiation of remedial activities within a reasonable period of time. The permit holder must consider the following factors in determining the schedule of remedial activities:

a. extent and nature of contamination;

b. practical capabilities of remedial technologies in achieving compliance with groundwater protection standards established under Paragraph D.8 of this Section and other objectives of the remedy;

c. availability of treatment or disposal capacity for wastes managed during implementation of the remedy;

d. desirability of utilizing technologies that are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;

e. potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;

f. resource value of the aquifer including:

i. current and future uses;

ii. proximity and withdrawal rate of users;

iii. groundwater quantity and quality;

iv. potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to parameters or constituents;

v. hydrogeologic characteristic of the facility and surrounding land;

vi. groundwater removal and treatment costs;

vii. cost and availability of alternative water supplies; and

viii. practicable capability of the permit holder; and

g. other relevant factors.

5. The administrative authority may determine that remediation of a release of an assessment monitoring parameter or constituent from a facility is not necessary if the permit holder demonstrates to the satisfaction of the administrative authority that:

a. the groundwater is additionally contaminated by substances that have originated from a source other than a facility and those substances are present in such concentrations that cleanup of the release from the facility would provide no significant reduction in risk to actual or potential receptors;

b. parameter or constituent is present in groundwater that:

i. is not currently or reasonably expected to be a source of drinking water; and

ii. is not hydraulically connected with waters to which the parameters or constituents are migrating or are likely to migrate in a concentration that would exceed the groundwater protection standards established under Paragraph D.8 of this Section;

c. remediation of the release(s) is technically impracticable; or

d. remediation results in unacceptable cross-media impacts.

6. A determination by the administrative authority in accordance with Paragraph F.5 of this Section shall not affect the authority of the administrative authority to require the permit holder to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and that significantly reduce threats to human health or the environment.

G. Implementation of the Corrective Action Programs at Type I and Type II Facilities

1. After the corrective action plan has been approved by the administrative authority and, based on the corrective action plan schedule established under Paragraph F.4 of this Section for initiation and completion of remedial activities, the permit holder must:

a. implement a corrective-action groundwater monitoring program as described in the approved corrective-action plan that:

i. at a minimum, meets the requirements of an assessment monitoring program under Subsection D of this Section;

ii. indicates the effectiveness of the corrective action remedy; and

iii. demonstrates compliance with the groundwater protection standard in accordance with Paragraph D.8 of this Section; and

b. implement the corrective-action plan established under Subsection F of this Section.

2. A permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating, based on information developed after implementation of the corrective action plan has begun or other information, that compliance with requirements of Paragraph F.2 of this Section are not being achieved through the remedy selected. A revised corrective-action plan providing other methods or techniques that could practically achieve compliance with the requirements of Paragraph F.2 of this Section must accompany the demonstration.

3. If the administrative authority approves, in writing, the demonstration and revised corrective action plan submitted in accordance with Paragraph G.2 of this Section, the permit holder must implement the revised corrective-action plan.

4. The permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating that compliance with the requirements under Paragraph F.2 of this Section cannot be achieved with any currently available methods.

5. If the administrative authority approves, in writing, the demonstration submitted in accordance with Paragraph G.4 of this Section, the permit holder must, within 30 days of the approval, submit a plan to the Office of Environmental Assessment, Environmental Technology Division (which includes an implementation schedule) to implement alternate measures in accordance with LAC 33:I.Chapter 13:

a. to control exposure of humans and the environment to residual contamination as necessary to protect human health and the environment; and

b. for the control of the sources of contamination, or for the removal or decontamination of equipment, devices, or structures, that are technically practicable and consistent with the overall objective of the remedy.

6. If the administrative authority approves the plan for alternate measures submitted in accordance with Paragraph G.5 of this Section, the permit holder must implement the plan.

7. All solid wastes that are managed in accordance with a remedy required under Paragraph E.6 of this Section, or an interim measure required under Clause E.4.f.iii of this Section, shall be managed in a manner:

a. that is protective of human health and the environment; and

b. that complies with applicable RCRA requirements.

8. Remedies selected in accordance with Subsection F of this Section shall be considered complete when:

a. the permit holder complies with the groundwater protection standards established under Paragraph D.8 of this Section at all points within the plume of contamination that lie beyond the groundwater monitoring well system established under Paragraph E.1 of this Section; and

b. compliance with the groundwater protection standards established under Paragraph D.8 of this Section has been achieved by demonstrating that concentrations of assessment monitoring parameters or constituents have not exceeded the groundwater protection standard(s) for a period of three consecutive years using the statistical procedures and performance standards in Paragraph B.6 of this Section. The administrative authority may specify an alternative length of time during which the permit holder must demonstrate that concentrations of the assessment monitoring parameters or constituents have not exceeded the groundwater protection standard(s) taking into consideration:

i. extent and concentration of the release(s);

ii. behavior characteristics of the hazardous parameters or constituents in the groundwater;

iii. accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and

iv. characteristics of the groundwater; and

c. all actions required to complete the remedy have been satisfied.

i. Upon completion of the remedy, the permit holder must submit to the administrative authority within 14 days a certification that the remedy has been completed in compliance with the requirements of Paragraph G.8 of this Section. The certification must be signed by the permit holder and approved by the administrative authority.

ii. When, upon completion of the certification, the administrative authority determines that the corrective action remedy has been completed in accordance with the requirements under Paragraph G.8 of this Section, the permit holder shall be released from the requirements for financial assurance for corrective action under LAC 33:VII.1305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

## Appendix A

## Groundwater Sampling and Analysis Plan

i. All wells must be measured for total depth and depth to water on the same day and immediately prior to purging. Measurements must be to the nearest 0.01 foot, and the values must be recorded in the field notebook. If 10 percent of the screened interval is blocked by sediments, the well must be redeveloped prior to the next required sampling event. Wells with dedicated sampling devices that preclude total-depth measurement must be measured annually.

ii. Each well must be purged by evacuation to dryness or by removing a minimum of three casing volumes. The well must be sampled immediately upon purging and/or when sufficient water for sampling has recharged the well. Purging and sampling methods must be consistent throughout the life of the facility.

iii. Samples must be withdrawn using dedicated or adequately cleaned equipment for each well. No equipment or method may be used that will chemically alter or influence the sample. Sampling devices, other than bailers, must be approved by the administrative authority prior to use in monitoring programs. Care must be taken to avoid placing clean sampling equipment on the ground or on any contaminated surface. Sampling methods and equipment must be compatible throughout the life of the facility.

iv. Sample preservation, handling, and analysis must meet the specifications of the "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," third edition EPA Publication SW-846, 1986, as revised December, 1987 (SW-846) or an equivalent substitute as approved by the administrative authority. Parameters, containers, preservation methods, and analytical limits are listed in Tables 1 and 2.

v. Analytical methods with the equivalency to SW-846, or analytical methods for parameters not listed in SW-846, must be approved by the administrative authority prior to implementation.

vi. A chain of custody must be employed that will allow for the possession and handling of samples to be traced from the time of collection through laboratory analysis. All sample containers must be labeled to prevent misidentification, have proper seals, and indicate the test parameters required.

vii. At the site, an up-to-date field logbook must be kept, which documents for each sample the well identification number, total well depth, elevation of top of casing, water level, water color, well-evacuation procedures and equipment, date, time, sample identification numbers, field measurements (pH, specific conductance, etc.) and methods, name of collector, field observations, calculations of the standing-water volume in the well, and the total volume evacuated.

**Table 1**
**Detection Monitoring Parameters[1]**

| | Common Name[2] | CAS RN[3] |
|---|---|---|
| (1) | Antimony | (Total) |
| (2) | Arsenic | (Total) |
| (3) | Barium | (Total) |
| (4) | Beryllium | (Total) |
| (5) | Cadmium | (Total) |
| (6) | Chromium | (Total) |
| (7) | Cobalt | (Total) |
| (8) | Copper | (Total) |
| (9) | Lead | (Total) |
| (10) | Nickel | (Total) |
| (11) | Selenium | (Total) |
| (12) | Silver | (Total) |
| (13) | Thallium | (Total) |
| (14) | Vanadium | (Total) |
| (15) | Zinc | (Total) |
| **Organic Constituents:** | | |
| (16) | Acetone | 67-64-1 |
| (17) | Acrylonitrile | 107-13-1 |
| (18) | Benzene | 71-43-2 |
| (19) | Bromochloromethane | 74-97-5 |
| (20) | Bromodichloromethane | 75-27-4 |
| (21) | Bromoform; Tribromomethane | 75-25-2 |
| (22) | Carbon disulfide | 75-15-0 |
| (23) | Carbon tetrachloride | 56-23-5 |
| (24) | Chlorobenzene | 108-90-7 |
| (25) | Chloroethane; Ethyl chloride | 75-00-3 |
| (26) | Chloroform; Trichloromethane | 67-66-3 |
| (27) | Dibromochloromethane; Chlorodibromomethane | 124-48-1 |
| (28) | 1,2-Dibromo-3-chloropropane; DBCP | 96-12-8 |
| (29) | 1,2-Dibromoethane; Ethylene dibromide; EDB | 106-93-4 |
| (30) | o-Dichlorobenzene; 1,2-Dichlorobenzene | 95-50-1 |
| (31) | p-Dichlorobenzene; 1,4-Dichlorobenzene | 106-46-7 |
| (32) | trans-1,4-Dichloro-2-butene | 110-57-6 |
| (33) | 1,1-Dichloroethane; Ethylidene chloride | 75-34-3 |

| | | |
|---|---|---|
| (34) | 1,2-Dichloroethane; Ethylene dichloride | 107-06-2 |
| (35) | 1,1-Dichloroethylene; 1,1- Dichloroethene; Vinylidene chloride | 75-35-4 |
| (36) | cis-1,2-Dichloroethylene; cis-1,2- Dichloroethene | 156-59-2 |
| (37) | trans-1,2-Dichloroethylene; trans-1,2- Dichloroethene | 156-60-5 |
| (38) | 1,2-Dichloropropane; Propylene dichloride | 78-87-5 |
| (39) | cis-1,3-Dichloropropene | 10061-01-5 |
| (40) | trans-1,3-Dichloropropene | 10061-02-6 |
| (41) | Ethylbenzene | 100-41-4 |
| (42) | 2-Hexanone; Methyl butyl ketone | 591-78-6 |
| (43) | Methyl bromide; Bromomethane | 74-83-9 |
| (44) | Methyl chloride; Chloromethane | 74-87-3 |
| (45) | Methylene bromide; Dibromomethane | 74-95-3 |
| (46) | Methylene chloride; Dichloromethane | 75-09-2 |
| (47) | Methyl ethyl ketone; MEK; 2-Butanone | 78-93-3 |
| (48) | Methyl iodide; Iodomethane | 74-88-4 |
| (49) | 4-Methyl-2-pentanone; Methyl isobutyl ketone | 108-10-1 |
| (50) | Styrene | 100-42-5 |
| (51) | 1,1,1,2-Tetrachloroethane | 630-20-6 |
| (52) | 1,1,2,2-Tetrachloroethane | 79-34-5 |
| (53) | Tetrachloroethylene; Tetrachloroethene; Perchloroethylene | 127-18-4 |
| (54) | Toluene | 108-88-3 |
| (55) | 1,1,1-Trichloroethane; Methylchloroform | 71-55-6 |
| (56) | 1,1,2-Trichlolroethane | 79-00-5 |
| (57) | Trichloroethylene; Trichloroethene | 79-01-6 |
| (58) | Trichlorofluoromethane; CFC-11 | 75-69-4 |
| (59) | 1,2,3-Trichloropropane | 96-18-4 |
| (60) | Vinyl acetate | 108-05-4 |
| (61) | Vinyl chloride | 75-01-4 |
| (62) | Xylenes | 1330-20-7 |

Notes:

[1] This list contains 47 volatile organics for which possible analytical procedures provided in SW-846 includes Method 8260; and 15 metals for which SW-846 provides either Method 6010 or a met hod from the 7000 series of methods.

[2] Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

[3] Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

**Table 2**
**Assessment Monitoring Parameters [1]**

| Common Name[2] | CAS RN[3] | Chemical Abstracts Service Index Name[4] | Suggested Methods[5] | PQL (mg/L)6[6] |
|---|---|---|---|---|
| Acenaphthene | 83-32-9 | Acenaphthylene, 1,2- dihydro- | 8100<br>8270 | 200<br>10 |
| Acenaphthylene | 208-96-8 | Acenaphthylene | 8100<br>8270 | 200<br>10 |
| Acetone | 67-64-1 | 2-Propanone | 8260 | 100 |
| Acetonitrile; Methyl cyanide | 75-05-8 | Acetonitrile | 8015 | 100 |
| Acetophenone | 98-86-2 | Ethanone, 1-phenyl- | 8270 | 10 |
| 2-Acetylaminofluorene; 2-AAF | 53-96-3 | Acetamide, N-9H- fluoren-2-yl- | 8270 | 20 |
| Acrolein | 107-02-8 | 2-Propenal | 8030<br>8260 | 5<br>100 |
| Acrylonitrile | 107-13-1 | 2-Propenenitrile | 8030<br>8260 | 5<br>200 |
| Aldrin | 309-00-22 | 1,4:5,8-Dimethano-naphthalene; 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a,-hexa-hydro-(1⟨,4⟨,4a®,5®,8⟨,8a®) | 8080<br>8270 | 0.05<br>10 |
| Allyl chloride | 107-05-1 | 1-Propene, 3-chloro- | 8010<br>8260 | 5<br>10 |
| 4-Amino-bipheny | 92-67-1 | [1,1'-Biphenyl]- 4-amine | 8270 | 20 |
| Anathracene | 120-12-7 | Anthracene | 8100<br>8270 | 200<br>10 |
| Antimony | (Total) | Antimony | 6010<br>7040<br>7041 | 300<br>2,000<br>30 |
| Arsenic | (Total) | Arsenic | 6010<br>7060<br>7061 | 500<br>10<br>20 |
| Barium | (Total) | Barium | 6010<br>7080 | 20<br>1,000 |
| Benzene | 71-43-2 | Benzene | 8020<br>8021<br>8260 | 2<br>0.1<br>5 |

| | | | | |
|---|---|---|---|---|
| Benzo[a]anthracene<br>Benzanthracene | 56-55-3 | Benz[a]anthracene | 8100<br>8270 | 200<br>10 |
| Benzo[b]fluoranthene | 205-99-2 | Benz[e]acephenanthrylene | 8100<br>8270 | 200<br>10 |
| Benzo[k]fluoranthene | 207-08-9 | Benzo[k]fluoranthene | 8100<br>8270 | 200<br>10 |
| Benzo[ghi]perylene | 191-24-2 | Benzo[ghi]perylene | 8100<br>8270 | 200<br>10 |
| Benzo[a]pyrene | 50-32-8 | Benzo[a]pyrene | 8100<br>8270 | 200<br>10 |
| Benzyl alcohol | 100-51-6 | Benzenemethanol | 8270 | 20 |
| Beryllium | (Total) | Beryllium | 6010<br>7090<br>7091 | 3<br>50<br>2 |
| alpha-BHC | 319-84-6 | Cyclohexane; 1,2,3, 4,5,-hexachloro-,(1a, 2a,3ß,4a,5ß,6ß) | 8080<br>8270 | 0.05<br>10 |
| beta-BHC | 319-85-7 | Cyclohexane; 1,2,3, 4,5,6-hexa- chloro-,(1a,2ß,3a,4ß,5a,6ß)- | 8080<br>8270 | 0.05<br>20 |
| delta-BHC | 319-86-8 | Cyclohexane,1,2,3,4,5,6-hexachloro- (1a,2a,3a,4ß, 5a,6ß)- | 8080<br>8270 | 0.1<br>20 |
| gamma-BHC; Lindane | 58-89-9 | Cyclohexane, 1,2, 3,4,5,6-hexachloro-, (1a,2a,3ß,4a,5a,6ß) | 8080<br>8270 | 0.05<br>20 |
| Bis(2-chloroethoxy)methane | 111-91-1 | Ethane; 1,1'-[methylenebis(oxy)]bis[2- chloro- | 8110<br>8270 | 5<br>10 |
| Bis(2-chloroethyl)ether | 111-44-4 | Ethane, 1,1'-oxybis[2-chloro- | 8110<br>8270 | 3<br>10 |
| Bis(2-chloro- 1-methylethyl) ether; 2,2'-Dichlorodiisopropyl ether | 108-60-1<br>See Note 7 | Propane, 2,2'-oxybis [1-chloro- | 8110<br>8270 | 10<br>10 |
| Bis(2-ethyl-hexyl) phthalat | 117-81-7 | 1,2-Benzene- dicarboxylic acid, bis(2-ethyl-hexyl) ester | 8060 | 20 |
| Bromochloro methane; Chloro-bromomethane | 74-97-5 | Methane, bromochloro- | 8021<br>8260 | 0.1<br>5 |
| Bromodichloro methane | 75-27-4 | Methane, bromodichloro- | 8010<br>8021<br>8260 | 1<br>0.2<br>5 |
| Bromoform; Tribromomethane | 75-25-2 | Methane, tribromo- | 8010<br>8021<br>8260 | 2<br>15<br>5 |
| 4-Bromophenyl phenyl ether | 101-55-3 | Benzene, 1-bromo-4-phenoxy- | 8110<br>8270 | 25<br>10 |
| Butyl benzyl phthalate; Benzyl butyl phthalate | 85-68-7 | 1,2-Benzene- dicarboxylic acid, butyl phenylmethyl ester | 8060<br>8270 | 5<br>10 |
| Cadmium | (Total) | Cadmium | 6010<br>7130<br>7131 | 40<br>50<br>1 |
| Carbon disulfide | 75-15-0 | Carbon disulfide | 8260 | 100 |
| Carbon tetrachloride | 56-23-5 | Methane, tetrachloro- | 8010<br>8021<br>8260 | 1<br>0.1<br>10 |
| Chlordane | 57-74-9<br>See Note 8 | 4,7-Methano-1H- indene,1,2,4,5,6,7,8, 8-octachloro-2,3,3a,4, 7,7a-hexahydro- | 8080<br>8270 | 0.1<br>50 |
| p-Chloroaniline | 106-47-8 | Benzenamine, 4-chloro- | 8270 | 20 |
| Chlorobenzene | 108-90-7 | Benzene, chloro- | 8010<br>8020<br>8021<br>8260 | 2<br>2<br>0.1<br>5 |
| Chlorobenzilate | 510-15-6 | Benzeneacetic acid, 4-chloro-a-(4- chlorophenyl)-a- hydroxy-, ethyl ester | 8270 | 10 |
| p-Chloro-m-cresol | 59-50-7 | Phenol, 4-chloro- 3-methyl- | 8040<br>8270 | 5<br>20 |
| Chloroethane; Ethyl chloride | 75-00-3 | Ethane, chloro- | 8010<br>8021<br>8260 | 5<br>1<br>10 |
| Chloroform | 67-66-3 | Methane, trichloro- | 8010<br>8021<br>8260 | 0.5<br>0.2<br>5 |
| 2-Chloronaphthalene | 91-58-7 | Naphthalene, 2-chloro- | 8120<br>8270 | 10<br>10 |
| 2-Chlorophenol | 95-57-8 | Phenol, 2-chloro- | 8040<br>8270 | 5<br>10 |
| 4-Chlorophenyl phenyl ether | 7005-72-3 | Benzene, 1-chloro-4-phenoxy- | 8110<br>8270 | 40<br>10 |
| Chloroprene | 126-99-8 | 1,3-Butadiene, 2- chloro- | 8010<br>8260 | 50<br>20 |

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|---|---|---|---|---|
| Chromium | (Total) | Chromium | 6010<br>7190<br>7191 | 70<br>500<br>10 |
| Chrysene | 218-01-9 | Chrysene | 8100<br>8270 | 200<br>10 |
| Cobalt | (Total) | Cobalt | 6010<br>7200<br>7201 | 70<br>500<br>10 |
| Copper | (Total) | Copper | 6010<br>7210 | 60<br>200 |
| m-Cresol | 108-39-4 | Phenol, 3-methyl- | 8270 | 10 |
| o-Cresol | 95-48-7 | Phenol, 2-methyl- | 8270 | 10 |
| p-Cresol | 106-44-5 | Phenol, 4-methyl- | 8270 | 10 |
| Cyanide | 57-12-5 | Cyanide | 9010 | 200 |
| 2,4-D; 2,4-Dichloro-phenoxyacetic acid | 94-75-7 | Acetic acid, (2,4- dichlorophenoxy)- | 8150 | 10 |
| 4,4'-DDD | 72-54-8 | Benzene 1,1'-(2,2- dichloroethylidene) bis[4-chloro- | 8080<br>8270 | 0.1<br>10 |
| 4,4'-DDE | 72-55-9 | Benzene, 1,1'-(dichloroethenylidene) bis[4-chloro- | 8080<br>8270 | 0.05<br>10 |
| 4,4'-DDT | 50-29-3 | Benzene, 1,1'-(2,2,2-trichloro-ethylidene) bis[4-chloro- | 8080<br>8270 | 0.1<br>10 |
| Diallate | 2303-16-4 | Carbamothioic acid, bis(1-methyl- ethyl)-, S-(2,3-dichloro-2-propenyl) ester | 8270 | 10 |
| Dibenz[a,h]- anthracene | 53-70-3 | Dibenz[a,h]<br>anthracene | 8100<br>8270 | 200<br>10 |
| Dibenzofuran | 132-64-9 | Dibenzofuran | 8270 | 10 |
| Dibromochloromethane; Chlorodibromomethane | 124-48-1 | Methane, diboro- chloro- | 8010<br>8021<br>8260 | 1<br>0.3<br>5 |
| 1,2-Dibromo- 3-chloropropane; DBCP | 96-12-8 | Propane, 1,2-dibromo-3-chloro- | 8011<br>8021<br>8260 | 0.1<br>30<br>25 |
| 1,2-Dibromoethane; Ethylene dibromide | 106-93-4 | Ethane, 1,2-dibromo- | 8011<br>8021<br>8260 | 0.1<br>10<br>5 |
| Di-n-butyl phthalate | 84-74-2 | 1,2-Benzene dicarboxylic acid, dibutyl ester | 8060<br>8270 | 5<br>10 |
| o-Dichlorobenzene | 95-50-1 | Benzene, 1,2-dichloro- | 8010<br>8020<br>8021<br>8120<br>8260<br>8270 | 2<br>5<br>0.5<br>10<br>5<br>10 |
| m-Dichlorobenzene | 541-73-1 | Benzene, 1,3- dichloro- | 8010<br>8020<br>8021<br>8120<br>8260<br>8270 | 5<br>5<br>0.2<br>10<br>5<br>10 |
| p-Dichlorobenzene | 106-46-7 | Benzene, 1,4-dichloro- | 8010<br>8020<br>8021<br>8120<br>8260<br>8270 | 2<br>5<br>0.1<br>15<br>5<br>10 |
| 3,3'-Dichlorobenzedine | 91-94-1 | [1,1'-Biphenyl]-4,4'-diamine, 3,3'- dichloro- | 8270 | 20 |
| trans-1,4-; Dichloro-2-butene | 110-57-6 | 2-Butene, 1,4-dichloro-, (E)- | 8260 | 100 |
| Dichlorodifluoromethane | 75-71-8 | Methane, dichlorodifluoro- | 8021<br>8260 | 0.5<br>5 |
| 1,1-Dichloroethane | 75-34-3 | Ethane, 1,1-dichloro- | 8010<br>8021<br>8260 | 1<br>0.5<br>5 |
| 1,2-Dichloroethane; Ethylene dichloride | 107-06-2 | Ethane, 1,2-dichloro- | 8010<br>8021<br>8260 | 0.5<br>0.3<br>5 |
| 1,1-Dichloroethylene; Vinylidene chloride | 75-35-4 | Ethene, 1,1-dichloro | 8010<br>8021<br>8260 | 1<br>0.5<br>5 |
| cis-1,2-Dichloro-ethylene; cis-1,2-Dichloroethene | 156-59-2 | Ethene, 1,2-dichloro-, (Z)- | 8021<br>8260 | 0.2<br>5 |
| trans-1,2-Dichloroethylene | 156-60-5 | Ethene, 1,2-dichloro-(E)- | 8010<br>8021<br>8260 | 1<br>0.5<br>5 |

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|---|---|---|---|---|
| 2,4-Dichlorophenol | 120-83-2 | Phenol, 2,4-dichloro- | 8040<br>8270 | 5<br>10 |
| 2,6-Dichlorophenol | 87-65-0 | Phenol, 2,6-dichloro- | 8270 | 10 |
| 1,2-Dichloropropane | 78-87-5 | Propane, 1,2-dichloro- | 8010<br>8021<br>8260 | 0.5<br>0.05<br>5 |
| 1,3-Dichloropropane; Trimethylene dicholride | 142-28-9 | Propane, 1,3-dichloro- | 8021<br>8260 | 0.3<br>5 |
| 2,2-Dichloropropane; Isopropylidene chloride | 594-20-7 | Propane, 2,2-dichloro- | 8021<br>8260 | 0.5<br>15 |
| 1,1-Dichloropropene | 563-58-6 | 1-Propene, 1,1-dichloro- | 8021<br>8260 | 0.2<br>5 |
| cis-1,3-Dichloropropene | 10061-01-5 | 1-Propene, 1,3-dichloro-,(Z)- | 8010<br>8260 | 20<br>10 |
| trans-1,3-Dichloropropene | 10061-02-6 | 1-Propene, 1,3-dichloro-,(E)- | 8010<br>8240 | 5<br>5 |
| Dieldrin | 60-57-1 | 2,7:3,6-Dimethano- naphth[2,3-b]oxi-rene,3,4,5,6,9,9- hexachloro-1a,2, 2a,3,6,6a,7,7a-octa-hydro-,(1aa,2ß,2aa,3ß,6ß,6aa,7ß,7aa)- | 8080<br>8270 | 0.05<br>10 |
| Diethyl phthalate | 84-66-2 | 1,2-Benzenedicarboxylic acid, diethyl ester | 8060<br>8270 | 5<br>10 |
| O,O-Diethyl O-2-pyrazinyl phosphorothioate; Thionazin | 297-97-2 | Phosphorothioic acid, O,O-diethyl O-pyrazinyl est er | 8141<br>8270 | 5<br>20 |
| Dimethoate | 60-51-5 | Phosphorodithioic acid, O,O-dimethyl-S-[2-(methylamino)- 2-oxoethyl] ester | 8141<br>8270 | 3<br>20 |
| p-(Dimethylamino)azobenzene | 60-11-7 | Benzenamine, N,N-dimethyl-4- (phenylazo)- | 8270 | 10 |
| 7,12-Dimethylbenz[a] anthracene | 57-97-6 | Benz[a]anthracene, 7,12-dimethyl- | 8270 | 10 |
| 3,3'-Dimethylbenzidine | 119-93-7 | [1,1'-Biphenyl]-4,4'- diamine, 3,3'- dimethyl- | 8270 | 10 |
| 2,4-Dimethylphenol | 105-67-9 | Phenol, 2,4-dimethyl- | 8040 | 5 |
| Dimethyl phthalate | 131-11-3 | 1,2-Benzenedicar-boxylic acid, dimethyl ester | 8060<br>8270 | 5<br>10 |
| m-Dinitrobenzene | 99-65-0 | Benzene, 1,3-dinitro- | 8270 | 20 |
| 4,6-Dinitro-o-cresol | 534-52-1 | Phenol, 2-methyl-4,6-dinitro- | 8040<br>8270 | 150<br>50 |
| 2,4-Dinitrophenol | 51-28-5 | Phenol, 2,4-dinitro- | 8040<br>8270 | 150<br>50 |
| 2,4-Dinitrotoluene | 121-14-2 | Benzene, 1-methyl-2,4- dinitro- | 8090<br>8270 | 0.2<br>10 |
| 2,6-Dinitrotoluene | 606-20-2 | Benzene, 2-methyl-1,3- dinitro- | 8090<br>8270 | 0.1<br>10 |
| Dinoseb; DNBP; 2-sec-Butyl-4,6-dinitrophenol | 88-85-7 | Phenol, 2-(1-methyl- propyl)-4,6-dinitro- | 8150<br>8270 | 1<br>20 |
| Di-n-octyl phthalate | 117-84-0 | 1,2-Benzenedicarboxylic acid, dioctyl ester | 8060<br>8270 | 30<br>10 |
| Diphenylamine | 122-39-4 | Benzenamine, N-phenyl- | 8270 | 10 |
| Disulfoton | 298-04-4 | Phosphorodithioic acid, O,O-diethyl S- [2-(ethylthio) ethyl]ester | 8140<br>8141<br>8270 | 2<br>0.5<br>10 |
| Endosulfan I | 959-98-8 | 6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10- hexachloro-1,5,5a, 6,9,9a-hexahydro-, 3-oxide,(3a,5aß,6a, 9a,9aß)- | 8080<br>8270 | 0.1<br>20 |
| Endosulfan II | 33213-65-9 | 6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10- hexachloro- 1,5,5a, 6,9,9a-hexahydro-, 3-oxide,(3a,5aa,6ß, 9ß,9aa)- | 8080<br>8270 | 0.05<br>20 |
| Endosulfan sulfate | 1031-07-8 | 6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexa-chloro-1,5,5a,6,9, 9a-hexahydro-,3,3- dioxide | 8080<br>8270 | 0.5<br>10 |
| Endrin | 72-20-8 | 2,7:3,6-Dimethano- naphth[2,3-b]oxi-rene,3,4,5,6,9,9-hexachloro-1a,2,2a, 3,6,6a,7,7a-octa-hydro-,(1aa,2ß,2aß,3a,6a,6aß,7ß,7aa)- | 8080<br>8270 | 0.1<br>20 |
| Endrin aldehyde | 7421-93-4 | 1,2,4-Metheno-cyclopenta[cd]-pentalene-5-car-boxaldehyde, 2,2a,3,3,4,7-hexachlorodeca-hydro-,(1a,2ß,2aß, 4ß,4aß,5ß,6aß,6bß, 7R*) | 8080<br>8270 | 0.2<br>10 |
| Ethylbenzene | 100-41-4 | Benzene, ethyl- | 8020<br>8221<br>8260 | 2<br>0.05<br>5 |
| Ethyl methacrylate | 97-63-2 | 2-Propenoic acid, 2-methyl-, ethyl ester | 8015<br>8260<br>8270 | 5<br>10<br>10 |
| Ethyl methanesulfonate | 62-50-0 | Methanesulfonic acid, ethyl ester | 8270 | 20 |
| Famphur | 52-85-7 | Phosph orothioic acid, O-[4-[(dimethyl-amino)-sulfonyl] phenyl]-O,O-di-methyl ester | 8270 | 20 |
| Fluoranthene | 206-44-0 | Fluoranthene | 8100<br>8270 | 200<br>10 |
| Fluorene | 86-73-7 | 9H-Fluorene | 8100<br>8270 | 200<br>10 |
| Heptachlor | 76-44-8 | 4,7-Methano-1H-indene, 1,4,5,6,7,8, 8-heptachloro-3a, 4,7,7a-tetrahydro- | 8080<br>8270 | 0.05<br>10 |

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|---|---|---|---|---|
| Heptachlor epoxide | 1024-57-3 | 2,5-Methano-2H- indeno [1,2-b]oxi- rene,2,3,4,5,6,7,7- heptachloro-1a,1b,5,5a,6,6a-hexahydro-, (1aa,1bß,2a,5a, 5aß,6ß,6aa) | 8080<br>8270 | 1<br>10 |
| Hexachlorobenzene | 118-74-1 | Benzene, hexachloro- | 8120<br>8270 | 0.5<br>10 |
| Hexachlorobutadiene | 87-68-3 | 1,3-Butadiene, 1,1,2,3,4,4- hexachloro- | 8021<br>8120<br>8260<br>8270 | 0.5<br>5<br>10<br>10 |
| Hexachlorocyclopentadiene | 77-47-4 | 1,3-Cyclopentadiene | 8120<br>8270 | 5<br>10 |
| Hexachloroethane | 67-72-1 | Ethane, hexachloro- | 8120<br>8260<br>8270 | 0.5<br>10<br>10 |
| Hexachloropropene | 1888-71-7 | 1-Propene, 1,1,2,3,3,3-hexachloro- | 8270 | 10 |
| 2-Hexanone | 591-78-6 | 2-Hexanone | 8260 | 50 |
| Indeno(1,2,3-cd) pyrene | 193-39-5 | Indeno[1,2,3-cd] pyrene | 8100<br>8270 | 200<br>10 |
| Isobutyl alcohol | 78-83-1 | 1-Propanol, 2-methyl- | 8015<br>8240 | 50<br>100 |
| Isodrin | 465-73-6 | 1,4,5,8-Dimethano- naphthalene,1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a hexahydro- (1a,4a,4aß,5ß,8ß, 8aß)- | 8270<br>8260 | 20<br>10 |
| Isophorone | 78-59-1 | 2-Cyclohexen-1- one, 3,5,5-tri-methyl- | 8090<br>8270 | 60<br>10 |
| Isosafrole | 120-58-1 | 1,3-Benaodioxole, 5-(1-propenyl)- | 8270 | 10 |
| Kepone | 143-50-0 | 1,3,4-Metheno-2H- cylobuta-[cd] pentalen-2-one,1,1a, 3,3a,4,5,5,5a,5b,6- decachloro-octahydro- | 8270 | 20 |
| Lead | (Total) | Lead | 6010<br>7420<br>7421 | 400<br>1,000<br>10 |
| Mercury | (Total) | Mercury | 7470 | 2 |
| Methacrylonitrile | 126-98-7 | 2-Propene, nitrile 2-methyl- | 8015<br>8260 | 5<br>100 |
| Methapyrilene | 91-80-5 | 1,2,Ethanediamine, N,N-dimethyl-N'-2- pyridinyl-N'-(2-thienylmethyl)- | 8270 | 100 |
| Methoxychlor | 72-43-5 | Benzene, 1,1'-(2,2,2, trichloroethylidene) bis[4-methoxy-. | 8080<br>8270 | 2<br>10 |
| Methyl bromide; Bromomethane | 74-83-9 | Methane, bromo- | 8010<br>8021 | 20<br>10 |
| Methyl chloride; Chloromethane | 74-87-3 | Methane, chloro- | 8010<br>8021 | 1<br>0.3 |
| 3-Methylcholanthrene | 56-49-5 | Benz[j]aceanthrylene, 1,2-dihydro-3-methyl- | 8270 | 10 |
| Methyl ethyl ketone; MEK | 78-93-3 | 2-Butanone | 8015<br>8260 | 10<br>100 |
| Methyl iodide; Iodomethane | 74-88-4 | Methane, iodo- | 8010<br>8260 | 40<br>10 |
| Methyl methacrylate | 80-62-6 | 2-Propenoic acid, 2-methyl-, methyl ester | 8015<br>8260 | 2<br>30 |
| Methyl methanesulfonate | 66-27-3 | methanesulfonic acid, methyl ester | 8270 | 10 |
| 2-Methylnaphthalene | 91-57-6 | Naphthalene, 2-methyl- | 8270 | 10 |
| Methyl parathion; arathion methyl | 298-00-0 | Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester | 8140<br>8141<br>8270 | 0.5<br>1<br>10 |
| 4-Methyl-2- pentanone; Methyl isobutyl ketone | 108-10-1 | 2-Pentanone, 4-methyl | 8015<br>8260 | 5<br>100 |
| Methylene bromide; Dibromo-methane | 74-95-3 | Methane, dibromo- | 8010<br>8021<br>8260 | 15<br>20<br>10 |
| Methylene chloride; Dichloromethane | 75-09-2 | Methane, dichloro- | 8010<br>8021<br>8060 | 5<br>0.2<br>10 |
| Naphthalene | 91-20-3 | Naphthalene | 8021<br>8100<br>8260<br>8270 | 0.5<br>200<br>5<br>10 |
| 1,4-Naphthoquinone | 130-15-4 | 1,4-Naphthalenedione | 8270 | 10 |
| 1-Naphthylamine | 134-32-7 | 1-Naphthalenamine | 8270 | 10 |
| 2-Naphthylamine | 91-59-8 | 2-Naphthalenamine | 8270 | 10 |
| Nickel | (Total) | Nickel | 6010<br>7520 | 50<br>400 |
| o-Nitroaniline | 88-74-4 | Benzenamine, 2-nitro- | 8270 | 50 |
| m-Nitroaniline | 99-09-2 | Benzenamine, 3-nitro- | 8270 | 50 |
| p-Nitroaniline | 100-01-6 | Benzenamine, 4-nitro- | 8270 | 50 |
| Nitrobenzene | 98-95-3 | Benzene, nitro- | 8090<br>8270 | 40<br>10 |

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|---|---|---|---|---|
| o-Nitrophenol | 88-75-5 | Phenol, 2-nitro- | 8040<br>8270 | 5<br>10 |
| p-Nitrophenol | 100-02-7 | Phenol, 4-nitro | 8040<br>8270 | 10<br>50 |
| N-Nitrosodi-n- butylamine | 924-16-3 | 1-Butanamine, N-butyl-N-nitroso | 8270 | 10 |
| N-Nitroso - diethylamine | 55-18-5 | Ethanamine, N-ethyl-N-nitroso | 8270 | 20 |
| N-Nitroso - dimethylamine | 62-75-9 | Methanamine, N-methyl-N-nitroso - | 8070 | 2 |
| N-Nitroso- diphenylamine | 86-30-6 | Benzenamine, N-nitroso -N-phenyl- | 8070 | 5 |
| N-Nitroso - dipropylamine;<br>Di-n-propyl- nitrosamine | 621-64-7 | 1-Propanamine, N-nitroso -N-propyl- | 8070 | 10 |
| N-Nitrosom- ethylethylamine | 10595-95-6 | Ethanamine, N-methyl-N-nitroso- | 8270 | 10 |
| N-Nitrosopiperidine | 100-75-4 | Piperidine, 1-nitroso- | 8270 | 20 |
| N-Nitrosopyrrolidine | 930-55-2 | Pyrrolidine, 1-nitroso- | 8270 | 40 |
| 5-Nitro-o-toluidine | 99-55-8 | Benzenamine, 2- methyl-5-nitro - | 8270 | 10 |
| Parathion | 56-38-2 | Phosphorothioic acid, O,O-diethyl- O-(4-nitrophenyl) ester | 8141<br>8270 | 0.5<br>10 |
| Pentachlorobenzene | 608-93-5 | Benzene, pentachloro - | 8270 | 10 |
| Pentachloro-nitrobenzene | 82-68-8 | Benzene, penta-chloronitro - | 8270 | 20 |
| Pentachlorophenol | 87-86-5 | Phenol, pentachloro - | 8040<br>8270 | 5<br>50 |
| Phenacetin | 62-44-2 | Acetamide, N-(4-ethoxyphenyl) | 8270 | 20 |
| Phenanthrene | 85-01-8 | Phenanthrene | 8100<br>8270 | 200<br>10 |
| Phenol | 108-95-2 | Phenol | 8040<br>8270 | 1<br>10 |
| p-Phenylenediamine | 106-50-3 | 1,4-Benzenediamine | 8270 | 10 |
| Phorate | 298-02-2 | Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)-methyl] ester | 8140<br>8141<br>8270 | 2<br>0.5<br>10 |
| Polychlorinated biphenyls; PCBs | See Note 9 | 1,1'-Biphenyl, chloro derivatives | 8080<br>8270 | 50<br>200 |
| Pronamide | 23950-58-5 | Benzamide, 3,5- dichloro-N-(1,1-di- methyl-2-propynyl)- | 8270 | 10 |
| Propionitrile; Ethyl cyanide | 107-12-0 | Propanenitrile | 8015<br>8260 | 60<br>150 |
| Pyrene | 129-00-0 | Pyrene | 8100<br>8270 | 200<br>10 |
| Safrole | 94-59-7 | 1,3-Benzodioxole, 5-(2-propenyl)- | 8270 | 10 |
| Selenium | (Total) | Selenium | 6010<br>7740<br>7741 | 750<br>20<br>20 |
| Silver | (Total) | Silver | 6010<br>7760 | 70<br>100 |
| Silvex; 2,4,5-TP | 93-72-1 | Propanoic acid, 2-(2,4,5-trichloro- phenoxy)- | 8150 | 2 |
| Styrene | 100-42-5 | Benzene, ethenyl- | 8020<br>8021<br>8260 | 1<br>0.1<br>10 |
| Sulfide | 18496-25-8 | Sulfide | 9030 | 4,000 |
| 2,4,5-T; 2,4,5- Trichloro-<br>phenoxyacetic acid | 93-76-5 | Acetic acid, (2,4,5-trichlorophenoxy)- | 8150 | 2 |
| 1,2,4,5-Tetrachlorobenzene | 95-94-3 | Benzene, 1,2,4,5-tetrachloro - | 8270 | 10 |
| 1,1,1,2-Tetrachloroethane | 630-20-6 | Ethane, 1,1,1,2-tetrachloro - | 8010<br>8021<br>8260 | 5<br>0.05<br>5 |
| 1,1,2,2-Tetrachloroethane | 79-34-5 | Ethane, 1,1,2,2-tetrachloro - | 8010<br>8021<br>8260 | 0.5<br>0.1<br>5 |
| Tetrachloroethylene;<br>Perchloroethylene;<br>Tetrachloroethene | 127-18-4 | Ethene, tetrachloro - | 8010<br>8021<br>8260 | 0.5<br>0.5<br>5 |
| 2,3,4,6-Tetrachlorophenol | 58-90-2 | Phenol, 2,3,4,6- tetrachloro- | 8270 | 10 |
| Thallium | (Total) | Thallium | 6010<br>7840<br>7841 | 400<br>1,000<br>10 |
| Tin | (Total) | Tin | 6010 | 40 |
| Toluene | 108-88-3 | Benzene, methyl- | 8020<br>8021<br>8260 | 2<br>0.1<br>5 |
| o-Toluidine | 95-53-4 | Benzenamine, 2- methyl- | 8270 | 10 |
| Toxaphene | 8001-35-2<br>See note 10 | Toxaphene | 8080 | 2 |
| 1,2,4-Trichlorobenzene | 120-82-1 | Benzene, 1,2,4-trichloro | 8021<br>8120<br>8260<br>8270 | 0.3<br>0.5<br>10<br>10 |

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|---|---|---|---|---|
| 1,1,1-Trichloroethane;<br>Methylchloroform | 71-55-6 | Ethane, 1,1,1- trichloro- | 8010<br>8021<br>8260 | 0.3<br>0.3<br>5 |
| 1,1,2-Trichloroethane | 79-00-5 | Ethane, 1,1,2-trichloro- | 8010<br>8260 | 0.2<br>5 |
| Trichloroethylene;<br>Trichloroethene | 79-01-6 | Ethene, trichloro- | 8010<br>8021<br>8260 | 1<br>0.2<br>5 |
| Trichlorofluoromethane | 75-69-4 | Methane, trichlorofluoro- | 8010<br>8021<br>8260 | 10<br>0.3<br>5 |
| 2,4,5-Trichlorophenol | 95-95-4 | Phenol, 2,4,5- trichloro- | 8270 | 10 |
| 2,4,6-Trichlorophenol | 88-06-2 | Phenol, 2,4,6-trichloro- | 8040<br>8270 | 5<br>10 |
| 1,2,3-Trichloropropane | 96-18-4 | Propane, 1,2,3-trichloro- | 8010<br>8021<br>8260 | 10<br>5<br>15 |
| O,O,O-Triethyl phosphorothioate | 126-68-1 | Phosphorothioic acid, O,O,O-tri-ethyl ester | 8270 | 10 |
| sym-Trinitrobenzene | 99-35-4 | Benzene, 1,3,5-trinitro | 8270 | 10 |
| Vanadium | (Total) | Vanadium | 6010<br>7910<br>7911 | 80<br>2,000<br>40 |
| Vinyl acetate | 108-05-4 | Acetic acid, ethenyl ester | 8260 | 50 |
| Vinyl chloride | 75-01-4 | Ethene, chloro- | 8010<br>8021<br>8260 | 2<br>0.4<br>10 |
| Xylene (total) | 1330-20-7<br>See Note 11 | Benzene, dimethyl- | 8020<br>8021<br>8260 | 5<br>0.2<br>5 |
| Zinc | (Total) | Zinc | 6010<br>7950<br>7951 | 20<br>50<br>0.5 |

Notes:

[1] The regulatory requirements pertain only to the list of substances; the right-hand columns (Methods and PQL) are given for informational purposes only. See also footnotes 5 and 6.

[2] Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

[3] Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

[4] CAS index numbers are those used in the 9th Collective Index.

[5] Suggested Methods refer to analytical procedure numbers used in SW-846. Analytical details can be found in SW-846 and in documentation on file at the agency.

**Caution:** The methods listed are representative of SW-846 procedures and may not always be the most suitable method(s) for monitoring an analyte under the regulations.

[6] Practical Quantitation Limits (PQLs) are the lowest concentrations of analytes in ground waters that can be reliably determined within specified limits of precision and accuracy by the indicated methods under routine laboratory operating conditions. The PQLs listed are generally stated to one significant figure. PQLs are based on 5-ml samples for volatile organics and 1-L samples for semivolatile organics.

**Caution:** The PQL values in many cases are based only on a general estimate for the method and not on a determination for individual compounds; PQLs are not a part of the regulation.

[7] This substance is often called Bis(2-chloroisopropyl) ether, the name Chemical Abstracts Service applies to its noncommercial isomer, Propane, 2,2"-oxybis[2-chloro- (CAS RN 39638-32-9).

[8] Chlordane: This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12789-03-6). PQL shown is for technical chlordane. PQLs of specific isomers are about 20 ug/L by method 8270.

[9] Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Aroclor 1260 (CAS RN 11096-82-5). The PQL shown is an average value for PCB congeners.

[10] Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-20), i.e., chlorinated camphene.

[11] Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7). PQLs for method 8021 are 0.2 for o-xylene and 0.1 for m- or p-xylene. The PQL for m-xylene is 2.0 ug/L by method 8020 or 8260.

## Chapter 9. Enforcement

### §901. Failure to Comply

A. Failure of any person to comply with any of the provisions of these regulations or of the terms and conditions of any permit granted or order issued hereunder constitutes a violation of the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §903. Investigations: Purposes, Notice

A. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the persons or parties involved. The results of an investigation shall be given to any complainant who provided the information prompting the investigation, upon written request and, if advisable, to the person under investigation, if the identity of such person is known.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular R.S 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §905. Development of Facts, Reports

A. The administrative authority may conduct inquiries and develop facts in investigations by staff investigatory procedures or formal investigations and may conduct inspections and examinations of facilities and records. The administrative authority or his presiding officer may hold public hearings and/or issue subpoenas in accordance with R.S. 30:2025.I and require attendance of witnesses and production of documents, or may take such other action as may be necessary and authorized by the act or rules promulgated by the administrative authority. At the conclusion of the investigation, all facts and information concerning any alleged violation that have been developed shall be compiled by the staff of the department. A report of the investigation shall be presented to the administrative authority for use in possible enforcement proceedings. Any complainant who provided the information prompting the investigation shall be notified of its results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §907. Enforcement Action

A. When the administrative authority determines that a violation of the act or these regulations or the terms and conditions of any permit issued hereunder has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §909. Closing Unauthorized and Promiscuous Dumps

A. After an unauthorized or promiscuous dump is discovered, the administrative authority may issue an enforcement action with a closure directive to the person or persons legally responsible for the facility. Directives issued for unauthorized or promiscuous dumps shall require closure of the facility in accordance with the procedures indicated in this Section.

B. The administrative authority shall require closure of unauthorized or promiscuous dumps either by removal to a solid waste facility or by completing on-site closure requirements. The method of closure shall be determined by the administrative authority.

C. Requirements for on-site closure are as follows:

1. if required, or authorized and approved, by the administrative authority, closure shall be conducted in accordance with LAC 33:I.Chapter 13. However, the requirements of Subparagraph C.2.g of this Section shall apply. If closure in accordance with LAC 33:I.Chapter 13 results in constituent-of-concern levels remaining above those allowed for residential scenarios, the requirements of Subparagraph C.2.f of this Section shall also apply; and

2. if closure will not be conducted in accordance with Paragraph C.1 of this Section, then approval or authorization may be granted by the administrative authority for the following alternative closure requirements:

a. extinguish all fires;

b. dewater and either solidify waste for return to the landfill or discharge it as governed by a NPDES permit, if applicable;

c. implement a disease vector extermination program;

d. compact the waste with suitable equipment;

e. provide a final cover consisting of a minimum of 24 inches of silty clays and 6 inches of topsoil cover for supporting vegetative growth and revegetate the area to control erosion if necessary;

f. record in the parish mortgage and conveyance records a document describing the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name of the person with knowledge of the contents of the facility, as well as providing the chemical levels remaining, if present. A true copy of the document, filed and certified by the parish clerk of court, shall be sent to the Office of Environmental Compliance; and

g. conduct long-term monitoring in accordance with Subsection E of this Section, if deemed necessary by the administrative authority.

D. Inspection and Reports. The administrative authority reserves the right to inspect the facility to determine if the requirements for closure have been met.

E. Long-Term Monitoring Responsibilities. The administrative authority may require the following or other long-term monitoring responsibilities of the person legally responsible for the unauthorized or promiscuous dump, if deemed necessary:

1. installation of groundwater monitoring wells in accordance with LAC 33:VII.805 may be required along with semiannual reporting for a period of 10 years of monitoring of the facility after closure, or longer if deemed necessary, on a facility-specific basis; and

2. annual reports may be required for a period of three years or longer, if deemed necessary, on the condition of the final cover and the use of the property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

## Chapter 11. Beneficial-Use Facilities

### §1101. General Requirements

A. Except as otherwise specified in this Chapter, beneficial-use facilities and permit holders shall be subject to the requirements of LAC 33:VII.Chapters 1, 3, 5, 6, 7, 8, 9, 13, and 15 including, but not limited to, definitions, permitting and public notice requirements, fees, standards, and enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §1103. Permit Requirements

A. Solid waste shall not be discharged, applied, incorporated, injected, or deposited onto or into the land for the purpose of beneficial use unless a beneficial-use permit is first obtained from the administrative authority. If a beneficial-use permit is issued to anyone other than the generator of the solid waste, the permit holder must comply with the financial assurance requirements in LAC 33:VII.1301.A for Type III facilities during operation, except that the liability amount shall be $250,000 per permit, rather than per site.

B. No permit for beneficial use shall be issued by the administrative authority unless the applicant supplies written documentation from a qualified, independent third party, such as the Louisiana Cooperative Extension Service, the Louisiana Department of Agriculture, the Louisiana Department of Transportation and Development, or other appropriate organization that the proposed activity is a legitimate beneficial use of solid waste.

C. The administrative authority may issue a single beneficial-use permit for multiple beneficial-use locations provided that the permit application includes required information for each location, each location meets the standards provided in this Chapter, and the same solid waste stream (from a single generation site) is disposed of at all locations. The multiple locations shall be considered as one facility and each location shall be a unit of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §1105. Part I Application Form for Beneficial-Use Facilities

A. The applicant shall complete a beneficial-use application Part I form, which may be obtained from the Office of Environmental Services, Permits Division or through the department's website at www.deq.state.la.us. The following notes refer to the items on the form requiring that information:

1. name of applicant (prospective permit holder) applying for a beneficial-use permit (also name of property owner if different from permit holder);
2. facility name;
3. description of the location(s) of the facility (identify by street and number or by intersection of roads or by mileage and direction from an intersection);
4. geographic location(s) (section, township, range, and parish where the facility is located), and the coordinates (as defined by the longitude and latitude to the second) of the centerpoint of the facility;
5. mailing address of the applicant and the name(s) of the property owner if different from applicant;
6. contact and phone number for the applicant and for the property owner (position or title of the contact person is acceptable);
7. type and purpose of operation (check each applicable block);
8. a list of all environmental permits that relate directly to the facility represented in this application;
9. zoning of the facility (If the facility is zoned, note the classification and zoning authority, and include a zoning affidavit or other documentation stating that the proposed use does not violate existing land use requirements.);
10. types and maximum quantities (wet-weight tons per week) of waste to be applied at the facility;
11. proof of publication of the notice regarding submittal of the permit application as required in LAC 33:VII.503.A;
12. the signature, typed name, and the title of the individual(s) authorized to sign the application by the applicant and the property owner (Proof of legal authority of the signatory to sign for the applicant must be provided.);
13. third party documentation as required in LAC 33:VII.1103.B; and
14. other information required by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §1107. Part II Supplementary Information Required for Beneficial-Use Facilities

A. The following information is required in the permit application for beneficial-use facilities. All responses and exhibits must be identified within the following sequence to facilitate the evaluation. Additionally, all applicable sections of LAC 33:VII.1109 must be addressed and incorporated into the application responses. If a section does not apply, the applicant must state that it does not apply and why it does not apply:

1. location characteristics as provided in LAC 33:VII.1109.A;
2. facility characteristics as provided in LAC 33:VII.1109.B;
3. facility geology as provided in LAC 33:VII.1109.C;
4. facility surface hydrology as provided in LAC 33:VII.1109.D;
5. certification as provided in LAC 33:VII.1109.E;
6. facility administrative procedures as provided in LAC 33:VII.1109.F;
7. facility implementation plans as provided in LAC 33:VII.1109.G;
8. facility operations as provided in LAC 33:VII.1109.H; and
9. facility closure requirements as provided in LAC 33:VII.1109.I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§1109. Standards Governing Beneficial-Use Facilities**

A. Location Characteristics

1. Area Master Plan. A location map showing the facility, major drainage systems, drainage flow patterns, location of the 100-year flood plain, and other pertinent information is required. The scale of the maps and drawings must be legible, and engineering drawings are required.

2. Environmental Characteristics. The following information is required:

a. a list of all known recreation areas, designated wildlife management areas, swamps and marshes, wetlands, habitat for endangered species, and other sensitive ecologic areas within 1,000 feet of the facility perimeter or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the recreation areas, designated wildlife management areas, wetlands, habitat for endangered species, and other sensitive ecologic areas within 1,000 feet of the facility; and

c. a map showing all known locations of all public water systems, industrial water wells, and irrigation wells within one mile of the facility.

B. Facility Characteristics. The following information must be provided in a facility plan that includes drawings and a narrative:

1. the elements of the beneficial-use system employed, including as applicable, property lines, original contours (shown at not greater than five-foot intervals), units of the facility, drainage, ditches, and roads;

2. the perimeter barriers, security, and signs for all facilities that warn of restricted access, which must be of sufficient size and posted;

3. buffer zones for beneficial-use facilities that:

a. shall not be less than 100 feet between the facility and the property line. A reduction in this requirement shall be allowed only with the permission (in the form of a notarized affidavit) of the adjoining landowner and occupants. Buffer zone requirements may be exempted by the administrative authority in accordance with LAC 33:VII.307; and

b. shall have no storage or application of solid waste within the buffer zone;

4. that all facilities have access to required fire protection and medical care;

5. all facilities receiving and monitoring incoming wastes that:

a. shall control the entry of waste and prevent entry of unrecorded or unauthorized waste; and

b. shall maintain records regarding application rates, application dates, and methods of application;

6. discharges from beneficial-use facilities that must be controlled and must conform to applicable state and federal laws; and

7. other features, as appropriate.

C. Facility Geology. The following information regarding geology is required:

1. a general description of the soils, provided by a qualified professional (such as a geotechnical engineer, soil scientist, or geologist), a description of the method used to determine soil characteristics, and documentation that soils meet the requirements in Paragraph D.3 of this Section;

2. logs of all known soil borings taken on the facility; and

3. demonstration that facilities have natural stable soils suitable for the beneficial application of the waste.

D. Facility Surface Hydrology. The following standards regarding surface hydrological characteristics apply to beneficial-use facilities:

1. land slope shall be controlled to prevent erosion;

2. waste shall be applied in accordance with the slope guidelines in the following table;

| Slope Percent | Application Restriction |
|---|---|
| 0-3 | None; liquid or solid material may be applied to surface. |
| 3-6 | Surface application of liquid or solid material may be made; a 100-foot vegetated runoff area is required at the downslope end of the application area with liquid applications. |
| 6-12 | Liquid material must be injected; solid material must be incorporated into soil if not vegetated; a 100-foot vegetated runoff area is required at the downslope end of the application area for all application. |
| >12 | Unsuitable for application unless a 200-foot buffer area with slope less than 3 percent is provided at the downslope edge of the application area. |

3. the topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility;

4. wastes shall not be surface-applied within 100 feet of clean water ponds, lakes, or the 10-year high water mark for streams. In this 100-foot zone wastes must be injected; and

5. wastes shall not be applied within 300 feet of drinking water wells, irrigation wells, or industrial water supply wells.

E. Certification. The person preparing the permit application must provide the following certification:

> "I certify under penalty of law that I have personally examined and I am familiar with the information submitted in this permit application and that the facility, as described in this permit application, meets the requirements of the solid waste rules and regulations. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment."

F. Facility Administrative Procedures

1. The following information on administrative procedures is required for all facilities:

a. a recordkeeping system, types of records to be kept, and the use of records by management to control operations;

b. an estimate of the minimum personnel, listed by general job classification, required to operate the facility; and

c. the maximum hours of operation per operating days and weeks (the maximum hours of operation within a 24-hour day).

2. Reports. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste beneficially used (expressed in wet-weight tons and dry-weight tons per year) during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal

during the annual reporting period shall be submitted to the Office of Environmental Services, Environmental Assistance Division. A form for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at www.deq.state.la.us. The following standards apply to reports:

a. the reporting period for the annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit;

b. annual reports shall be submitted to the administrative authority by August 1 of each reporting year;

c. the annual report is to be provided for each individual permitted facility on a separate annual reporting form;

d. facilities that receive industrial solid waste shall utilize, in their annual report, the seven-digit industrial waste number that has been assigned by the department to the industrial solid waste generator; and

e. reports shall be submitted as provided in Clauses F.3.b.vi-viii of this Section.

3. Recordkeeping

a. The permit holder shall maintain all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. Records kept by the permit holder shall include (but not be limited to):

i. daily log;

ii. quality-assurance/quality-control records;

iii. inspections by the permit holder or operator;

iv. monitoring, testing, or analytical data;

v. any other applicable or required data deemed necessary by the administrative authority;

vi. copy of the semiannual soil waste mixtures tests and analyses of the results, with conclusions, submitted semiannually to the Office of Environmental Assessment, Environmental Technology Division, or more frequently if deemed necessary by the administrative authority;

vii. test parameters consisting of cation-exchange capacity, soil pH, total nitrogen, phosphorus, organic matter, salts (intrinsic to the waste), cumulative metals, and any others deemed necessary on a site-specific and waste-specific basis; and

viii. annual reports of the analysis of all tests results on the soils, land-use and crop information, calculated amounts of waste applied per acre, total amounts of nitrogen applied per acre, and cumulative metals loading per acre, which shall be submitted to the Office of Environmental Assessment, Environmental Technology Division.

4. Personnel. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

G. Facility Implementation Plans. The implementation plans for all facilities must include the following:

1. construction schedule for existing facilities, which shall include beginning and ending time-frames and time-frames for the installation of all major features. (Time-frames must be specified in days, with day one being the date of standard permit issuance); and

2. details on phased implementation, if any proposed facility is to be constructed in phases.

H. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Only waste with a demonstrated beneficial use may be applied.

c. A comprehensive quality-assurance/quality-control plan shall be in place to ensure that incoming wastes conform to the facility's permit and these regulations.

2. Facility Operational Plans

a. Operational plans shall be provided that describe in specific detail how the waste will be managed. At a minimum, the following information shall be provided in this plan:

i. types of waste (including chemical, physical, and biological characteristics), maximum quantities of wastes per year, and sources of wastes that are to be beneficially used;

ii. the sequence in which the waste will be applied;

iii. waste-handling procedures from entry to final application;

iv. minimum equipment to be used at the facility;

v. procedures planned in case of breakdowns, inclement weather, and other abnormal conditions;

vi. procedures, equipment, and contingency plans for protecting employees and the general public from accidents, fires, explosions, etc., and provisions for emergency care should an accident occur (including the proximity to a hospital, fire and emergency services, and training programs);

vii. provisions for vector, dust, litter, and odor control;

viii. detailed description of day-to-day operational activities including inspection procedures to ensure that only permitted wastes are accepted, equipment operation, and personnel involvement;

ix. detailed analysis of waste including, but not limited to, pH, phosphorus, nitrogen, potassium, sodium, calcium, magnesium, sodium adsorption ratio, and total metals (as listed in Clause H.2.a.i of this Section);

x. soil classification, cation-exchange capacity, organic matter, soil pH, soil content including nitrogen, phosphorus, metals listed in Clause H.2.a.i of this Section, salts, sodium, calcium, magnesium, sodium adsorption ratio, and PCB concentrations of the treatment zone;

xi. annual application rate (dry-tons per acre) and weekly hydraulic loading (inches per acre);

xii. an evaluation of the potential for nitrogen to enter the groundwater;

xiii. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented; and

xiv. a comprehensive operational management plan for the facility which indicates with calculations that the acreages and methods are adequate for treating the type and volumes of wastes anticipated. The plan shall include contingencies for variations.

b. If the facility is to be used for food-chain cropland, the following information is required:

i. a description of the pathogen-reduction method for domestic septage, sewage sludges, and other sludges subject to pathogen production;

ii. crops to be grown and the dates for planting;

iii. PCB concentrations in waste;

iv. annual application rates of cadmium and PCB application; and

v. cumulative applications of cadmium and PCBs.

c. If the facility is to be used for non-food-chain purposes, the following information is required:

i. a description of the pathogen-reduction method in septage, domestic sewage sludges, and other sludges subject to pathogen production; and

ii. a description of control of public and livestock access.

3. Facility Operational Standards

a. General Standards

i. The maximum allowable lifetime metal loading shall be restricted to the limits specified in the following table. It varies depending upon the value of the soil cation-exchange capacity (CEC).

| Maximum Allowable Metal Loading (lb/acre)* | | | |
|---|---|---|---|
| **Soil C EC (meq/100g)** | **<5** | **5-15** | **>15** |
| Lead (Pb) | 500 | 1000 | 2000 |
| Zinc(Zn) | 250 | 500 | 1000 |
| Copper (Cu) | 125 | 250 | 500 |
| Nickel (Ni) | 125 | 250 | 500 |
| Cadmium (Cd) | 5 | 10 | 20 |

*Other metals not listed may be subject to restrictions based upon the metals content of the waste.

ii. Surface application of liquid wastes shall not exceed 2 inches per week.

iii. Soils shall maintain a sufficiently high cation-exchange capacity (CEC) to allow absorption of the metallic elements in the solid waste. This may be achieved naturally by controlling soil pH or artificially by using soil additives. Soil in the zone of incorporation must be monitored to assess the effectiveness of ongoing treatment, management needs, and soil integrity.

iv. Nitrogen concentrations in the waste must be within the limits deemed acceptable as determined by plant nitrogen uptake, soil analyses, and waste analyses detailing the movement of all forms of nitrogen. The potential for nitrogen to enter the groundwater shall be addressed.

v. Wastes shall be applied to the land surface or incorporated into the soil within 3 feet of the surface.

vi. Tests of soil/waste mixtures and an analysis of the results with conclusions shall be conducted semiannually, or more frequently, if deemed necessary by the administrative authority. Test parameters shall consist of CEC, soil pH, total nitrogen, phosphorus, organic matter, salts (intrinsic to the waste), cumulative metals, and others as deemed necessary by the administrative authority.

vii. The administrative authority may provide additional requirements as necessary on a site-specific basis depending on waste type, land use, and method of application.

b. The following additional standards apply to facilities that receive domestic sewage sludge and septic tank pumpings:

i. if spread on or incorporated into non-food-chain cropland, waste shall be treated by a process to significantly reduce pathogens (LAC 33:VII.Chapter 7, Appendix A) prior to application or incorporation, and public access shall be controlled for 12 months following the final application. Grazing by animals whose products are consumed by humans shall be prevented for at least 30 days; and

ii. if spread on or incorporated into land used to grow crops for human consumption, the waste must be treated by a process to further reduce pathogens (LAC 33:VII.Chapter 7, Appendix B) before application or incorporation. If there is no contact between the waste and edible portions of the crop, or if crops are grown more than 18 months after application or incorporation, the conditions specified in Clause H.2.b.i of this Section apply.

c. The following standards apply to land used for food-chain cropland:

i. the pH of the solid waste and soil mixture shall be maintained at or above 6.5;

ii. the annual application of cadmium from the waste shall not exceed 0.5 lb per acre; and

iii. cumulative application of cadmium from sewage sludge for soils with a background pH of less than 6.5 shall not exceed 5 lb per acre unless the pH of the sludge and soil mixture is adjusted and maintained at 6.5 or greater whenever food-chain crops are grown.

d. Standards for Land Used for Animal Feed Only

i. The pH of waste-soil mixture must be at 6.5 or greater at the time of solid waste application or when the non food-chain crop is planted, whichever occurs later. Crops requiring a lower pH will be considered on a site-specific basis.

ii. An operating plan for the facility shall be filed with the administrative authority demonstrating how the animal feed will be distributed to preclude ingestion by humans and that describes the measures to be taken to safeguard against possible health hazards from the entry of cadmium or other heavy metals into the food chain, as may result from alternative land use.

iii. Solid waste with concentrations of polychlorinated biphenyls (PCBs) of 10 mg/kg or more shall not be allowed.

e. The following operational standards apply to waste testing:

i. facilities that receive sewage sludge, domestic septage, or incinerator ash shall require the waste be tested for TCLP constituents prior to acceptance of the waste and annually for two years following acceptance; and

ii. facilities that receive industrial solid waste (Type I) shall require testing for TCLP constituents prior to acceptance of waste and annually thereafter or must have documented process knowledge that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:V.Subpart 1 or by federal regulations.

I. Facility Closure Requirements

1. All permit holders shall notify the Office of Environmental Services, Permits Division, in writing, at least 90 days before closure or intention to close or abandon any individual units within a facility and shall provide the following information:

a. date of planned closure; and

b. closure schedule.

2. During the closure period the permit holder must continue to comply with any prohibitions or conditions concerning growth of food-chain crops.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§1111. Part III: Additional Supplementary Information**

A. The following supplementary information is required for all solid waste processing and disposal facilities. All responses and exhibits must be identified in the following sequence to facilitate the evaluation:

1. a discussion demonstrating that the potential and real adverse environmental effects of the facility have been avoided to the maximum extent possible;

2. a cost-benefit analysis demonstrating that the social and economic benefits of the facility outweigh the environmental-impact costs;

3. a discussion and description of possible alternative projects that would offer more protection to the environment without unduly curtailing nonenvironmental benefits;

4. a discussion of possible alternative sites that would offer more protection to the environment without unduly curtailing nonenvironmental benefits; and

5. a discussion and description of the mitigating measures that would offer more protection to the environment than the facility, as proposed, without unduly curtailing nonenvironmental benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

## Chapter 13. Financial Assurance for All Processors and Disposers of Solid Waste

**§1301. Financial Responsibility During Operation**

A. Permit holders or applicants for standard permits of Type I, I-A, II, II-A, and III facilities have the following financial responsibilities while the facility is in operation:

1. Type I and II facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of $1 million per occurrence and $1 million annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Management and Finance, Financial Services Division;

2. Type I-A and II-A facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of $500,000 per occurrence, and $500,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Management and Finance, Financial Services Division; and

3. Type III facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of $250,000 per occurrence, and $250,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Management and Finance, Financial Services Division.

B. Establishment of Financial Responsibility. The financial responsibility may be established by any one or a combination of the following:

1. Evidence of Liability Insurance. Evidence of liability insurance shall consist of either a signed duplicate original of a solid waste liability endorsement or a certificate of insurance. All liability endorsements and certificates of insurance must include:

a. a statement of coverage relative to environmental risks;

b. a statement of all exclusions to the policy; and

c. a certification by the insurer that the insurance afforded with respect to such sudden accidental occurrences is subject to all of the terms and conditions of the policy, provided, however, that any provisions of the policy inconsistent with the following clauses are amended to conform with said clauses:

i. bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy;

ii. the insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in Subsection E, F, or G of this Section;

iii. whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements;

iv. cancellation of the policy, whether by the insurer or the insured, shall be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the Office of Management and Finance, Financial Services Division;

v. any other termination of the policy shall be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the Office of Management and Finance, Financial Services Division; and

vi. the insurer is admitted, authorized, or eligible to conduct insurance business in Louisiana.

2. Liability Endorsement. The wording of the liability endorsement shall be identical to the wording in Appendix A of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. Liability Insurance. The wording of the certificate of insurance shall be identical to the wording in Appendix B of this Chapter, except that the instructions in brackets are to

be replaced with the relevant information and the brackets deleted.

C. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements, and by submitting the letter to the administrative authority:

1. the issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency;

2. a permit holder or applicant who uses a letter of credit to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund agreement shall be as specified in LAC 33:VII.1303.C.9;

3. the letter of credit must be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, name of issuing institution, and date, and providing the following information:

a. solid waste identification number;

b. site name;

c. facility name;

d. facility permit number; and

e. the amount of funds assured for liability coverage of the facility by the letter of credit;

4. the letter of credit must be irrevocable and issued for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days shall begin on the date when both the permit holder and the Office of Management and Finance, Financial Services Division receive the notice, as evidenced by the return receipts; and

5. the wording of the letter of credit shall be identical to the wording in Appendix C of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

D. Financial Test

1. To meet this test, the applicant, permit holder, parent corporation of the applicant (corporate guarantor), or permit holder must submit to the Office of Management and Finance, Financial Services Division the documents required by Subsection A of this Section demonstrating that the requirements of that subsection have been met. Use of the financial test may be disallowed on the basis of the accessibility of the assets of the permit holder, applicant, or parent corporation (corporate guarantor). If the applicant, permit holder, or parent corporation is using the financial test to demonstrate liability coverage and closure and post-closure care, only one letter from the chief financial officer is required.

2. The assets of the parent corporation of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as authorized in Subsection E of this Section.

3. The wording of the financial test shall be as specified in LAC 33:VII.1303.H.4.

E. Corporate Guarantee. A permit holder or applicant may meet the requirements of Subsection A of this Section for liability coverage by obtaining a written guarantee, hereafter referred to as a "corporate guarantee." The guarantor must demonstrate to the administrative authority that the guarantor meets the requirements in LAC 33:VII.1303.H and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in LAC 33:VII.1303.H.2 and 4. The terms of the corporate guarantee must be in an authentic act signed and sworn to by an authorized officer of the corporation before a notary public and must provide that:

1. the guarantor meets or exceeds the financial-test criteria and agrees to comply with the reporting requirements for guarantors as specified in LAC 33:VII.1303.H;

2. the guarantor is the parent corporation of the permit holder or applicant of the solid waste facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

3. if the permit holder or applicant fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences (or both as the case may be), arising from the operation of facilities covered by the corporate guarantee, or fails to pay an amount agreed to in settlement of the claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage;

4. the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial-test criteria, the guarantor shall send within 90 days, by certified mail, notice to the Office of Management and Finance, Financial Services Division, and to the permit holder or applicant, that he intends to provide alternative financial assurance as specified in Subsection A of this Section, in the name of the permit holder or applicant, and that within 120 days after the end of said fiscal year the guarantor shall establish such financial assurance, unless the permit holder or applicant has done so;

5. the guarantor agrees to notify the Office of Management and Finance, Financial Services Division by certified mail of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

6. the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial-test criteria or that he or she is disallowed from continuing as a guarantor of closure or post-closure care, he or she shall establish alternate financial assurance as specified in Subsection A of this Section in the name of the permit holder or applicant, unless the permit holder or applicant has done so;

7. the guarantor agrees to remain bound under the guarantee notwithstanding any or all of the following:

amendment or modification of the permit or any other modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;

8. the guarantor agrees to remain bound under the guarantee for as long as the permit holder or applicant must comply with the applicable financial assurance requirements of Subsection A of this Section for the above-listed facilities, except that the guarantor may cancel this guarantee by sending notice by certified mail to the administrative authority and the permit holder or applicant. Such cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder, as evidenced by the return receipts;

9. the guarantor agrees that if the permit holder or applicant fails to provide alternate financial assurance, as specified in Subsection A of this Section, and obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the permit holder or applicant;

10. the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder or applicant. Guarantor also expressly waives notice of amendments or modifications of the facility permit(s); and

11. the wording of the corporate guarantee shall be as specified in LAC 33:VII.1303.H.9.l. A corporate guarantee may be used to satisfy the requirements of this Section only if the attorney general(s) or insurance commissioner(s) of the state in which the guarantor is incorporated, and the state in which the facility covered by the guarantee is located, has submitted a written statement to the Office of Management and Finance, Financial Services Division that a corporate guarantee is a legally valid and enforceable obligation in that state.

F. The use of a particular financial responsibility mechanism is subject to the approval of the administrative authority.

G. Permit holders of existing facilities must submit, on or before February 20, 1995, financial responsibility documentation that complies with the requirements of Subsection A of this Section. Applicants for permits for new facilities must submit evidence of financial assurance in accordance with this Chapter at least 60 days before the date on which solid waste is first received for processing or disposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §1303. Financial Responsibility for Closure and Post-Closure Care

A. Financial Responsibility for Type I, I-A, II, II-A, and III Facilities. Permit holders or applicants of Type I, I-A, II, II-A, and III facilities have the following financial responsibilities for closure and post-closure care:

1. permit holders or applicants for processing or disposal facilities shall establish and maintain financial assurance for closure and post-closure care;

2. the applicant or permit holder shall submit to the Office of Management and Finance, Financial Services Division the estimated closure date and the estimated cost of closure and post-closure care in accordance with the following procedures:

a. the applicant or permit holder must have a written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in these rules. The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by the closure plan, and shall be based on the cost of hiring a third party to close the facility in accordance with the closure plan;

b. the applicant or permit holder of a facility subject to post-closure monitoring or maintenance requirements must have a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the provisions of these rules. The estimate of post-closure costs is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required and shall be based on the cost of hiring a third party to conduct post-closure activities in accordance with the closure plan;

c. the cost estimates must be adjusted within 30 days after each anniversary of the date on which the first cost estimate was prepared on the basis of either the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business*, or a reestimation of the closure and post-closure costs in accordance with Subparagraphs A.2.a and b of this Section. The permit holder or applicant must revise the cost estimate whenever a change in the closure/post-closure plans increases or decreases the cost of the closure plan. The permit holder or applicant must submit a written notice of any such adjustment to the Office of Management and Finance, Financial Services Division within 15 days following such adjustment; and

d. for trust funds, the first payment must be at least equal to the current closure and post-closure cost estimate, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each annual anniversary of the date of the first payment. The amount of each subsequent payment must be determined by subtracting the current value of the trust fund from the current closure and post-closure cost estimates and dividing the result by the number of years remaining in the pay-in period. The initial pay-in period is based on the estimated life of the facility.

B. Financial Assurance Mechanisms. The financial assurance mechanism must be one or a combination of the following: a trust fund, a financial guarantee bond ensuring closure funding, a performance bond, a letter of credit, an insurance policy, or the financial test. The financial assurance mechanism is subject to the approval of the administrative authority and must fulfill the following criteria:

1. except when a financial test, trust fund, or certificate of insurance is used as the financial assurance mechanism, a standby trust fund naming the administrative authority as beneficiary must be established at the time of

the creation of the financial assurance mechanism into which the proceeds of such mechanism could be transferred should such funds be necessary for either closure or post-closure of the facility, and a signed copy must be furnished to the administrative authority with the mechanism;

2. a permit holder or applicant may use a financial assurance mechanism specified in this Chapter for more than one facility, if all such facilities are located within Louisiana and are specifically identified in the mechanism;

3. the amount covered by the financial assurance mechanism(s) must equal the total of the current closure and post-closure estimates for each facility covered; and

4. when all closure and post-closure requirements have been satisfactorily completed, the administrative authority shall execute an approval to terminate the financial assurance mechanism(s).

C. Trust Funds. A permit holder or applicant may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the following requirements and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division:

1. the trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency;

2. trusts must be accomplished in accordance with and subject to the laws of Louisiana. The beneficiary of the trust shall be the administrative authority;

3. trust-fund earnings may be used to offset required payments into the fund, to pay the fund trustee, or to pay other expenses of the funds, or may be reclaimed by the permit holder or applicant upon approval of the administrative authority;

4. the trust agreement must be accompanied by an affidavit certifying the authority of the individual signing the trust on behalf of the permit holder or applicant;

5. the permit holder or applicant may accelerate payments into the trust fund or deposit the full amount of the current closure cost estimate at the time the fund is established. The permit holder or applicant must, however, maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in Subparagraph A.2.d of this Section;

6. if the permit holder or applicant establishes a trust fund after having used one or more of the alternate mechanisms specified in this Chapter, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this Paragraph;

7. after the pay-in period is completed, whenever the current cost estimate changes, the permit holder must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the permit holder or applicant, within 60 days after the change in the cost estimate, must either deposit an amount into the fund that will make its value at least equal to the amount of the closure/post-closure cost estimate or it must estimate or obtain other financial assurance as specified in this Chapter to cover the difference;

8. after beginning final closure, a permit holder, or any other person authorized by the permit holder to perform closure and/or post-closure may request reimbursement for closure and/or post-closure expenditures by submitting itemized bills to the Office of Management and Finance, Financial Services Division. Within 60 days after receiving bills for such activities, the administrative authority will determine whether the closure and/or post-closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the trustee to make reimbursement in such amounts as the administrative authority specifies in writing. If the administrative authority has reason to believe that the cost of closure and/or post-closure will be significantly greater than the value of the trust fund, he may withhold reimbursement for such amounts as he deems prudent until he determines that the permit holder is no longer required to maintain financial assurance;

9. the wording of the trust agreement shall be identical to the wording in Appendix D of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The trust agreement shall be accompanied by a formal certification of acknowledgement; and

10. the following is an example of the certification of acknowledgement that must accompany the trust agreement:

STATE OF LOUISIANA

PARISH OF _____

BE IT KNOWN, that on this _____ day of _____, 20_____, before me, the undersigned Notary Public, duly commissioned and qualified within the State and Parish aforesaid, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared _____, to me well known, who declared and acknowledged that he had signed and executed the foregoing instrument as his act and deed, and as the act and deed of the _____, a corporation, for the consideration, uses, and purposes and on terms and conditions therein set forth.

And the said appearer, being by me first duly sworn, did depose and say that he is the _____ of said corporation and that he signed and executed said instrument in his said capacity, and under authority of the Board of Directors of said corporation.

Thus done and passed in the State and Parish aforesaid, on the day and date first hereinabove written, and in the presence of _____ and _____, competent witnesses, who have hereunto subscribed their name as such, together with said appearer and me, said authority, after due reading of the whole.

WITNESSES:

_____

_____

_____

NOTARY PUBLIC

D. Surety Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Management and Finance, Financial Services Division:

1. the surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and approved by the administrative authority;

2. the permit holder or applicant who uses a surety bond to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in Paragraph C.9 of this Section;

3. the bond must guarantee that the operator will:

a. fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility;

b. fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure or post-closure is issued; or

c. provide alternate financial assurance as specified in this Section and obtain the administrative authority's written approval of the assurance provided, within 90 days after receipt by both the permit holder and the administrative authority of a notice of cancellation of the bond from the surety;

4. under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond;

5. the penal sum of the bond must be at least equal to the current closure and post-closure cost estimates;

6. whenever the current cost-estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the administrative authority;

7. under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the administrative authority. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts; and

8. the wording of the surety bond guaranteeing payment into a standby trust fund shall be identical to the wording in Appendix E of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

E. Performance Bonds. A permit holder or applicant may satisfy the requirements of this Chapter by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Management and Finance, Financial Services Division:

1. the surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and approved by the administrative authority;

2. the permit holder or applicant who uses a surety bond to satisfy the requirements of this Chapter must also provide to the administrative authority evidence of establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in Paragraph C.9 of this Section;

3. the bond must guarantee that the permit holder or applicant will:

a. perform final closure and post-closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or

b. provide alternate financial assurance as specified in this Chapter and obtain the administrative authority's written approval of the assurance provided within 90 days after the date both the permit holder and the administrative authority receive notice of cancellation of the bond from the surety;

4. under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond. Following a determination by the administrative authority that the permit holder has failed to perform final closure and post-closure in accordance with the closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure and post-closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund;

5. the penal sum of the bond must be at least equal to the current closure and post-closure cost estimates;

6. whenever the current closure cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Chapter. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate after written approval of the administrative authority;

7. under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur before 120 days have elapsed beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipt; and

8. the wording of the performance bond shall be identical to the wording in Appendix F of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

F. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Chapter by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Management and Finance, Financial Services Division:

1. the issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency;

2. a permit holder or applicant who uses a letter of credit to satisfy the requirements of this Chapter must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund shall be as specified in Paragraph C.9 of this Section;

3. the letter of credit must be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, issuing institution, and date, and providing the following information:

a. solid waste identification number;

b. site name;

c. facility name;

d. facility permit number; and

e. the amount of funds assured for closure and/or post closure of the facility by the letter of credit;

4. the letter of credit must be irrevocable and issued for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and Office of Management and Finance, Financial Services Division by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts;

5. the letter of credit must be issued in an amount at least equal to the current closure and post-closure cost estimates;

6. whenever the current cost estimates increase to an amount greater than the amount of the credit, the permit holder, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Chapter to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure and post-closure cost estimates upon written approval of the administrative authority;

7. following a determination by the administrative authority that the permit holder has failed to perform final closure or post-closure in accordance with the closure plan and other permit requirements when required to do so, the administrative authority may draw on the letter of credit; and

8. the wording of the letter of credit shall be identical to the wording in Appendix G of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

G. Insurance. A permit holder or applicant may satisfy the requirements of this Chapter by obtaining insurance that conforms to the following requirements and submitting a certificate of such insurance to the Office of Management and Finance, Financial Services Division:

1. at a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess-lines or surplus-lines insurer in one or more states, and authorized to transact insurance business in Louisiana;

2. the insurance policy must be issued for a face amount at least equal to the current closure and post-closure cost estimates;

3. the term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments;

4. the insurance policy must guarantee that funds will be available to close the facility and provide post-closure care once final closure occurs. The policy must also guarantee that, once final closure begins, the insurer will be responsible for paying out funds up to an amount equal to the face amount of the policy, upon the direction of the administrative authority, to such party or parties as the administrative authority specifies;

5. after beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure and post-closure may request reimbursement for closure or post-closure expenditures by submitting itemized bills to the Office of Management and Finance, Financial Services Division. Within 60 days after receiving such bills, the administrative authority will determine whether the expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing;

6. the permit holder must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the permit holder;

7. each policy must contain a provision allowing assignment of the policy to a successor permit holder. Such assignment may be conditional upon consent of the insurer, provided consent is not unreasonably refused;

8. the policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the permit holder and the Office of Management and Finance, Financial Services Division. Cancellation, termination, or failure to renew may not occur, however, before 120 days have elapsed, beginning on the date that both the administrative authority and the permit holder receive notice of cancellation, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration:

a. the administrative authority deems the facility to be abandoned;

b. the permit is terminated or revoked or a new permit is denied;

c. closure and/or post-closure is ordered;

d. the permit holder is named as debtor in a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code; or

e. the premium due is paid;

9. whenever the current cost estimate increases to an amount greater than the face amount of the policy, the permit holder, within 60 days after the increase, must either increase

the face amount to at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Chapter to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure and post-closure cost estimates following written approval by the administrative authority; and

10. the wording of the certificate of insurance shall be identical to the wording in Appendix H of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

H. Financial Test. A permit holder, applicant, or parent corporation of the permit holder or applicant, which will be responsible for the financial obligations, may satisfy the requirements of this Chapter by demonstrating that he or she passes a financial test as specified in this Subsection. The assets of the parent corporation of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as outlined in LAC 33:VII.1301.G.

1. To pass this test, the permit holder, applicant, or parent corporation of the permit holder or applicant, must meet the criteria of either of the following:

a. the permit holder, applicant, or parent corporation of the permit holder or applicant must have:

i. tangible net worth of at least six times the sum of the current closure and post-closure estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test;

ii. tangible net worth of at least $10 million; and

iii. assets in the United States amounting to either at least 90 percent of his or her total assets, or at least six times the sum of the current closure and post-closure estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test; or

b. the permit holder, applicant, or parent corporation of the permit holder or applicant must have:

i. a current rating for his or her most recent bond issuance of AAA, AA, A, or BBB, as issued by *Standard and Poor's*, or Aaa, Aa, or Baa, as issued by *Moody's*;

ii. tangible net worth of at least $10 million; and

iii. assets in the United States amounting to either 90 percent of his or her total assets or at least six times the sum of the current closure and post-closure estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test.

2. To demonstrate that he or she meets this test, the permit holder, applicant, or parent corporation of the permit holder or applicant must submit the following three items to the Office of Management and Finance, Financial Services Division:

a. a letter signed by the chief financial officer of the permit holder, applicant, or parent corporation demonstrating and certifying the criteria in Paragraph H.1 of this Section and including the information required by Paragraph H.4 of this Section. If the financial test is provided to demonstrate both assurance for closure and/or post-closure care and liability coverage, a single letter to cover both forms of financial responsibility is required.

b. a copy of the independent certified public accountant (CPA)'s report on the financial statements of the permit holder, applicant, or parent corporation of the permit holder or applicant for the latest completed fiscal year.

c. a special report from the independent CPA to the permit holder, applicant, or parent corporation of the permit holder or applicant stating that:

i. he or she has computed the data specified by the chief financial officer as having been derived from the independently audited, year-end financial statements with the amounts for the latest fiscal year in such financial statements; and

ii. in connection with that procedure, no matters came to his attention that caused him to believe that the specified data should be adjusted.

3. The administrative authority may disallow use of this test on the basis of the opinion expressed by the independent CPA in his report on qualifications based on the financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The administrative authority will evaluate other qualifications on an individual basis. The administrative authority may disallow the use of this test on the basis of the accessibility of the assets of the parent corporation (corporate guarantor), permit holder, or applicant. The permit holder, applicant, or parent corporation must provide evidence of insurance for the entire amount of required liability coverage, as specified in this Chapter, within 30 days after notification of disallowance.

4. The permit holder, applicant, or parent corporation (if a corporate guarantor) of the permit holder or applicant shall provide to the Office of Management and Finance, Financial Services Division a letter from the chief financial officer, the wording of which shall be identical to the wording in Appendix I of this Chapter, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The letter shall certify the following information:

a. a list of solid waste facilities, whether in Louisiana or not, owned or operated by the permit holder or applicant of the facility, for which financial assurance for liability coverage is demonstrated through the use of financial tests, including the amount of liability coverage;

b. a list of solid waste facilities, whether in Louisiana or not, owned or operated by the permit holder or applicant, for which financial assurance for the closure or post-closure care is demonstrated through the use of a financial test or self-insurance by the permit holder or applicant, including the cost estimates for the closure and post-closure care of each facility;

c. a list of the solid waste facilities, whether in Louisiana or not, owned or operated by any subsidiaries of the parent corporation for which financial assurance for closure and/or post-closure is demonstrated through the financial test or through use of self-insurance, including the current cost estimate for the closure or post-closure care for each facility and the amount of annual aggregate liability coverage for each facility; and

d. a list of solid waste facilities, whether in Louisiana or not, for which financial assurance for closure or post-closure care is not demonstrated through the financial test, self-insurance, or other substantially equivalent state

mechanisms, including the estimated cost of closure and post-closure of such facilities.

5. For the purposes of Subsection A of this Section, the phrase "tangible net worth" shall mean the tangible assets that remain after liabilities have been deducted; such assets would not include intangibles such as good will and rights to patents or royalties.

6. The phrase "current closure and post-closure cost estimates," as used in Paragraph H.1 of this Section, includes the cost estimates required to be shown in Clause H.1.a.i of this Section.

7. After initial submission of the items specified in Paragraph H.2 of this Section, the permit holder, applicant, or parent corporation of the permit holder or applicant must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the close of each succeeding fiscal year. This information must include all three items specified in Paragraph H.2 of this Section.

8. The administrative authority may, on the basis of a reasonable belief that the permit holder, applicant, or parent corporation of the permit holder or applicant may no longer meet the requirements of this Subsection, require reports of financial condition at any time in addition to those specified in Paragraph H.2 of this Section. If the administrative authority finds, on the basis of such reports or other information, that the permit holder, applicant, or parent corporation of the permit holder or applicant no longer meets the requirements of Paragraph H.2 of this Section, the permit holder or applicant, or parent corporation of the permit holder or applicant, must provide alternate financial assurance as specified in Subsection A of this Section within 30 days after notification of such a finding.

9. A permit holder or applicant may meet the requirements of this Subsection for closure and/or post-closure by obtaining a written guarantee, hereafter referred to as a "corporate guarantee." The guarantor must be the parent corporation of the permit holder or applicant. The guarantor must meet the requirements and submit all information required for permit holders or applicants in Paragraphs H.1-8 of this Section and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in Paragraphs H.2 and 4 of this Section. The wording of the corporate guarantee must be identical to the wording in Appendix J of this Chapter, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. The terms of the corporate guarantee must be in an authentic act signed and sworn by an authorized officer of the corporation before a notary public and must provide that:

a. the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in this Subsection;

b. the guarantor is the parent corporation of the permit holder or applicant of the solid waste management facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

c. "closure plans," as used in the guarantee, refers to the plans maintained as required by the Louisiana solid waste rules and regulations for the closure and post-closure care of facilities, as identified in the guarantee;

d. for value received from the permit holder or applicant, the guarantor guarantees to the Louisiana Department of Environmental Quality that the permit holder or applicant will perform closure, post-closure care, or closure and post-closure care of the facility or facilities listed in the guarantee, in accordance with the closure plan and other permit or regulatory requirements whenever required to do so. In the event that the permit holder or applicant fails to perform as specified in the closure plan, the guarantor shall do so or establish a trust fund as specified in Subparagraph A.2.d of this Section, in the name of the permit holder or applicant, in the amount of the current closure or post-closure cost estimates or as specified in Paragraph A.2 of this Section;

e. guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the Office of Management and Finance, Financial Services Division and to the permit holder or applicant that he intends to provide alternative financial assurance as specified in Subsection A of this Section, in the name of the permit holder or applicant, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the permit holder or applicant has done so;

f. the guarantor agrees to notify the Office of Management and Finance, Financial Services Division by certified mail of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

g. the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in Subsection A of this Section in the name of the permit holder or applicant, unless the permit holder or applicant has done so;

h. the guarantor agrees to remain bound under the guarantee, notwithstanding any or all of the following: amendment or modification of the closure plan, amendment or modification of the permit, extension or reduction of the time of performance of closure or post closure, or any other modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;

i. the guarantor agrees to remain bound under the guarantee for as long as the permit holder must comply with the applicable financial assurance requirements of Subsection A of this Section for the above-listed facilities, except that the guarantor may cancel this guarantee by sending notice by certified mail to the Office of Management and Finance, Financial Services Division and the permit holder or applicant. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder or applicant, as evidenced by the return receipts;

j. the guarantor agrees that if the permit holder or applicant fails to provide alternative financial assurance as specified in Subsection A of this Section, and to obtain

written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the owner or operator; and

k. the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder. Guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the facility permit(s).

I. Local Government Financial Test. An owner or operator that satisfies the requirements of Paragraphs I.1-3 of this Section may demonstrate financial assurance up to the amount specified in Paragraph I.4 of this Section.

1. Financial Component

a. The owner or operator must satisfy the following conditions, as applicable:

i. if the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, he or she must have a current rating of Aaa, Aa, A, or Baa, as issued by *Moody's*, or AAA, AA, A, or BBB, as issued by *Standard and Poor's*, on all such general obligation bonds; or

ii. the owner or operator must satisfy the ratio of cash plus marketable securities to total expenditures being greater than or equal to 0.05 and the ratio of annual debt service to total expenditures less than or equal to 0.20 based on the owner or operator's most recent audited annual financial statement.

b. The owner or operator must prepare his or her financial statements in conformity with *Generally Accepted Accounting Principles* for governments and have his or her financial statements audited by an independent certified public accountant (or appropriate state agency).

c. A local government is not eligible to assure its obligations under this Subsection if it:

i. is currently in default on any outstanding general obligation bonds;

ii. has any outstanding general obligation bonds rated lower than Baa as issued by *Moody's* or BBB as issued by *Standard and Poor's*;

iii. operated at a deficit equal to 5 percent or more of total annual revenue in each of the past two fiscal years; or

iv. receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate state agency) auditing its financial statement as required under Subparagraph I.1.b of this Section. The administrative authority may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the administrative authority deems the qualification insufficient to warrant disallowance of use of the test.

d. The following terms used in this Subsection are defined as follows:

i. *Deficit*—total annual revenues minus total annual expenditures.

ii. *Total Revenues*—revenues from all taxes and fees, but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

iii. *Total Expenditures*—all expenditures, excluding capital outlays and debt repayment.

iv. *Cash Plus Marketable Securities*—all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

v. *Debt Service*—the amount of principal and interest due on a loan in a given time period, typically the current year.

2. Public Notice Component. The local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR) after the effective date of this Chapter or prior to the initial receipt of waste at the facility, whichever is later. Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years. A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F. For the first year the financial test is used to assure costs at a particular facility, the reference may be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget. For closure and post-closure costs, conformance with *Government Accounting Standards Board Statement 18* assures compliance with this public notice component.

3. Recordkeeping and Reporting Requirements

a. The local government owner or operator must place the following items in the facility's operating record:

i. a letter signed by the local government's chief financial officer that lists all the current cost estimates covered by a financial test, as described in Clause A.2.j.iv of this Section. It must provide evidence that the local government meets the conditions of Subparagraphs I.1.a, b, and c of this Section, and certify that the local government meets the conditions of Subparagraphs I.1.a, b and c and Paragraphs I.2 and 4 of this Section;

ii. the local government's independently audited year-end financial statements for the latest fiscal year (except for local governments where audits are required every two years and unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant or an appropriate state agency that conducts equivalent comprehensive audits;

iii. a report to the local government from the local government's independent certified public accountant or the appropriate state agency based on performing an agreed upon procedures engagement relative to the financial ratios required by Clause I.1.a.ii of this Section, if applicable, and the requirements of Subparagraph I.1.b and Clauses I.1.c.iii and iv of this Section. The certified public accountant or state agency's report shall state the procedures performed and the certified public accountant or state agency's findings; and

iv. a copy of the CAFR used to comply with Paragraph I.2 of this Section (certification that the requirements of *General Accounting Standards Board Statement 18* have been met).

b. The items required in Subparagraph I.3.a of this Section must be placed in the facility operating record as follows:

i. in the case of closure and post-closure care, either before the effective date of this Chapter, which is April 9, 1997, or prior to the initial receipt of waste at the facility, whichever is later; or

ii. in the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of LAC 33:VII.805.F.

c. After the initial placement of the items in the facility's operating record, the local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.

d. The local government owner or operator is no longer required to meet the requirements of Paragraph I.3 of this Section when:

i. the owner or operator substitutes alternate financial assurance, as specified in this Chapter; or

ii. the owner or operator is released from the requirements of this Chapter in accordance with LAC 33:VII.1301.A or Subsection A of this Section.

e. A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Chapter, place the required submissions for that assurance in the operating record, and notify the Office of Management and Finance, Financial Services Division that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

f. The administrative authority, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the administrative authority finds, on the basis of such reports or other information, that the owner or operator no longer meets the local government financial test, the local government must provide alternate financial assurance in accordance with this Chapter.

4. Calculation of Costs to be Assured. The portion of the closure, post-closure, and corrective action costs for which an owner or operator can assure under this Subsection is determined as follows:

a. if the local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the local government's total annual revenue;

b. if the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR part 280, PCB storage facilities under 40 CFR part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR parts 264 and 265, or corresponding state programs, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure under this Subsection. The total that may be assured must not exceed 43 percent of the local government's total annual revenue; and

c. the owner or operator must obtain an alternate financial assurance instrument for those costs that exceed the limits set in Subparagraphs I.4.a and b of this Section.

J. Local Government Guarantee. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by LAC 33:VII.1301 and this Section, by obtaining a written guarantee provided by a local government. The guarantor must meet the requirements of the local government financial test in Subsection I of this Section, and must comply with the terms of a written guarantee.

1. Terms of the Written Guarantee. The guarantee must be effective before the initial receipt of waste or before the effective date of this Chapter, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F. The guarantee must provide that:

a. if the owner or operator fails to perform closure, post-closure care, and/or corrective action of a facility covered by the guarantee, the guarantor will:

i. perform, or pay a third party to perform closure, post-closure care, and/or corrective action as required; or

ii. establish a fully funded trust fund, as specified in Subsection C of this Section, in the name of the owner or operator;

b. the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

c. if a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the administrative authority, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the Office of Management and Finance, Financial Services Division. If the owner or operator fails to provide alternate financial assurance within the 90-day period, then the guarantor must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Management and Finance, Financial Services Division.

2. Recordkeeping and Reporting

a. The owner or operator must place a certified copy of the guarantee, along with the items required under Paragraph I.3 of this Section, into the facility's operating record before the initial receipt of waste or before the

effective date of this Chapter, whichever is later, in the case of closure or post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F.

b. The owner or operator is no longer required to maintain the items specified in this Paragraph when:

i. the owner or operator substitutes alternate financial assurance as specified in this Section; or

ii. the owner or operator is released from the requirements of this Section in accordance with LAC 33:VII.1301 and this Section.

c. If a local government guarantor no longer meets the requirements of Subsection I of this Section, the owner or operator must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the Office of Management and Finance, Financial Services Division. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

K. Use of Multiple Mechanisms. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by LAC 33:VII.1301 and this Section, by establishing more than one financial mechanism per facility, except that mechanisms guaranteeing performance rather than payment may not be combined with other instruments. The mechanisms must be as specified in Subsections C - H of this Section, except that financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care, and/or corrective action may be provided by a combination of mechanisms, rather than a single mechanism.

L. Discounting. The administrative authority may allow discounting of closure and post-closure cost estimates in Subsection A of this Section and/or corrective action costs in LAC 33:1301.A up to the rate of return for essentially risk-free investments, net of inflation, under the following conditions:

1. the administrative authority determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a registered professional engineer to the Office of Management and Finance, Financial Services Division so stating;

2. the state finds the facility in compliance with applicable and appropriate permit conditions;

3. the administrative authority determines that the closure date is certain, and the owner or operator certifies that there are no foreseeable factors that will change the estimate of site life; and

4. discounted cost estimates are adjusted annually to reflect inflation and years of remaining life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §1305. Financial Responsibility for Corrective Action for Type II Landfills

A. A permit holder of a Type II landfill required to undertake a corrective action program under LAC 33:VII.805 must provide to the Office of Management and Finance, Financial Services Division a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under LAC 33:VII.805. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period.

1. The permit holder must provide an annual adjustment of the estimate for inflation to the Office of Management and Finance, Financial Services Division until the corrective action program is completed in accordance with LAC 33:VII.805.

2. The permit holder must provide an increased corrective action cost estimate to the Office of Management and Finance, Financial Services Division and the amount of financial assurance provided under Subsection B of this Section if changes in the corrective action program or landfill conditions increase the maximum costs of corrective action.

3. Subject to approval of the administrative authority, the permit holder may provide a reduced corrective action cost estimate to the Office of Management and Finance, Financial Services Division and the amount of financial assurance provided under Subsection B of this Section if the cost estimate exceeds the maximum remaining costs of corrective action. The permit holder must provide the Office of Management and Finance, Financial Services Division justification for the reduction of the corrective action cost estimate and the revised amount of financial assurance.

B. The permit holder of each Type II landfill required to undertake a corrective action program under LAC 33:VII.805 must establish, in a manner in accordance with Subsection A of this Section, financial assurance for the most recent corrective action program. The financial assurance must be provided within 120 days after the selection of the corrective action remedy in LAC 33:VII.805.F. The permit holder must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with LAC 33:VII.805.G.8.c.i and ii. For the purpose of corrective action financial assurance only the words "corrective action" shall be substituted for the words "closure" or "post-closure" throughout Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

## Appendices

### Appendix A

SOLID WASTE FACILITY LIABILITY ENDORSEMENT
Secretary
Louisiana Department of Environmental Quality
Post Office Box 82231
Baton Rouge, Louisiana 70884-2231

Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering bodily injury and property damage in connection with [name of the insured, which must be either the permit holder, the applicant, or the operator. (Note: The operator will provide the liability-

insurance documentation only when the permit holder/applicant is a public governing body and the public governing body is not the operator.)] The insured's obligation to demonstrate financial responsibility is required in accordance with LAC 33:VII.1301.A. The coverage applies at [list the site identification number, site name, facility name, facility permit number, and facility address] for sudden and accidental occurrences. The limits of liability are per occurrence and annual aggregate, per site, exclusive of legal-defense costs.

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with Subclauses (a) through (e) below are hereby amended to conform with Subclauses (a) through (e) below:

(a). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this endorsement is attached.

(b). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated, as specified in LAC 33:VII 1301.E, F, or G.

(c). Whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements.

(d). Cancellation of this endorsement, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(e). Any other termination of this endorsement will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

3. Attached is the endorsement, which forms part of the policy [policy number] issued by [name of insurer], herein called the insurer, of [address of the insurer] to [name of the insured] of [address of the insured], this [date]. The effective date of said policy is [date].

4. I hereby certify that the wording of this endorsement is identical to the wording specified in LAC 33:VII. 1301.C, effective on the date first written above and that insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of insurer]

[Typed name of authorized representative of insurer]

[Title of authorized representative of insurer]

[Address of authorized representative of insurer]

## Appendix B

SOLID WASTE FACILITY CERTIFICATE OF LIABILITY INSURANCE

Secretary
Louisiana Department of Environmental Quality
Post Office Box 82231
Baton Rouge, Louisiana 70884-2231

Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

1. [Name of insurer], the "insurer," of [address of insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name of insured, which must be either the permit holder or applicant of the facility], the "insured," of [address of insured] in connection with the insured's obligation to demonstrate financial responsibility under LAC 33:VII.1301.A. The coverage applies at [list solid waste identification number, site name, facility name, facility permit number, and site address] for sudden and accidental occurrences. The limits of liability are each occurrence and annual aggregate, per site, exclusive of legal-defense costs. The coverage is provided under policy number [policy number], issued on [date]. The effective date of said policy is [date].

2. The insurer further certifies the following with respect to the insurance described in Paragraph 1:

(a). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy.

(b). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated, as specified in LAC 33:VII.1301.E, F, or G.

(c). Whenever requested by the administrative authority, the insurer agrees to furnish to him a signed duplicate original of the policy and all endorsements.

(d). Cancellation of the insurance, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(e). Any other termination of the insurance will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

3. I hereby certify that the wording of this certificate is identical to the wording specified in LAC 33:VII.1301.D as such regulations were constituted on the date first written above, and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of insurer]

[Typed name of authorized representative of insurer]

[Title of authorized representative of insurer]

[Address of authorized representative of insurer]

## Appendix C

SOLID WASTE FACILITY IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 82231
Baton Rouge, Louisiana 70884-2231

Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No.[ ] at the request and for the account of [permit holder's or applicant's name and address] for its [list site identification number, site name, facility name, and facility permit number] at [location], Louisiana, in favor of any governmental body, person, or other entity for any sum or sums up to the aggregate amount of U.S. dollars [ ] upon presentation of:

1. A final judgment issued by a competent court of law in favor of a governmental body, person, or other entity and against [permit holder's or applicant's name] for sudden and accidental occurrences for claims arising out of injury to persons or property due to the operation of the solid waste site at the [name of permit holder or applicant] at [site location] as set forth in the LAC 33:VII.1301.A.

2. A sight draft bearing reference to the Letter of Credit No. [ ] drawn by the governmental body, person, or other entity, in

whose favor the judgment has been rendered as evidenced by documentary requirement in Paragraph 1.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the Uniform Customs and Practice for Documentary Letters of Credit (1983), International Chamber of Commerce Publication No. 400, shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.1301.E.5, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s)
of issuing institution(s)]
[date]

## Appendix D

SOLID WASTE FACILITY TRUST AGREEMENT/STANDBY TRUST AGREEMENT

This Trust Agreement, the "Agreement," is entered into as of [date] by and between [name of permit holder or applicant], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of" or "a national bank" or "a state bank"], the "Trustee."

WHEREAS, the Department of Environmental Quality of the State of Louisiana, an agency of the state of Louisiana, has established certain regulations applicable to the Grantor, requiring that a permit holder or applicant for a permit of a solid waste processing or disposal facility shall provide assurance that funds will be available when needed for [closure and/or post-closure] care of the facility;

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility identified herein;

WHEREAS, the Grantor, acting through its duly authorized officers, has selected [the Trustee] to be the trustee under this Agreement, and [the Trustee] is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement:

(a). The term "Grantor" means the permit holder or applicant who enters into this Agreement and any successors or assigns of the Grantor.

(b). The term "Trustee" means the Trustee who enters into this Agreement and any successor trustee.

(c). The term "Secretary" means the Secretary of the Louisiana Department of Environmental Quality.

(d). The term "Administrative Authority" means the secretary or his designee or the appropriate assistant secretary or his designee.

SECTION 2. IDENTIFICATION OF FACILITIES AND COST ESTIMATES

This Agreement pertains to the facilities and cost estimates identified on attached Schedule A. [On Schedule A, list the site identification number, site name, facility name, facility permit number, and the annual aggregate amount of liability coverage or current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement.]

SECTION 3. ESTABLISHMENT OF FUND

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Louisiana Department of Environmental Quality. The Grantor and the Trustee intend that no third party shall have access to the Fund, except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. [Note: Standby Trust Agreements need not be funded at the time of execution. In the case of Standby Trust Agreements, Schedule B should be blank except for a statement that the Agreement is not presently funded, but shall be funded by the financial assurance document used by the Grantor in accordance with the terms of that document.] Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, in trust, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the administrative authority.

SECTION 4. PAYMENT FOR CLOSURE AND/OR POST-CLOSURE CARE OR LIABILITY COVERAGE

The Trustee shall make payments from the Fund as the administrative authority shall direct, in writing, to provide for the payment of the costs of [liability claims, closure and/or post-closure] care of the facility covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the administrative authority from the Fund for [liability claims, closure and/or post-closure] expenditures in such amounts as the administrative authority shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the administrative authority specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

SECTION 5. PAYMENTS COMPRISED BY THE FUND

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

SECTION 6. TRUSTEE MANAGEMENT

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines, which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing that persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims, except that:

(a). Securities or other obligations of the Grantor, or any owner of the [facility or facilities] or any of their affiliates, as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(b). The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c). The Trustee is authorized to hold cash awaiting investment or distribution, uninvested for a reasonable time and without liability for the payment of interest thereon.

SECTION 7. COMMINGLING AND INVESTMENT

The Trustee is expressly authorized, at its discretion:

(a). To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b). To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1, et seq., including one which may be created, managed, or underwritten, or one to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares at its discretion.

SECTION 8. EXPRESS POWERS OF TRUSTEE

Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a). To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b). To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c). To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all securities are part of the Fund;

(d). To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e). To compromise or otherwise adjust all claims in favor of, or against, the Fund.

SECTION 9. TAXES AND EXPENSES

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and other proper charges and disbursements of the Trustee, shall be paid from the Fund.

SECTION 10. ANNUAL VALUATION

The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the administrative authority a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee, within 90 days after the statement has been furnished to the Grantor and the administrative authority, shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

SECTION 11. ADVICE OF COUNSEL

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

SECTION 12. TRUSTEE COMPENSATION

The Trustee shall be entitled to reasonable compensation for its services, as agreed upon in writing from time to time with the Grantor.

SECTION 13. SUCCESSOR TRUSTEE

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall, in writing, specify to the Grantor, the administrative authority, and the present Trustee, by certified mail 10 days before such change becomes effective, the date on which it assumes administration of the trust. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

SECTION 14. NSTRUCTIONS TO THE TRUSTEE

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by the persons designated in the attached Exhibit A or such other persons as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the administrative authority to the Trustee shall be in writing and signed by the administrative authority. The Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or termination of the authority of any person to act on behalf of the Grantor or administrative authority hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or administrative authority, except as provided for herein.

SECTION 15. NOTICE OF NONPAYMENT

The Trustee shall notify the Grantor and the administrative authority, by certified mail, within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

SECTION 16. AMENDMENT OF AGREEMENT

This Agreement may be amended by an instrument, in writing, executed by the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist.

SECTION 17. IRREVOCABILITY AND TERMINATION

Subject to the right of the parties to amend this Agreement, as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

SECTION 18. IMMUNITY AND INDEMNIFICATION

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any direction by the Grantor or the administrative authority issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all reasonable expenses incurred in its defense in the event that the Grantor fails to provide such defense.

SECTION 19. CHOICE OF LAW

This Agreement shall be administered, construed, and enforced according to the laws of the state of Louisiana.

SECTION 20. INTERPRETATION

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers duly authorized [and their corporate seals to be hereunto affixed] and attested to as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in LAC 33:VII.1303.C.9, on the date first written above.

WITNESSES: GRANTOR:

_____ _____

_____ By:_____

Its:_____

[Seal]

TRUSTEE:

_____

By:_____

Its:_____

[Seal]

THUS DONE AND PASSED in my office in _____, on the _____ day of _____, 20 _____, in the presence of _____ and _____, competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after reading the whole.

_____

Notary Public

## Appendix E

SOLID WASTE FACILITY FINANCIAL GUARANTEE BOND

Date bond was executed:_____

Effective date:_____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:_____

Surety: [name and business address]

[site identification number, site name, facility name, facility permit number and current closure and/or post-closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: $_____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the solid waste facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the *Louisiana Administrative Code*, Title 33, Part VII, when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of the facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

OR, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to close is issued by the administrative authority or a court of competent jurisdiction,

OR, if the Principal shall provide alternate financial assurance as specified in LAC 33:VII.1303.A and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification or amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:VII.1303.A, and the conditions of the solid waste facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in LAC 33:VII. 1303.D.8, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETIES

[Name and Address]

State of incorporation:_____

Liability limit:_____

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[This information must be provided for each cosurety]

Bond Premium: $_____

## Appendix F

SOLID WASTE FACILITY PERFORMANCE BOND

Date bond was executed:_____

Effective date:_____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:_____

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility permit number, facility address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond (indicate closure and/or post-closure costs separately)]

Total penal sum of bond: $_____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the solid waste facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

AND, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in the *Louisiana Administrative Code* (LAC) Title 33, Part VII, Section 1303.A and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of LAC 33:VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has been found in violation of the post-closure requirements of LAC 33:VII, or of its permit for the facility for which this bond guarantees performance of post-closure, the Surety shall either perform post-closure in accordance with the closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33:VII.1303.A and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permit, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:VII.1303.A and the conditions of the solid waste facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in LAC 33:VII.1303.E.8, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETY

[Name and address]
State of incorporation:_____
Liability limit: $_____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: $_____

## Appendix G

SOLID WASTE FACILITY IRREVOCABLE
LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 82231
Baton Rouge, Louisiana 70804-2231

Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in favor of the Department of Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the [closure and/or post-closure] fund for its [list site identification number, site name, facility name, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars $_____ upon presentation of:

1. A sight draft, bearing reference to the Letter of Credit No. _____ drawn by the administrative authority, together with;

2. A statement, signed by the administrative authority, declaring that the amount of the draft is payable into the standby trust fund pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001, et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the Uniform Customs and Practice for Documentary Letters of Credit (1983), International Chamber of Commerce Publication No. 400, shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.1303.F.8, effective on the date shown immediately below.

[Signature(s) and title(s) of
official(s) of issuing
institution(s)]

[date]

## Appendix H

SOLID WASTE FACILITY CERTIFICATE OF INSURANCE
FOR CLOSURE AND/OR POST-CLOSURE CARE

Name and Address of
Insurer:_____(hereinafter called the "Insurer")
Name and Address of
Insured:_____(hereinafter called the "Insured")
(Note: Insured must be the permit holder or applicant)

Facilities covered: [list the site identification number, site name, facility name, facility permit number, address, and amount of insurance for closure and/or post-closure care] (These amounts for all facilities must total the face amount shown below.)

Face Amount: _____
Policy Number: _____
Effective Date: _____

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for [insert "closure and/or post-closure care"] for the facilities identified above. The Insurer further warrants that such policy conforms in all respects to the requirements of LAC 33:VII.1303.A, as applicable, and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the administrative authority, the Insurer agrees to furnish to the administrative authority a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the Insurer is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana and that the wording of this certificate is identical to the wording

specified in LAC 33:VII.1303.G.10, effective on the date shown immediately below.

[Authorized signature of Insurer]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:_____

[Date]

## Appendix I

SOLID WASTE FACILITY LETTER FROM THE CHIEF FINANCIAL OFFICER

(Liability Coverage, Closure, and/or Post-Closure)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 82231
Baton Rouge, Louisiana 70884-2231

Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

I am the chief financial officer of [name and address of firm, which may be either the permit holder, applicant, or parent corporation of the permit holder or applicant]. This letter is in support of this firm's use of the financial test to demonstrate financial responsibility for [insert "liability coverage," "closure," and/or "post-closure," as applicable] as specified in [insert "LAC 33:VII.1301.A," "LAC 33:VII.1303.A," or LAC 33:VII.1301.A and 1303.A"].

[Fill out the following four paragraphs regarding facilities and associated liability coverage, and closure and post-closure cost estimates. If your firm does not have facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, list the site identification number, site name, facility name, and facility permit number.]

1. The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following solid waste facilities, whether in Louisiana or not, for which liability coverage is being demonstrated through the financial test specified in LAC 33:VII.1301.A. The amount of annual aggregate liability coverage covered by the test is shown for each facility:

2. The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following solid waste facilities, whether in Louisiana or not, for which financial assurance for [insert "closure," "post-closure," or "closure and post-closure"] is demonstrated through a financial test similar to that specified in LAC 33:VII.1303.A or other forms of self-insurance. The current [insert "closure," "post-closure," or "closure and post-closure"] cost estimates covered by the test are shown for each facility:

3. This firm guarantees through a corporate guarantee similar to that specified in [insert "LAC 33:VII.1303.A," or "LAC 33:VII.1301.A and 1303.A"], [insert "liability coverage," "closure," "post-closure," or "closure and post-closure"] care of the following solid waste facilities, whether in Louisiana or not, of which [insert the name of the permit holder or applicant] are/is a subsidiary of this firm. The amount of annual aggregate liability coverage covered by the guarantee for each facility and/or the current cost estimates for the closure and/or post-closure care so guaranteed is shown for each facility:

4. This firm is the owner or operator of the following solid waste facilities, whether in Louisiana or not, for which financial assurance for liability coverage, closure and/or post-closure care is not demonstrated either to the U.S. Environmental Protection Agency or to a state through a financial test or any other financial assurance mechanism similar to those specified in LAC 33:VII.1301.A and/or 1303.A. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility:

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

PART A. LIABILITY COVERAGE FOR ACCIDENTAL OCCURRENCES

[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1 are used.]

ALTERNATIVE I

| | | |
|---|---|---|
| 1. Amount of annual aggregate liability coverage to be demonstrated | $_____ | |
| *2. Current assets | $_____ | |
| *3. Current liabilities | $_____ | |
| *4. Tangible net worth | $_____ | |
| *5. If less than 90 percent of assets are located in the U.S., give total U.S. assets | $_____ | |
| | YES | NO |
| 6. Is line 4 at least $10 million? | ____ | ____ |
| 7. Is line 4 at least 6 times line 1? | ____ | ____ |
| *8. Are at least 90 percent of assets located in the U.S.? If not, complete line 9. | ____ | ____ |
| 9. Is line 4 at least 6 times line 1? | ____ | ____ |

[Fill in Alternative II if the criteria of LAC 33:VII. 1403.H.1.b are used.]

ALTERNATIVE II

| | | |
|---|---|---|
| 1. Amount of annual aggregate liability coverage to be demonstrated | $_____ | |
| 2. Current bond rating of most recent issuance of this firm and name of rating service | $_____ | |
| 3. Date of issuance of bond | $_____ | |
| 4. Date of maturity of bond | $_____ | |
| *5. Tangible net worth | $_____ | |
| *6. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.) | $_____ | |
| | YES | NO |
| 7. Is line 5 at least $10 million? | ____ | ____ |
| 8. Is line 5 at least 6 times line 1? | ____ | ____ |
| *9. Are at least 90 percent of assets located in the U.S.? If not, complete line 10. | ____ | ____ |
| 10. Is line 6 at least 6 times line 1? | ____ | ____ |

[Fill in Part B if you are using the financial test to demonstrate assurance only for closure and/or post-closure care.]

PART B. CLOSURE AND/OR POST CLOSURE

[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.]

ALTERNATIVE I

| | |
|---|---|
| 1. Sum of current closure and/or post-closure estimate (total all cost estimates shown above) | $_____ |
| *2. Tangible net worth | $_____ |
| *3. Net worth | $_____ |
| *4. Current Assets | $_____ |
| *5. Current liabilities | $_____ |

*6. The sum of net income plus depreciation, depletion, and amortization $_____

*7. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.) $_____

| | YES | NO |
|---|---|---|
| 8. Is line 2 at least $10 million? | ____ | ____ |
| 9. Is line 2 at least 6 times line 1? | ____ | ____ |
| *10. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 11. | ____ | ____ |
| 11. Is line 7 at least 6 times line 1? | ____ | ____ |

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

ALTERNATIVE II

1. Sum of current closure and post-closure cost estimates (total of all cost estimates shown above) $_____

2. Current bond rating of most recent issuance of this firm and name of rating service _____

3. Date of issuance of bond _____

4. Date of maturity of bond _____

*5. Tangible net worth (if any portion of the closure and/or post-closure cost estimate is included in "total liabilities" on your firm's financial statement, you may add the amount of that portion to this line) $_____

*6. Total assets in U.S. (required only if less than 90 percent of the firm's assets are located in the U.S.) $_____

| | YES | NO |
|---|---|---|
| 7. Is line 5 at least $10 million? | ____ | ____ |
| 8. Is line 5 at least 6 times line 1? | ____ | ____ |
| 9. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 10. | ____ | ____ |
| 10. Is line 6 at least 6 times line 1? | ____ | ____ |

[Fill in Part C if you are using the financial test to demonstrate assurance for liability coverage, closure, and/or post-closure care.]

PART C. LIABILITY COVERAGE, CLOSURE, AND/OR POST-CLOSURE

[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.]

ALTERNATIVE I

1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above) $_____

2. Amount of annual aggregate liability coverage to be demonstrat $_____

3. Sum of lines 1 and 2 $_____

*4. Total liabilities (If any portion of your closure and/or post-closure cost estimates is included in your "total liabilities" in your firm's financial statements, you may deduct that portion from this line and add that amount to lines 5 and 6.) $_____

*5. Tangible net worth $_____

*6. Net worth $_____

*7. Current assets $_____

*8. Current liabilities $_____

*9. The sum of net income plus depreciation, depletion, and amortization $_____

*10. Total assets in the U.S. (required only if less than 90 percent of assets are located in the U.S.) $_____

| | YES | NO |
|---|---|---|
| 11. Is line 5 at least $10 million? | ____ | ____ |
| 12. Is line 5 at least 6 times line 3? | ____ | ____ |
| *13. Are at least 90 percent of assets located in the U.S.? If not, complete line 14. | ____ | ____ |
| 14. Is line 10 at least 6 times line 3? | ____ | ____ |

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

ALTERNATIVE II

1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above) $_____

2. Amount of annual aggregate liability coverage to be demonstrated _____

3. Sum of lines 1 and 2 $_____

4. Current bond rating of most recent issuance of this firm and name of rating service $_____

5. Date of issuance of bond $_____

6. Date of maturity of bond $_____

*7. Tangible net worth (If any portion of the closure and/or post-closure cost estimates is included in the "total liabilities" in your firm's financial statements, you may add that portion to this line.) $_____

*8. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.) $_____

| | YES | NO |
|---|---|---|
| 9. Is line 7 at least $10 million? | ____ | ____ |
| 10. Is line 7 at least 6 times line 3? | ____ | ____ |
| *11. Are at least 90 percent of assets located in the U.S.? If not, complete line 12. | ____ | ____ |
| 12. Is line 8 at least 6 times line 3? | ____ | ____ |

(The following is to be completed by all firms providing the financial test)

I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:VII.1303.H.4.e.

[Signature of chief financial officer for the firm]

[Typed name of chief financial officer]

[Title]

[Date]

## Appendix J

SOLID WASTE FACILITY CORPORATE GUARANTEE FOR LIABILITY COVERAGE, CLOSURE, AND/OR POST-CLOSURE CARE

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the state of [insert name of state], hereinafter referred to as guarantor, to the Louisiana Department of Environmental Quality, obligee, on behalf of our subsidiary [insert the name of the permit holder or applicant] of [business address].

Recitals

1. The guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in the *Louisiana Administrative Code* (LAC), Title 33, Part VII, Section 1303.H.9.

2. [Subsidiary] is the [insert "permit holder," or "applicant for a permit"] hereinafter referred to as [insert "permit holder" or

"applicant"] for the following solid waste facility covered by this guarantee: [List the site identification number, site name, facility name, and facility permit number. Indicate for each facility whether guarantee is for liability coverage, closure, and/or post-closure and the amount of annual aggregate liability coverage, closure, and/or post-closure costs covered by the guarantee]

[Fill in Paragraphs 3 and 4 below if the guarantee is for closure and/or post-closure.]

3. "Closure plans" as used below refers to the plans maintained as required by LAC 33:VII, for the closure and/or post-closure care of the facility identified in Paragraph 2 above.

4. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to the Louisiana Department of Environmental Quality that in the event that [insert "permit holder" or "applicant"] fails to perform [insert "closure," "post-closure care," or "closure and post-closure care"] of the above facility in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor shall do so or shall establish a trust fund as specified in LAC 33:VII.1303.C, as applicable, in the name of [insert "permit holder" or "applicant"] in the amount of the current closure and/or post-closure estimates, as specified in LAC 33:VII.1303.A.

[Fill in Paragraph 5 below if the guarantee is for liability coverage.]

5. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to any and all third parties who have sustained or may sustain bodily injury or property damage caused by sudden and accidental occurrences arising from operations of the facility covered by this guarantee that in the event that [insert "permit holder" or "applicant"] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences arising from the operation of the above-named facilities, or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor will satisfy such judgment(s), award(s), or settlement agreement(s) up to the coverage limits identified above.

6. The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the administrative authority and to [insert "permit holder" or "applicant"] that he intends to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301.A" and/or "LAC 33:VII.1303.A"], as applicable, in the name of the [insert "permit holder" or "applicant"], within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [insert "permit holder" or "applicant"] has done so.

7. The guarantor agrees to notify the administrative authority, by certified mail, of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

8. The guarantor agrees that within 30 days after being notified by the administrative authority of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of [insert "liability coverage" or "closure and/or post-closure care"] he shall establish alternate financial assurance as specified in [insert "LAC 33:VII.1301.A" and/or "LAC 33:VII.1303.A"], as applicable, in the name of [insert "permit holder" or "applicant"], unless [insert "permit holder" or "applicant"] has done so.

9. The guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: [if the guarantee is for closure and post-closure insert "amendment or modification of the closure and/or post-closure care, the extension or reduction of the time of performance of closure and/or post-closure"] or any other modification or alteration of an obligation of the [insert "permit holder" or "applicant"] pursuant to LAC 33:VII.

10. The guarantor agrees to remain bound under this guarantee for as long as the [insert "permit holder" or "applicant"] must comply with the applicable financial assurance requirements of [insert "LAC 33:VII.1301.A" and/or "LAC 33:VII.1303.A"] for the above-listed facility, except that guarantor may cancel this guarantee by sending notice by certified mail, to the administrative authority and to the [insert "permit holder" or "applicant"], such cancellation to become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the [insert "permit holder" or "applicant"], as evidenced by the return receipts.

11. The guarantor agrees that if the [insert "permit holder" or "applicant"] fails to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301.A" and/or "LAC 33:VII.1303.A"], as applicable, and obtain written approval of such assurance from the administrative authority within 60 days after a notice of cancellation by the guarantor is received by the administrative authority from guarantor, guarantor shall provide such alternate financial assurance in the name of the [insert "permit holder" or "applicant"].

12. The guarantor expressly waives notice of acceptance of this guarantee by the administrative authority or by the [insert "permit holder" or "applicant"]. Guarantor expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in LAC 33:VII.1303.H.9.l, effective on the date first above written.

Effective date:_____

[Name of Guarantor]

[Authorized signature for guarantor]

[Typed name and title of person signing]

Thus sworn and signed before me this [date].

## Chapter 14. Statewide Beautification

### §1401. Purpose

A. It is declared to be the purpose of these rules and regulations to:

1. control and reduce litter; and

2. create a statewide beautification program to enhance the tourist, recreational, and economic development of the state.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2521 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

### §1403. Definitions

A. The following words, terms, and phrases, when used in conjunction with LAC 33:VII. Subpart 1, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning:

*Commission*—the Louisiana Litter Reduction and Public Action Commission.

*Dump*—to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

*Litter*—all waste material, except as provided and defined in R.S. 30:2173(2), including but not limited to, disposable packages, containers, sand, gravel, rubbish, cans, bottles, refuse, garbage, trash, debris, dead animals, furniture or appliances, automotive parts including, but not limited to, tires and engines, trailers, boats and boating accessories, tools and equipment, and building materials, or other discarded materials of any kind and description. Litter shall

not include agricultural products that are being transported from the harvest or collection site to a processing or market site if reasonable measures are taken to prevent the agricultural product from leaving the transporting vehicle. Litter shall also not include recyclable cardboard being transported in compressed bundles to processing facilities. *Agricultural product*, as used in this definition, means all crops, livestock, poultry, and forestry; and all aquacultural, floracultural, horticultural, silvicultural, and viticultural products.

*Local Governing Authority*—the governing authority of the parish or the governing authority of the municipality in which the littering offense was committed.

*Public or Private Property*—the right-of-way of any road or highway, levee, any body of water or watercourse or the shores or beaches thereof, any park, playground, building, refuge, or conservation or recreation area, and residential or farm properties, timberland, or forests.

*Section*—the Litter Reduction and Public Action Section located within and acting through the Office of Environmental Services of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2522 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§1405. Louisiana Litter Abatement Program**

A. The purpose of the Louisiana Litter Abatement Program shall be to support the community-based litter abatement programs.

B. Program Award

1. Program awards shall be made available to local governments and nonprofit organizations.

2. Funding through the program shall be subject to the availability of funds.

3. All requests for awards shall be made in writing on a form provided by the department to the Litter Reduction and Public Action Section of the Office of Environmental Services.

4. The monies awarded through the award shall be used to further the administration and execution of the Keep Louisiana Beautiful Program. Allowable uses of award funding shall include, but not be limited to:

a. Keep America Beautiful fees;

b. Keep America Beautiful precertification training, education curriculums, and workshops;

c. law enforcement seminars;

d. litter surveys;

e. projects, services, activities, and operational costs of litter abatement programs;

f. materials and services for program development and training;

g. direct expenditures for materials that can facilitate litter reduction, recycling, waste reduction, reuse, and general solid waste management programs;

h. minimal advertising, public relations, and promotional materials necessary for publicity and promotion of program activities; and

i. salary of the program coordinator.

5. Each successful applicant shall supplement award funds with a 25 percent match from other sources. All matching funds must be available to the program after the date of the program award, and funds spent prior to the program award shall not be considered eligible in fulfilling the match requirement.

6. Awards shall be awarded based on a comparative basis as determined by the Litter Reduction and Public Action Section of the Office of Environmental Services.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2524 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

## Chapter 15. Solid Waste Fees

**§1501. Standard Permit Application Review Fee**

A. Applicants for Type I, I-A, II, and II-A standard permits shall pay a $2,500 permit application review fee for each facility, and the fee shall accompany each permit application submitted.

B. Applicants for Type III standard permits or beneficial-use permits shall pay a permit application review fee of $500 for each facility, and the fee shall accompany each permit application submitted.

C. Permit holders providing permit modifications for Type I, I-A, II, and II-A facilities shall pay a $1,000 permit-modification review fee, and the fee shall accompany each modification submitted. Permit holders providing mandatory modifications in response to these regulations shall pay a $500 permit-modification fee, and the fee shall accompany each mandatory modification submitted. Permit modifications required by LAC 33:VII.805.A. will not be subject to a permit modification fee.

D. Permit holders providing permit modifications for Type III facilities or beneficial-use facilities shall pay a $250 permit-modification review fee, and the fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§1503. Closure Plan Review Fee**

A. Applicants for Type I, I-A, II, and II-A closures shall pay a $1,000 closure-plan review fee, and the fee shall accompany each closure plan submitted.

B. Applicants for Type III or beneficial-use facilities closures shall pay a $250 closure-plan review fee, and the fee shall accompany each closure plan submitted.

C. Permit holders providing closure-plan modifications for Type I, I-A, II, and II-A facilities shall pay a $500 closure-plan modification review fee, and the fee shall accompany each modification submitted.

D. Permit holders providing closure-plan modifications for Type III or beneficial-use facilities shall pay a $125 closure-plan modification review fee, and the fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

**§1505. Annual Monitoring and Maintenance Fee**

A. An initial fee is charged for the processing of transporter notifications. The fee shall be calculated by the following formula:Initial Fee per Notification + Fee Based on Each Vehicle Owned by the Transporter = Notification Fee.

No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing. Fees are as follows:

1. initial fee: $100; and
2. fee per vehicle: $ 25.

B. All holders of permits for solid waste processing and/or disposal facilities that have not completed closure, including post-closure activities, in accordance with an approved plan, shall be charged an annual monitoring and maintenance fee for each permit. This annual monitoring and maintenance fee shall be calculated by the following formula: Base Fee per Permit + Fee Based on Tonnage = Annual Monitoring and Maintenance Fee.

1. Base fees are as follows:

a. $6,000 for Type I facilities (including facilities that handle both industrial and nonindustrial waste);

b. $1,500 for Type II facilities; and

c. $500 for Type I-A, II-A, III, and beneficial-use facilities.

2. Tonnage fees will be based on the wet-weight tonnage, as reported in the previous year's disposer annual report, and are calculated as follows:

a. for industrial wastes (Type I facilities, except surface impoundments), $0.60/ton;

b. for nonindustrial wastes (Type II facilities, except surface impoundments), $0.15/ton for amounts exceeding 75,000 tons;

c. for surface impoundments, no tonnage fee;

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

e. for Type I-A, II-A, III, and beneficial-use facilities, no tonnage fee.

3. The maximum annual monitoring and maintenance fee per facility for Type I facilities (including facilities that handle both industrial and nonindustrial solid wastes) is $80,000; the maximum fee per facility for Type II facilities is $20,000 (surface impoundments, as noted above, are assessed only the base fee).

C. The annual monitoring and maintenance period shall be from July 1 through June 30, commencing upon promulgation of these regulations and terminating upon completion of closure or post-closure activities for the facility in accordance with the permit of the administrative authority. The annual monitoring and maintenance fee for facilities during post closure shall be 25 percent of the applicable base fee in Paragraph B.1 of this Section.

D. Fee payment shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice.

E. Late Payment Fee. Payments not received within 15 days of the due date will be charged a late payment fee. Any late payment fee shall be calculated from the due date indicated on the invoice.

1. Payments not received by the department by the fifteenth day from the due date will be assessed a five percent late payment fee on the original assessed fee.

2. Payments not received by the department by the thirtieth day from the due date will be assessed an additional five percent late payment fee on the original assessed fee.

3. Payments not received by the department by the sixtieth day from the due date will be assessed an additional five percent late payment fee on the original assessed fee.

F. Failure to pay the prescribed application fee or annual fee as provided herein, within 90 days after the due date, will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

G. The annual fees prescribed herein shall be effective, retroactively, for the state fiscal year in which these fee regulations are published in the *Louisiana Register* as adopted and each state fiscal year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

A public hearing will be held on April 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by SW031. Such comments must be received no later than May 1, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to patsyd@deq.state.la.us. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of SW031.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at http://www.deq.state.la.us/planning/regs /index.htm.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Reorganization of Solid Waste Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule change may, initially, increase paperwork to incorporate changes in forms and the overall review format of a permit. The cost to perform these changes will be managed from funds that are currently in place.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Funding for the implementation of this proposed rule change will be managed from the current budget.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Permittees may see a slight decrease in permit application preparation costs in the future by constructing their own permits. However, consulting firms may experience some economic benefit when the rule takes effect because of reformatting of permits that are submitted after the promulgation date of these regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not experience any effect from the implementation of this proposed rule.

James H. Brent, Ph.D.
Assistant Secretary
0203#050

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor**
**Office of Indian Affairs**

American Indian Prestige License Plates (LAC 55:III.325)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 47:463.78 et seq., the Office of Indian Affairs hereby adopts the following rule to implement the provisions of Act 1254, the American Indian Prestige License Plate and the disbursement of funds thereof.

**Title 55**
**PUBLIC SAFETY**
**Part III. Motor Vehicles**
**Chapter 3. License Plates**
**Subchapter A. Types of License Plates**
**§325. American Indian Prestige License Plates**

A. Application. All applications for the American Indian prestige license plates shall be issued upon application by any citizen of Louisiana in the same manner as any other motor vehicle license plate and shall be established only after one hundred applications for the plate have been received.

B. Fee. The fee for the American Indian prestige license shall be $25 which shall be assessed every two years in addition to the standard motor vehicle registration license fee and a handling fee of $3.50, which shall be retained by the department to offset a portion of the administrative costs. The monies received from the additional $25 donation shall be used solely for academic or financial need-based scholarships for students of American Indian ancestry.

C. Criteria for Scholarship Program

1. Supplemental monies are awarded to Indian students who are enrolled members of one of the following Louisiana tribes and/or groups:

a. Adais Caddo Tribe—Robeline, LA;
b. Chitimacha Tribe—Charenton, LA;
c. Choctaw-Apache Tribe of Ebarb—Zwolle, LA;
d. Clifton Choctaw—Clifton, LA;
e. Coushatta Tribe—Elton, LA;
f. Four Winds Cherokee—Leesville, LA;
g. Jena Band of Choctaw—Jena, LA;
h. Tunica Biloxi—Marksville, LA;
i. United Houma Nation—Golden Meadow, LA;
j. Biloxi Chitimacha Conf. Muskogee—Houma, LA;
k. Pointe-Au-Chien—Pointe Aux Chenes, LA;
l. Talamali Band of Apalachee—Libuse, LA.

2. Applications will be reviewed on a competitive basis and the Review Committee will base selections on the following criteria:

a. financial need—includes the number of family members, family income, background and economic status of the family and the cost of attending the institution;

b. heritage—parent(s) from a Louisiana tribe listed above;

c. academic achievement—includes factors such as grade point average, honors or awards that indicate responsible thoughtful commitment to studies;

d. community service—includes all service or involvement with the local, state or national community that is not a part of school activities;

e. school activities—includes evidence of involvement in a variety of interests and commitments to the school community. Includes elected or appointed positions held in school, community and work-related areas;

f. essay—include a 500-700 word essay on your financial need.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.78.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Indian Affairs, LR 28:

All interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than April 25, 2002, and should be submitted to Pat Arnould, Office of Indian Affairs, P.O. Box 94004, Baton Rouge, LA 70804.

Pat Arnould
Deputy Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: American Indian Prestige License Plates**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of this proposed rule will have no impact on the agency's costs. Any costs incurred in administering this program will be absorbed by the agency within its existing operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of the proposed rule wil have the effect of increasing state general fund revenue, Transportation

Trust Fund, and Highway Fund #2 revenues for license plates sold.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated economic benefits would be to scholarship recipients who would have additional funds for their higher education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated the these scholarship funds will benefit these recipients in receiving an education and will assist these persons in obtaining future employment.

Pat Arnould
Deputy Director
0203#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals
### Office of the Secretary
### Bureau of Community Supports and Services

Home and Community Based Services Waiver Program
Children's Choice—Non-Crisis Provisions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services proposes to adopt the following Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopted a Rule implementing a new Home and Community Based Services waiver called Children's Choice which was designed to provide an alternative to the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver (*Louisiana Register*, volume 26, number 12). Children's Choice provides supplemental services, limited to $7,500 per year per child for waiver services, to children with developmental disabilities who live with their families. Waiver recipients also receive all medical services covered by Medicaid, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services. Families of children whose names are on the MR/DD Waiver request for services registry (formally known as the MR/DD Waiver waiting list) may choose to either apply for Children's Choice or have the child remain on the MR/DD registry.

The department subsequently adopted provisions for additional supports outside of the $7,500 limit on waiver service expenditures should certain catastrophic events occur after a child has been found eligible for Children's Choice (*Louisiana Register*, volume 27, number 7).

As a result of a lawsuit stipulation, the department agreed to allow recipients of Children's Choice Waiver services to restore their name to the request for services registry for the MR/DD Waiver when certain non crisis "good cause" provisions are met. In a continuing effort to address the concerns of families who will consider choosing Children's Choice, the department now proposes to adopt the non-crisis "good cause" provisions for restoration to the MR/DD request for services registry.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. The proposed rule will allow recipients of Children's Choice Waiver services to restore their name to the MR/DD Waiver request for services registry for circumstances other than the crisis designation.

### Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services (BCSS) amends the December 20, 2000 Rule to adopt the following provisions governing the restoration of a Children's Choice Waiver recipient's name to the Mentally Retarded/Developmentally Disabled (MR/DD) request for services registry for non-crisis Agood cause@ circumstances.

**I. General Provisions**

A. Restoring the recipient to the MR/DD request for services registry under non-crisis "good cause" provisions will allow that individual to be placed in the next available waiver slot that will provide the appropriate services, provided the recipient is still eligible when a slot becomes available. The fact that the recipient is being restored to the request for services registry does not require that the department immediately offer him/her a waiver slot if all slots are filled or to make a slot available to this recipient for which another recipient is being evaluated, even though that other recipient was originally placed on the request for services registry on a later date. Waiver services will not be terminated as a result of a recipient's name being restored to the registry.

B. If another MR/DD waiver would provide the recipient with the services at issue, the department may place the recipient in any waiver that would provide the appropriate services.

C. In the event that the waiver eligibility, other than for the MR/DD waiver, of a person who elected or whose legal representative elected that they receive services under the Children's Choice Waiver is terminated based on inability to assure health and welfare of the waiver participant, the department will restore him/her to the request for services registry for the MR/DD Waiver in the date order of the original request.

D. If and when a new "capped" adult waiver is adopted, a Children's Choice participant aging out of that program will be evaluated for both the capped waiver and the MR/DD Waiver, and transferred to the waiver whose services are most appropriate for them at that time, with a right of appeal of the department's decision.

**II. Non-Crisis Provisions—Good Cause**

A. A person who has elected or whose legal representative has elected that they receive services under Children's Choice Waiver shall be allowed to restore his or her name to the request for services registry for the MR/DD Waiver in original date order, when they meet all of the following criteria:

1. he/she would benefit from the services that are available in the MR/DD Waiver, but are not actually available to him or her through their current waiver or through Medicaid State Plan services; and

2. he/she would qualify for those services under the standards utilized for approving and denying the services to the MR/DD Waiver participants; and

3. there has been a change in circumstances since his or her enrollment in the Children's Choice Waiver that causes these other services to be appropriate. The change does not have to be a change in the recipient's medical condition, but can include loss of in-home assistance through a caretaker's decision to take on or increase employment, or to obtain education or training for employment. (Note: The temporary absence of a caretaker due to a vacation is not considered "good cause".); and

4. the person's original request date for the MR/DD Waiver has been passed on the request for services registry.

**III. Determination Responsibilities and Appeals**

The BCSS shall have the responsibility for making the determinations as to the matters set forth above. Persons who have elected or whose legal representatives have elected that they receive services under the Children's Choice Waiver have the right to appeal any determination of the Department as to matters set forth above, under the regulations and procedures applicable to Medicaid fair hearings.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, 446 North Twelfth Street, Baton Rouge, LA 70802-4613. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, April 25, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Home and Community Based Services Waiver ProgramC Children's ChoiceC Non-Crisis Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for SFY 2001-02, 2002-03, and 2003-04. It is anticipated that $240 ($120 SGF and $120 FED) will be expended in SFY 2001-02 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not impact federal revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed Rule will not have estimable costs and/or economic benefits for directly affected persons or non-governmental groups. This proposed Rule establishes non-crisis provisions and criteria for Children's Choice waiver recipients' names to be restored to the MR/DD Wavier request for services registry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

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|---|---|
| Ben A. Bearden | H. Gordon Monk |
| Director | Staff Director |
| 0203#033 | Legislative Fiscal Office |

## NOTICE OF INTENT

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

Hospice (LAC 50:XV.Chapters 31-43)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following Rule as LAC 50:XV.Chapters 31-43 under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

This text is being adopted in order to provide the rules necessary to implement the provisions of Act 756 of the 2001 Regular Session of the Louisiana Legislature, R.S. 46:159.1, which requires the department to develop and implement a pilot project for hospice care under the Medicaid State Plan for persons who are eligible for Medicaid benefits.

Section 9505 of Public Law 99-272 amended Title XIX of the Social Security Act to permit states, at their option, to provide hospice care to individuals eligible for Medicaid. Although hospice care is an optional service under the Medicaid Program, states that do not cover hospice care must provide reimbursement in certain circumstances for specified services provided in conjunction with Medicare hospice care for Medicare/Medicaid eligible individuals who live in Medicaid reimbursed nursing facilities. In compliance with this regulation, the bureau currently reimburses in certain circumstances for such services. The department also proposes to repeal in its entirety the final Rule requiring Medicaid payment for services provided in conjunction with Medicare hospice care for Medicare/Medicaid-eligible individuals who live in Medicaid-reimbursed nursing facilities (*Louisiana Register*, volume 19, number 6). The text of that Rule will be repromulgated as part of the proposed Rule in order to be codified for inclusion in the *Louisiana Administrative Code* and insure continued Medicaid payment in such circumstances.

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 will improve the family functioning, stability, and autonomy as described in R.S. 49:972, since hospice care is an approach to the delivery of care with attention to the needs of terminally ill persons and their families, and since hospice care will help provide consumer choice and a means for recipients to exercise their autonomy over end-of-life issues.

## Title 50
## PUBLIC HEALTHC MEDICAL ASSISTANCE
## Part XV. Services for Special Populations
## Subpart 3. Hospice

### Chapter 31. General Provisions

#### §3101. Introduction

A. Hospice care is an alternative treatment approach that is based on a recognition that impending death requires a change from curative treatment to palliative care for the terminally ill patient and supporting family. Palliative care focuses on comfort care and the alleviation of physical, emotional and spiritual suffering. Instead of hospitalization, its focus is on maintaining the terminally ill patient at home with minimal disruptions in normal activities and with as much physical and emotional comfort as possible.

B. The bureau will implement a pilot project for hospice care under the Medicaid State Plan for persons who are eligible for Medicaid benefits. The pilot project will terminate two years after the effective date of this proposed rule unless the department, prior to the termination date, promulgates an additional rule to either continue the pilot project or to establish hospice care as an ongoing Medicaid service program. During the two-year period, the bureau will monitor and evaluate the pilot project on an ongoing basis in order to determine whether or not to extend it.

C. The bureau will continue to make Medicaid payments under certain circumstances for specified services provided in conjunction with Medicare hospice care for dually eligible individuals who reside in Medicaid reimbursed nursing facilities as provided in §4307 of this Subpart and in accordance with §1905(o)(3) of the Social Security Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

### Chapter 33. Provider Participation

#### §3301. Conditions for Participation

A. Coverage of Medicaid hospice care under the pilot project shall be in accordance with 42 U.S.C. 1396d(o), the Medicare Hospice Program guidelines as set forth in 42 CFR Part 418, and §4305-4308.2 of the Federal Centers for Medicare and Medicaid Services' *State Medicaid Manual*, except in so far as they clearly conflict, in which case the *State Medicaid Manual* will be followed.

B. In order to participate in the pilot project, a hospice shall maintain compliance with the Medicare conditions of participation for hospices as set forth in 42 CFR Part 418.50-418.100 and shall have a valid Medicaid provider agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

### Chapter 35. Recipient Eligibility

#### §3501. Election of Hospice Care

A. In order to be eligible to elect hospice care under Medicaid, a recipient must be terminally ill. An individual is considered to be terminally ill if the individual has a medical prognosis that his or her life expectancy is six months or less if the illness runs its normal course.

B. An election statement must be filed with a particular hospice for the individual who meets the eligibility requirements as set forth in §3501.A above.

1. The election must be filed by the eligible individual or by a person authorized by law to consent to medical treatment for such individual.

2. For dually eligible recipients, hospice care must be elected for both the Medicaid and Medicare programs at once.

C. Duration (Periods). Subject to the conditions set forth in §3501, an individual may elect to receive hospice care during one or more of the following election periods:

1. an initial 90-day period;

2. subsequent 90-day period; and

3. subsequent periods of 60 days each. These periods require prior authorization as outlined in §4101 of these Rules.

D. Order of Election. The periods of care are available in the order listed and may be used consecutively or at different times during the recipient's life span. The hospice interdisciplinary team shall help manage the patient's hospice election periods by continually assessing the patient's appropriateness for Medicaid hospice care, especially before the patient enters a new election period.

E. An individual may designate an effective date for the election period that begins with the first day of hospice care or any subsequent day of hospice care, but an individual may not designate an effective date that is earlier than the date that the election is made.

F. Loss of Remaining Days in Period. When a recipient revokes or is discharged alive during an election period, the recipient loses any remaining days in the election period.

G. Election Statement Requirements. The election statement must include:

1. identification of the particular hospice that will provide care to the individual;

2. the individual's or his/her representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the individual's terminal illness;

3. acknowledgment that certain Medicaid services, as set forth in §3503 are waived by the election;

4. the effective date of the election, which may be the first day of hospice care or a later date, but may be no earlier than the date of the election statement; and

5. the signature of the individual or his/her representative.

H. Duration of Election. An election to receive hospice care will be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual:

1. remains in the care of a hospice; and

2. does not revoke the election under the provisions of §3505.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:

#### §3503. Waiver of Payment for Other Services

A. For the duration of an election of hospice care, an individual waives all rights to Medicaid payments for:

1. hospice care provided by a hospice other than the hospice designated by the individual;

2. any Medicaid services that are related to the treatment of the terminal condition for which hospice care was elected or a related condition or that are equivalent to hospice care, except for services provided by:

a. the designated hospice;

b. another hospice under arrangements made by the designated hospice; and

c. the individual's attending physician if that physician is not an employee of the designated hospice or receiving compensation from the hospice for those services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

**§3505. Revoking the Election of Hospice Care/Discharge**

A. An individual or his/her representative may revoke the individual's election of hospice care for a particular election period at any time during an election period.

1. Required Statement of Revocation. To revoke the election of hospice care, the individual or his/her representative must file a statement with the hospice that includes:

a. a signed statement that the individual or his/her representative revokes the individual's election for Medicaid coverage of hospice care for the remainder of that election period;

b. the date that the revocation is to be effective. (An individual or his/her representative may not designate an effective date earlier than the date that the revocation is made.)

2. If a recipient is eligible for Medicare as well as Medicaid and elects hospice care, it must be revoked simultaneously under both programs.

3. Discharge

a. The hospice benefit is available only to individuals who are terminally ill; therefore, a hospice must discharge a patient if it discovers that the patient is not terminally ill.

b. Patients shall be discharged only in the circumstances as detailed in the Licensing Standards for Hospices (LAC 48:I.8229).

4. Service Availability upon Revocation or Discharge. An individual, upon discharge or revocation of the election of Medicaid coverage of hospice care for a particular election period:

a. is no longer covered under Medicaid for hospice care; and

b. resumes Medicaid coverage of the benefits waived as provided under §3503.

5. Re-Election of Hospice Benefits. If an election has been revoked in accordance with the provisions of this §2505 the individual or his/her representative may at any time file an election, in accordance with §3501, for any other election period that is still available to the individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

**§3507. Change of Designated Hospice**

A. An individual or his/her representative may change, once in each election period, the designation of the particular hospice from which hospice care will be received. The change of the designated hospice is not a revocation of the election for the period in which it is made. To change the designation of hospice programs, the individual or his/her representative must file, with the hospice from which care has been received and with the newly designated hospice, a statement that includes:

1. the name of the hospice from which the individual has received care and the name of the hospice from which he or she plans to receive care; and

2. the date the change is to be effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

## Chapter 37. Provider Requirements

**§3701. Requirements for Coverage**

A. To be covered, a Certification of Terminal Illness must be completed as set forth in §3703, the Election of Hospice Care Form must be completed in accordance with §3501, and a plan of care must be established in accordance with §3705. Prior authorization requirements stated in Chapter 41 of these rules are applicable to all election periods beyond the initial 90-day period and one subsequent 90-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

**§3703. Certification of Terminal Illness**

A. The hospice must obtain written certification of terminal illness for each of the periods listed in §3501.C, even if a single election continues in effect for two, three, or more periods.

1. Timing of Certification

a. These certifications may be comp leted no earlier than two weeks before the beginning of each election period.

b. For the first 90-day period of hospice coverage, the hospice must obtain, no later than two calendar days after hospice care is initiated (that is, by the end of the third calendar day), certification of the terminal illness. If written certification is not obtained within two calendar days following the initiation of hospice care, a verbal certification must be made within two calendar days following the initiation of hospice care, with a written certification obtained before billing for hospice care. If these requirements are not met, no payment is made for the days prior to the certification. Instead, payment begins with the day of certification, i.e., the date verbal certification is obtained.

c. For the subsequent periods, a written certification must be on file in the recipient's record prior to the submission of a claim.

2. Content of Certification

a. The certification must specify that the individual's prognosis is for a life expectancy of six months or less if the terminal illness runs its normal course.

b. The certification of terminal illness shall be based on the physician's clinical judgment regarding the normal course of the individual's illness.

c. The written certification must include the signature(s) of the physician(s).

d. If verbal certification is made, the referral from the physician shall be received by a member of the hospice Interdisciplinary Group (IDG). The entry in the patient's clinical record of the verbal certification shall include at a minimum:

i. the patient's name;

ii. physician's name;

iii. terminal diagnosis(es);

iv. prognosis; and

v. the name and signature of the IDG member taking the referral.

3. Sources of Certification

a. For the initial 90-day period, the hospice must obtain written certification statements (and oral certification statements if required) as provided in §3703.A.1 from:

i. the hospice's medical director or physician member of the hospice's interdisciplinary group; and

ii. the individual's attending physician if the individual has an attending physician. The attending physician is a doctor of medicine or osteopathy and is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.

b. For subsequent periods, the only requirement is certification by either the medical director of the hospice or the physician member of the hospice interdisciplinary group.

4. Maintenance of Records. Hospice staff must make an appropriate entry in the patient's clinical record as soon as they receive an oral certification; and file written certifications in the clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:

**§3705. Plan of Care**

A. A written plan of care must be established and maintained for each individual admitted to a hospice program in accordance with the provisions set forth in the Licensing Standards for Hospices (LAC 48:I.Chapter 82), and the care provided to an individual must be consistent with the plan and be reasonable and necessary for the palliation or management of the terminal illness as well as related conditions.

B. The plan of care must be established before services are provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

**§3707. Record Keeping**

A. The hospice must maintain and retain the business and professional records sufficient to document fully and accurately the nature, scope, and details of the health care provided.

B. In accordance with the provisions set forth in the Licensing Standards for Hospices (LAC 48:I.Chapter 82), the hospice must establish and maintain a clinical record for every individual receiving care and services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28

**§3709. Self-Assessment**

A. In accordance with the provisions set forth in the Licensing Standards for Hospices (LAC 48:I.Chapter 82) the hospice must conduct an ongoing, comprehensive, integrated, self-assessment of the quality and appropriateness of care provided, including inpatient care, home care and care provided under arrangements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

**Chapter 39. Covered Services**

**§3901. Medical and Support Services**

A. Hospice is a package of medical and support services for the terminally ill individual. The following services are covered hospice services.

1. Nursing care provided by or under the supervision of a registered nurse.

2. Medical social services provided by a social worker who has at least a master's degree from a school of social work accredited by the Council on Social Work Education, and who is working under the direction of a physician.

3. Physicians' services performed by a physician (as defined in 42 CFR 410.20). In addition to palliation and management of the terminal illness and related conditions, physician employees of the hospice and physicians under contract to the hospice, including the physician member(s) of the interdisciplinary group, must also meet the general medical needs of the patients to the extent that these needs are not met by the attending physician. The medical director of the hospice is to assume overall responsibility for the medical component of the hospice's patient care program.

4. Counseling services must be available to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other care-giver to provide care, and for the purpose of helping the individual and those caring for him or her to adjust to the individual's approaching death. Counseling includes bereavement counseling, provided after the patient's death as well as dietary, spiritual and any other counseling services for the individual and family provided while the individual is enrolled in the hospice.

a. There must be an organized program for the provision of bereavement services under the supervision of a qualified professional. The plan of care for these services should reflect family needs, as well as a clear delineation of services to be provided and the frequency of service delivery (up to one year following the death of the patient).

i. Bereavement counseling is a required hospice service, but it is not reimbursable.

b. Dietary counseling, when required, must be provided by a qualified individual.

c. The hospice must make reasonable efforts to arrange for visits of clergy and other members of religious organizations in the community to patients who request such visits and must advise patients of this opportunity.

d. Additional counseling may be provided by other members of the interdisciplinary group as well as by other qualified professionals as determined by the hospice.

5. Short-term inpatient care provided in a participating hospice inpatient unit, or a participating hospital or nursing facility that additionally meets the special hospice standards regarding staffing and patient areas. Services provided in an inpatient setting must conform to the written plan of care. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

6. Medical appliances and supplies, including drugs and biologicals. Only drugs as defined in §1861(t) of the Social Security Act and which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered. Appliances may include covered durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness. Equipment is provided by the hospice for use in the patient's home while he or she is under hospice care. Medical supplies include those that are part of the written plan of care.

a. The hospice must have a policy for the disposal of controlled drugs maintained in the patient's home when those drugs are no longer needed by the patient.

b. Drugs and biologicals shall be administered only by a licensed nurse or physician, an employee who has completed a state-approved training program in medication administration, the patient if his or her attending physician has approved, or any other individual in accordance with applicable state and local laws. The persons and each drug and biological they are authorized to administer must be specified in the patient's plan of care.

7. Home Health Aide Services Furnished by Qualified Aides and Homemaker Services. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Aide services must be provided under the general supervision of a registered nurse. Written instructions for patient care are to be prepared by a registered nurse. A registered nurse must visit the home site at least every 14 days when aide services are being provided, and the visit must include an assessment of the aide services.

8. Physical therapy, occupational therapy and speech-language pathology services provided for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

9. Any other item or service which is included in the plan of care and for which payment may otherwise be made under Medicaid is a covered service. The hospice is responsible for providing any and all services indicated in the plan of care as necessary for the palliation and management of the terminal illness and related conditions.

10. Core Services

a. Nursing care, physicians' services, medical social services and counseling are core hospice services and must routinely be provided directly by hospice employees, except that physicians' services and counseling services may be provided through contract. Supplemental services may be contracted for during periods of peak patient loads and to obtain physician specialty services. The hospice may contract for a physician to be a member of the hospice's interdisciplinary group. Also, the hospice's Medical Director does not have to be an employee of the hospice. If contracting is used for any core services, professional, financial and administrative responsibility for the services must be maintained and regulatory qualification requirements of all staff must be assured.

b. If located in a non-urbanized area, a hospice may apply for a waiver of the core nursing, physical therapy, occupational therapy, speech language pathology, and dietary counseling requirements in accordance with 42 U.S.C. §1395x(dd).

11. Level of Care. Hospice care is divided into four categories of care rendered to the hospice patient.

a. Routine Home Care Day. A routine home care day is a day on which an individual who has elected to receive hospice care is at home and is not receiving continuous care.

b. Continuous Home Care Day. A continuous home care day is a day on which an individual who has elected to receive hospice care is not in an inpatient facility and receives hospice care consisting predominantly of nursing care on a continuous basis at home. Continuous home care is only furnished during brief periods of crisis and only as necessary to maintain the terminally ill patient at home.

i. If less skilled care is needed on a continuous basis to enable the person to remain at home, this is covered as routine home care.

ii. A period of crisis is a period in which a patient requires continuous care which is primarily nursing care to achieve palliation or management of acute medical symptoms. Nursing care must be provided by either a registered nurse or a licensed practical nurse and a nurse must be providing care for more than half of the period of care.

iii. A minimum of eight hours of care must be provided during a 24-hour day which begins and ends at midnight. This care need not be continuous, i.e., four hours could be provided in the morning and another four hours provided in the evening of that day.

iv. Homemaker and aide services may also be provided to supplement the nursing care.

c. Inpatient Respite Care Day. An inpatient respite care day is a day on which the individual receives care in an approved facility on a short-term basis to relieve the family members or other persons caring for the individual at home. An approved facility is one that meets the standards as provided in 42 CFR ' 418.98(b).

d. General Inpatient Care Day. A general inpatient care day is a day on which an individual receives general inpatient care in an inpatient facility that meets the standards

as provided in 42 CFR §418.98(a) and for the purpose of pain control or acute or chronic symptom management which cannot be managed in other settings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

## Chapter 41. Prior Authorization

### §4101. Prior Authorization of 60-day Periods

A. Prior authorization is not required for the initial 90-day election period or the subsequent 90-day election period. However, prior authorization is required for all subsequent 60-day election periods as specified in §3501.C of this Subpart. The prognosis of terminal illness will be reviewed. A patient must have a terminal prognosis and not just certification of terminal illness. Authorization will be made on the basis that a patient is terminally ill as defined in federal regulations. These regulations require certification of the patient's prognosis, rather than diagnosis. Authorization will be based on objective clinical evidence contained in the clinical record about the patient's condition and not simply on the patient's diagnosis.

B. Written Notice of Denial. In the case of a denial, a written notice of denial shall be submitted to the hospice.

C. Reconsideration and Appeals. If the hospice does not agree with the denial of a subsequent period the hospice can request an informal reconsideration by the intermediary. The hospice has 30 days from the date of denial on the denial letter to submit a written request for reconsideration of the initial denial. All appeals will be reviewed within 30 days from receipt of the written request. If the denial is upheld upon reconsideration and the hospice disagrees with the decision, the hospice has the right to request a fair hearing with the department's Bureau of Appeals, which will be in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

## Chapter 43. Reimbursement

### §4301. General

A. With the exception of payment for physician services, Medicaid reimbursement for hospice care is made at one of four predetermined rates, as detailed in §4305, for each day in which a Medicaid recipient is under the care of the hospice. The four rates are prospective rates; there are no retroactive adjustments other than the limitation on payments for inpatient care. The rate paid for any particular day varies depending on the level of care furnished to the recipient. The limitation on payment for inpatient care is described in §4309.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

### §4303. Levels of Care for Payment

A. Routine Home Care. The routine home care rate is paid for each day the patient is under the care of the hospice and not receiving one of the other categories of hospice care. This rate is paid without regard to the volume or intensity of routine home care services provided on any given day and is also paid when the patient is receiving hospital care for a condition unrelated to the terminal condition. This rate is also paid in the following situations:

1. if the patient is in a hospital that is not contracted with the hospice; or

2. if the patient is receiving outpatient services in the hospital; or

3. for the day of discharge alive from general inpatient care or respite care level of care.

B. Continuous Home Care. Continuous home care is to be provided only during a period of crisis (see §3901.A.11.b). If less skilled care is needed on a continuous basis to enable the person to remain at home, this is covered as routine home care.

1. The continuous home care rate is divided by 24 hours in order to arrive at an hourly rate.

2. A minimum of eight hours must be provided.

3. For every hour or part of an hour of continuous care furnished, the hourly rate is paid for up to 24 hours a day.

C. Inpatient Respite Care. The inpatient respite care rate is paid for each day the recipient is in an approved inpatient facility and is receiving respite care (see §3901.A.11.c). Respite care may be provided only on an occasional basis and payment for respite care may be made for a maximum of five days at a time including the date of admission but not counting the date of discharge.

1. Payment for the sixth and any subsequent days is to be made at the routine home care rate.

2. Respite care may not be provided when the hospice patient is a nursing home resident.

D. General Inpatient Care. Payment at the inpatient rate is made when an individual receives general inpatient care in an inpatient facility for pain control or acute or chronic symptom management which cannot be managed in other settings. General inpatient care and nursing home or intermediate care facility for the mentally retarded room and board cannot be reimbursed for the same recipient on the same covered days of service.

1. For the day of discharge from an inpatient unit, the appropriate home care rate is to be paid unless the patient dies as an inpatient.

2. When the patient is deceased, the inpatient rate (general or respite) is to be paid for the discharge date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

### §4305. Hospice Payment Rates

A. The payment rates for each level of care will be those used under Part A of Title XVIII (Medicare), adjusted to disregard cost offsets attributable to Medicare coinsurance amounts. For routine home care, continuous home care, and inpatient respite care, only one rate is applicable for each day. For continuous home care, the amount of payment is determined based on the number of hours of continuous care furnished to the recipient on that day.

1. Local Adjustment of Payment Rates. The payment rates referred to in §4301 and this §4305 are adjusted for regional differences in wages. The bureau will compute the adjusted rate based on the geographic location at which the

service was furnished to allow for the differences in area wage levels, using the same method used under Part A of Title XVIII.

a. The hospice program shall submit claims for payment for hospice care only on the basis of the geographic location at which the services are furnished.

b. The nursing facility shall be considered an individual's home if the individual usually lives in the nursing facility.

2. Payment for Physician Services. The four basic payment rates for hospice care are designed to reimburse the hospice for the costs of all covered services related to the treatment of the recipient's terminal illness. This includes the administrative and general supervisory activities performed by physicians who are employees of or working under arrangements made with the hospice. These activities are generally performed by the physician serving as the medical director and the physician member of the hospice interdisciplinary group. Group activities include participation in the establishment of plans of care, supervision of care and services, periodic review and updating of plans of care, and establishment of governing policies. The costs for these services are included in the reimbursement rates for routine home care, continuous home care, and inpatient respite care.

a. The hospice is paid for other physicians' services, such as direct patient care services, furnished to individual patients by hospice employees and for physician services furnished under arrangements made by the hospice unless the patient care services were furnished on a volunteer basis.

b. The hospice is reimbursed in accordance with the usual Medicaid reimbursement policy for physicians' services. This reimbursement is in addition to the daily rates.

c. Physicians who are designated by recipients as the attending physician and who also volunteer services to the hospice are, as a result of their volunteer status, considered employees of the hospice in accordance with 42 CFR 418.3. All direct patient care services rendered by these physicians to hospice patients are hospice physician services, and are reimbursed in accordance with the procedures outlined in §4305.A.1. Physician services furnished on a volunteer basis are excluded from Medicaid reimbursement. The hospice may be reimbursed on behalf of a volunteer physician for specific services rendered which are not furnished on a volunteer basis (a physician may seek reimbursement for some services while furnishing other services on a volunteer basis). The hospice must have a liability to reimburse the physician for those physician services rendered. In determining which services are furnished on a volunteer basis and which services are not, a physician must treat Medicaid patients on the same basis as other patients in the hospice.

d. An independent attending physician is reimbursed in accordance with the usual Medicaid reimbursement methodology for physician services.

i. The only services billed by the attending physician are the physician's personal professional services. Costs for services such as lab or x-rays are not included on the attending physician's bill.

ii. Services provided by an independent attending physician must be coordinated with any direct care services provided by hospice physicians.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

**§4307. Payment for Long Term Care Residents**

A. Instead of any payment otherwise made with respect to the facility's services, the hospice program will be paid an additional amount on routine home care and continuous home care days to take into account the room and board furnished by the facility for a Medicaid recipient:

1. who is residing in a nursing facility or intermediate care facility for the mentally retarded (ICF-MR);

2. who would be eligible under the State Plan for nursing facility services or services in an ICF-MR if he or she had not elected to receive hospice care;

3. who has elected to receive hospice care; and

4. for whom the hospice program and the nursing facility or ICF-MR have entered into a written agreement in accordance with the provisions set forth in the Licensing Standards for Hospices (LAC 48:I.Chapter 82), under which the hospice program takes full responsibility for the professional management of the individual's hospice care and the facility agrees to provide room and board to the individual.

B. This amount is determined in accordance with the rates established under the Social Security Act §1902(a)(13)(B).

C. This rate is designed to cover "room and board" which includes performance of personal care services, including assistance in the activities of daily living, administration of medication, maintaining the cleanliness of the patient's environment, and supervision and assistance in the use of durable medical equipment and prescribed therapies.

D. The rate of reimbursement is 100 percent of the per diem rate that would have been paid to the facility for that recipient in that facility under the State Plan, except that any Patient Liability Income (PLI) determined by the bureau will be deducted from the payment amount. It is the responsibility of the nursing facility or ICF-MR to collect the recipient's PLI.

E. Under those circumstances, payment to the nursing facility is discontinued, and payment is made to the hospice, which must then reimburse the nursing facility for room and board.

F. This rate is in addition to the routine home care rate or the continuous home care rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:

**§4309. Limitation on Payments for Inpatient Care**

A. Payments to a hospice for inpatient care are limited according to the number of days of inpatient care furnished to Medicaid patients.

1. During the 12-month period beginning November 1 of each year and ending October 31, the aggregate number of inpatient days (both for general inpatient care and inpatient respite care) may not exceed 20 percent of the aggregate total number of days of hospice care provided to all Medicaid recipients during that same period.

2. Once each year at the end of the hospices' "cap period" the bureau calculates a limitation on payment for inpatient care to ensure that Medicaid payment is not made for days of inpatient care in excess of 20 percent of the total number of days of hospice care furnished to Medicaid patients.

a. Medicaid recipients afflicted with acquired immunodeficiency syndrome (AIDS) are included in the calculation of this inpatient care limitation.

b. Any excess reimbursement is refunded by the hospice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

**§4311. Coinsurance for Medicare**

A. For dually eligible recipients for whom Medicare is the primary payer for hospice services, Medicaid will also provide for payment of any coinsurance amounts imposed under §1813(a)(4) of the Social Security Act.

1. Drugs and Biologicals. The coinsurance amount for each prescription approximates 5 percent of the cost of the drug or biological to the hospice, determined in accordance with the drug copayment schedule established by the hospice, except that the coinsurance amount for each prescription may not exceed $5. The cost of the drug or biological may not exceed what a prudent buyer would pay in similar circumstances.

2. Respite Care. The coinsurance amount for each respite care day is equal to 5 percent of the payment made under Medicare for a respite care day. The amount of the individual's coinsurance liability for respite care during a hospice coinsurance period may not exceed the inpatient hospital deductible applicable for the year in which the hospice coinsurance period began.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

**§4313. Services Not Related to Terminal Illness**

A. Any covered Medicaid services not related to the treatment of the terminal condition for which hospice care was elected, that are provided during a hospice election period, are billed to the bureau for non-hospice Medicaid payment. Prior authorization is required for any covered Medicaid services not related to the treatment of the terminal condition if such prior authorization is required by the bureau for non-hospice recipients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

Implementation of this Rule shall be subject to the approval of the federal Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, April 25, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Hospice**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will decrease state program costs by approximately $64,270 for SFY 2002-03, $92,588 for SFY 2003-04, and $94,218 for SFY 2004-05. It is anticipated that $1,080 ($540 SGF and $540 FED) will be expended in SFY 2002-2003 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will decrease federal revenue collections by approximately $320,062 for SFY 2002-03, $356,053 for SFY 2003-04, and $365,587 for SFY 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will increase payments to providers of hospice care services, but will decrease payments overall to private providers of Medicaid services by $607,869 for SFY 2002-03, $626,105 for SFY 2003-04, and $644,888 for SFY 2004-05. These estimates are based on a cost avoidance of approximately $28 per day for each terminally ill that opts to receive services through the hospice program instead of traditional Medicaid services for the last six months of life.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will increase employment opportunities with hospice providers in order to serve the Medicaid patients (approximately 480) who elect hospice care.

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| Ben A. Bearden | H. Gordon Monk |
| Director | Staff Director |
| 0203#032 | Legislative Fiscal Office |

**NOTICE OF INTENT**

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

Private Hospitals **C** Outlier Payments

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established a reimbursement methodology for payments to disproportionate share hospitals for catastrophic costs associated with providing medically necessary services to children under 6 years of age. The reimbursement methodology also addresses payments to all acute care hospitals for catastrophic costs associated with providing medically necessary services to infants one year of age or under. An outlier payment was calculated on an individual case basis and paid at cost if covered charges for medically necessary services exceeded 200 percent of the prospective payment (*Louisiana Register*, volume 20, number 6). The June 20, 1994 Rule was subsequently amended to revise the qualification and calculation for outlier payments. To qualify for an outlier payment, the covered charges for the case must exceed both $150,000 and 200 percent of the prospective payment. Outlier cases qualifying under these criteria are reimbursed the marginal cost associated with the excess cost above the prospective payment amount (*Louisiana Register*, volume 22, number 2). The bureau now proposes to amend the February 20, 1996 Rule by changing the hospital-specific cost to charge ratio from the base period currently being utilized to a hospital-specific cost to charge ratio based on the hospital's cost report period ending in state fiscal year 2000 (July 1, 1999 through June 30, 2000). In addition, the bureau proposes to establish a deadline of six months subsequent to the date the claim is paid for receipt of the written request filing for outlier payments.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the February 20, 1996 Rule governing the reimbursement methodology and qualifications for outlier payments to disproportionate share hospitals for catastrophic costs associated with medically necessary services provided to children under six years of age and to acute care general hospitals for the catastrophic costs for medically necessary services provided to infants 1 year of age or under. The reimbursement methodology for calculating outlier payments for private hospitals is amended to change the hospital-specific cost to charge ratio from the base period currently being utilized to a hospital-specific cost to charge ratio based on the hospital's cost report period ending in state fiscal year (SFY) 2000 (July 1, 1999 through June 30, 2000). The cost to charge ratio for new hospitals and hospitals that did not provide Medicaid Neonatal Intensive Care Unit (NICU) services in SFY 2000 will be calculated based on the first full year cost reporting period that the hospital was open or that Medicaid NICU services were provided. In addition, a deadline of six months subsequent to the date the claim is paid is established for receipt of the written request filing for outlier payments.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed rule is scheduled for Thursday, April 25, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Private Hospitals C Outlier Payments**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease state program costs by approximately $35,231 for SFY 2001-02, $1,291,478 for SFY 2002-03, and $1,330,223 for SFY 2003-04. It is anticipated that $120 ($60 SGF and $60 FED) will be expended in SFY 2001-02 for the state's administrative expense for promulgation of this proposed rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately $83,714 for SFY 2001-02, $3,168,047 for SFY 2002-03, and $3,263,088 for SFY 2003-04.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will reduce the outlier payments to private hospitals through a revision in the reimbursement methodology for payments to disproportionate share hospitals for catastrophic costs associated with providing medically necessary services to children under six years of age. The reimbursement methodology also addresses payments to all acute care hospitals for catastrophic costs associated with providing medically necessary services to infants one year of age or under. This proposed rule will decrease reimbursement by approximately $119,065 for SFY 2001-02, $4,459,525 for SFY 2002-03, and $4,593,311 for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

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|---|---|
| Ben A. Bearden | H. Gordon Monk |
| Director | Staff Director |
| 0203#018 | Legislative Fiscal Office |

**NOTICE OF INTENT**

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

Nursing Facilities C Reimbursement Methodology
(LAC 50:VII.1301-1309)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:2742 and R.S. 46:153 and

pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule establishing a prospective reimbursement methodology for private nursing facilities (*Louisiana Register*, Volume 10, Number 6). The June 20, 1984 Rule was subsequently amended to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 6) and to adjust the percentile utilized for all cost components, except profit incentive, from the sixtieth to the sixty-second percentile (*Louisiana Register*, Volume 27, Number 12).

Act 694 of the 2001 Regular Session of the Louisiana Legislature mandated that the Department of Health and Hospitals establish a case-mix reimbursement methodology for nursing homes. In accordance with Act 694, the bureau now proposes to repeal the June 20, 1984 rule and establish a new reimbursement methodology based on a case-mix price-based reimbursement system for private and public nursing facilities.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the June 20, 1984 Rule and establishes a system of prospective payment for nursing facilities based on recipient care needs that incorporates acuity measurements as determined under the Resource Utilization Group III (RUG III) resident classification methodology. This system establishes a facility specific price for the Medicaid nursing facility residents served. It also provides for enhanced reimbursement for Medicaid residents who require skilled nursing services for an infectious disease and technology dependent care. Facilities may furnish any or all of these levels of care to residents. Every nursing facility must meet the requirements for participation in the Medicaid Program.

**Title 50**

**PUBLIC HEALTHC MEDICAL ASSISTANCE**

**Part VII. Long Term Care Services**

**Subpart 1. Nursing Facilities**

**Chapter 13. Reimbursement**

**§1301. Definitions**

*Administrative and Operating Cost Component*Cthe portion of the Medicaid daily rate that is attributable to the general administration and operation of a nursing facility.

*Base Resident-Weighted Median Costs and Prices*Cthe resident-weighted median costs and prices calculated in accordance with §1305 during rebase years.

*Capital Cost Component*Cthe portion of the Medicaid daily rate that is:

1. attributable to depreciation;
2. capital related interest;
3. rent;
4. lease and amortization expenses.

*Care Related Cost Component*Cthe portion of the Medicaid daily rate that is attributable to those costs indirectly related to providing clinical resident care services to Medicaid recipients.

*Case Mix*Ca measure of the intensity of care and services used by similar residents in a facility.

*Case-Mix Index*Ca numeric score within a specific range that identifies the relative resources used by similar residents and represents the average resource consumption across a population or sample.

*Cost Neutralization*Crefers to the process of removing cost variations associated with different levels of resident case mix. Neutralized cost is determined by dividing a facility's per diem direct care costs by the facility cost report period case-mix index.

*Direct Care Cost Component*Cthe portion of the Medicaid daily rate that is attributable to:

1. registered nurse (RN), licensed practical nurse (LPN) and nurse aide salaries and wages;
2. a proportionate allocation of allowable employee benefits; and
3. the direct allowable cost of acquiring RN, LPN and nurse aide staff from outside staffing companies.

*Facility Cost Report Period Case-Mix Index*Cthe average of quarterly facility-wide average case-mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the facility's cost reporting period that is used to determine the medians.

1. Example: a January 1, 2001 - December 31, 2001 cost report period would use the facility-wide average case-mix indices for quarters beginning January 1, 2001, April 1, 2001, July 1, 2001 and October 1, 2001.
2. When this system is implemented, if four quarters of acuity data are not available that coincide with the cost report period, a two quarter average of acuity data that most closely matches the cost reporting period will be used.

*Facility-Wide Average Case-Mix Index*Cthe simple average, carried to four decimal places, of all resident case-mix indices based on the first day of each calendar quarter.

*Index Factor*Cwill be based on the *Skilled Nursing Home without Capital Market Basket Index* published by Data Resources Incorporated (DRI-WEFA), or a comparable index if this index ceases to be published.

*Pass-Through Cost Component*Cincludes the cost of property taxes and property insurance.

*Rate Year*Ca one-year period from July 1 through June 30 of the next calendar year during which a particular set of rates are in effect. It corresponds to a state fiscal year.

*Resident-Day-Weighted Median Cost*Ca numerical value determined by arraying the per diem costs and total actual resident days of each nursing facility from low to high and identifying the point in the array at which the cumulative total of all resident days first equals or exceeds half the number of the total resident days for all nursing facilities. The per diem cost at this point is the resident-day-weighted median cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

**§1303. Cost Reports**

A. Nursing facility providers under Title XIX are required to file annual cost reports as follows.

1. Providers of nursing facility level of care are required to report all reasonable and allowable cost on a regular nursing facility cost report. Effective for periods ending on or after June 30, 2002, the regular nursing facility cost report will be the skilled nursing facility cost report adopted by the Medicare program. This cost report is frequently referred to as the Health Care Financing Administration (HCFA) 2540.

2. In addition to filing the Medicare cost report, nursing facility providers must also file supplemental schedules designated by the bureau.

3. Providers of skilled nursing-infectious disease (SN-ID) and skilled nursing-technology dependent care (SN-TDC) services must file additional supplemental schedules designated by the bureau documenting the incremental cost of providing SN-ID and SN-TDC services to Medicaid recipients.

4. Separate cost reports must be submitted by central/home offices when costs of the central/home office are reported in the facility's cost report.

B. Cost reports must be prepared in accordance with the cost reporting instructions adopted by the Medicare Program using the definition of allowable and nonallowable cost contained in the Medicare/Medicaid provider reimbursement manual, with the following exceptions.

1. Cost reports must be submitted annually. The due date for filing annual cost reports is the first day of the fourth month following the facility's fiscal year end.

2. If the facility experiences unavoidable difficulties in preparing the cost report by the prescribed due date, a filing extension may be requested. A filing extension request must be submitted to the bureau prior to the cost report due date. Facility's filing a reasonable extension request will be granted an additional 60 days to file their cost report. Unreasonable or repeated extension requests will be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 , R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

**§1305. Rate Determination**

A. For dates of service on or after July 1, 2002, each nursing facility's daily rate shall be the day-weighted average rate of their skilled nursing (SN), intermediate care I (IC-I) and intermediate care II (IC-II) daily rates in effect on June 30, 2002 as adjusted by legislative appropriations for State Fiscal Year 2003. The days used to determine the day-weighted average rate shall be the Medicaid days (as desk reviewed or audited) on the cost report for cost reporting periods ending July 1, 2000 through June 30, 2001. The Medicaid days used shall exclude SN/ID and SN/TDC days.

B. For dates of service on or after January 1, 2003, the Medicaid daily rates shall be based on a case-mix price-based reimbursement system. Rates shall be calculated from cost report and other statistical data. Effective January 1, 2003, the cost data used in rate setting will be from cost reporting periods ending July 1, 2000 through June 30, 2001. Effective July 1, 2005, and every second year thereafter, the base resident-day-weighted median costs and prices shall be rebased using the most recently audited or desk reviewed cost reports that are available as of the April 1 prior to the July 1 rate setting. For rate periods between rebasing, an index factor shall be applied to the base resident-day weighted medians and prices.

C. Each facility's Medicaid daily rate is calculated as:

1. the sum of the facility's direct care and care related price;
2. the statewide administrative and operating price;
3. each facility's capital rate component;
4. each facility's pass-through rate component; and
5. the provider fee component.

D. Determination of Rate Components

1. Facility Specific Direct Care and Care Related Component. This portion of a facility's rate shall be determined as follows.

a. The per diem direct care cost for each nursing facility is determined by dividing the facility's direct care cost during the base year cost reporting period by the facility's actual total resident days during the cost reporting period. These costs shall be trended forward from the midpoint of the facility's base year cost report period to the midpoint of the rate year using the index factor. The per diem neutralized direct care cost is calculated by dividing each facility's direct care per diem cost by the facility cost report period case-mix index.

b. The per diem care related cost for each nursing facility is determined by dividing the facility's care related cost during the base year cost reporting period by the facility's actual total resident days during the base year cost reporting period. These costs shall be trended forward from the midpoint of the facility's base year cost report period to the midpoint of the rate year using the index factor.

c. The per diem neutralized direct care cost and the per diem care related cost is summed for each nursing facility. Each facility's per diem result is arrayed from low to high and the resident-day-weighted median cost is determined. Also for each facility, the percentage that each of these components represents of the total is determined.

d. The statewide direct care and care related price is established at 110 percent of the direct care and care related resident-day-weighted median cost.

e. The statewide direct care and care related floor is established at 90 percent of the direct care and care related resident-day-weighted median cost.

f. For each nursing facility, the statewide direct care and care related price shall be apportioned between the per diem direct care component and the per diem care related component using the facility-specific percentages determined in Subsection D.1.c of this §1305. On a quarterly basis, each facility's specific direct care component of the statewide price shall be multiplied by each nursing facility's average case-mix index for the prior quarter. Effective January 1, 2003 through June 30, 2005, the direct care component of the statewide price will be adjusted quarterly to account for changes in the facility-wide average case-mix index. Effective July 1, 2005 and thereafter, the direct care component of the statewide price will be adjusted quarterly to account for changes in the Medicaid average case-mix index. Each facility's specific direct care and care related price is the sum of each facility's case mix adjusted direct

care component of the statewide price plus each facility's specific care related component of the statewide price.

g. For each nursing facility, the statewide direct care and care related floor shall be apportioned between the per diem direct care component and the per diem care related component using the facility-specific percentages determined in Subparagraph D.1.c of this §1305. On a quarterly basis, each facility's specific direct care component of the statewide floor shall be multiplied by each facility's average case-mix index for the prior quarter. Effective January 1, 2003 through June 30, 2005, the direct care component of the statewide floor will be adjusted quarterly to account for changes in the facility-wide average case-mix index. Effective July 1, 2005 and thereafter, the direct care component of the statewide floor will be adjusted quarterly to account for changes in the Medicaid average case-mix index. Each facility's specific direct care and care related floor is the sum of each facility's case mix adjusted direct care component of the statewide floor plus each facility's specific care related component of the statewide floor.

h. Effective with cost reporting periods ending on or after January 1, 2003, a comparison will be made between each facility's direct care and care related cost and the direct care and care related floor. If the cost the facility incurred is less than the floor, the facility shall remit to the bureau the difference between these two amounts times the number of Medicaid days paid during the portion of the cost reporting period after December 31, 2002.

2. The administrative and operating component of the rate shall be determined as follows.

a. The per diem administrative and operating cost for each nursing facility is determined by dividing the facility's administrative and operating cost during the base year cost reporting period by the facility's actual total resident days during the base year cost reporting period. These costs shall be trended forward from the midpoint of the facility's base year cost report period to the midpoint of the rate year using the index factor.

b. Each facility's per diem administrative and operating cost is arrayed from low to high and the resident-day-weighted median cost is determined.

c. The statewide administrative and operating price is established at 107.5 percent of the administrative and operating resident-day-weighted median cost.

3. The capital component of the rate for each facility shall be determined as follows.

a. The capital cost component rate shall be based on a fair rental value (FRV) reimbursement system. Under a FRV system, a facility is reimbursed on the basis of the estimated current value of its capital assets in lieu of direct reimbursement for depreciation, amortization, interest, and rent/lease expenses. The FRV system shall establish a nursing facility's bed value based on the age of the facility and its total square footage.

b. Effective January 1, 2003, the new value per square foot shall be $97.47. This value per square foot shall be increased by $9.75 for land plus an additional $4,000 per licensed bed for equipment. This amount shall be trended forward annually to the midpoint of the rate year using the change in the per diem unit cost listed in the three-fourths column of the R.S. Means Building Construction Data Publication, adjusted by the weighted average total city cost index for New Orleans, Louisiana. The cost index for the midpoint of the rate year shall be estimated using a two-year moving average of the two most recent indices as provided in this Subparagraph. A nursing facility's fair rental value per diem is calculated as follows.

i. Each nursing facility's actual square footage per bed is multiplied by the January 1, 2003 new value per square foot, plus $9.75 for land. The square footage used shall not be less than 300 square feet or more than 450 square feet per licensed bed. To this value add the product of total licensed beds times $4,000 for equipment, sum this amount and trend it forward using the capital index. This trended value shall be depreciated, except for the portion related to land, at 1.5 percent per year according to the weighted age of the facility. Bed additions, replacements and renovations shall lower the weighted age of the facility. The maximum age of a nursing facility shall be 30 years. Therefore, nursing facilities shall not be depreciated to an amount less than 55 percent or [100 percent minus (1.5 percent*30)] of the new bed value. There shall be no recapture of depreciation.

ii. A nursing facility's annual fair rental value (FRV) is calculated by multiplying the facility's current value times a rental factor. The rental factor shall be the 20-year Treasury Bond Rate as published in the *Federal Reserve Bulletin* using the average for the calendar year preceding the rate year plus a risk factor of 2.5 percent with an imposed floor of 8.5 percent and a ceiling of 10 percent.

iii. The nursing facility's annual fair rental value shall be divided by the greater of the facility's annualized actual resident days during the cost reporting period or 70 percent of the annualized licensed capacity of the facility to determine the FRV per diem or capital component of the rate.

iv. The initial age of each nursing facility used in the FRV calculation shall be determined as of January 1, 2003, using each facility's year of construction. This age will be reduced for replacements, renovations and/or additions that have occurred since the facility was built provided there is sufficient documentation to support the historical changes. The age of each facility will be further adjusted each July 1 to make the facility one year older, up to the maximum age of 30 years, and to reduce the age for those facilities that have completed and placed into service major renovation or bed additions. This age of a facility will be reduced to reflect the completion of major renovations and/or additions of new beds. If a facility adds new beds, these new beds will be averaged in with the age of the original beds and the weighted average age for all beds will be used as the facility's age. If a facility performed a major renovation/replacement project (defined as a project with capitalized cost equal to or greater than $1,000 per bed), the cost of the renovation project will be used to determine the equivalent number of new beds that project represents. The equivalent number of new beds would then be used to determine the weighted average age of all beds for this facility. The equivalent number of new beds from a renovation project will be determined by dividing the cost of the renovation/replacement project by the average FRV of the facility's existing beds immediately before the renovation project.

4. Pass-Through Component of the Rate. The pass-through component of the rate is calculated as follows.

a. The nursing facility's per diem property tax and property insurance cost is determined by dividing the facility's property tax and property insurance cost during the base year cost reporting period by the facility's actual total resident days. These costs shall be trended forward from the midpoint of the facility's base year cost report period to the midpoint of the rate year using the index factor.

5. Provider Fee Component of the Rate. The nursing facility's provider fees component of the rate shall be determined by the Department of Health and Hospitals.

6. Adjustment to the Rate. Adjustments to the Medicaid daily rate may be made when changes occur, that will eventually be recognized in updated cost report data (such as a change in the minimum wage, a change in FICA or a utility rate change). These adjustments would be effective until the next rebasing of cost report data or until such time as the cost reports fully reflect the change. Adjustments to rates may also be made when legislative appropriations would increase or decrease the rates calculated in accordance with this Rule. The secretary of the Department of Health and Hospitals makes the final determination as to the amount and when adjustments to the rates are warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 , R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

**§1307. Case-Mix Index Calculation**

A. The Resource Utilization Groups-III (RUG-III) Version 5.12b, 34 group, index maximizer model shall be used as the resident classification system to determine all case-mix indices, using data from the minimum data set (MDS) submitted by each facility. Standard Version 5.12b case-mix indices developed by the Centers for Medicare and Medicaid Services (CMS) shall be the basis for calculating average case-mix indices to be used to adjust the direct care cost component. Resident assessments that cannot be classified to a RUG-III group will be excluded from the average case-mix index calculation.

B. Each resident in the facility, with a completed and submitted assessment, shall be assigned a RUG-III 34 group on the first day of each calendar quarter. The RUG-III group is calculated based on the resident's most current assessment, available on the first day of each calendar quarter, and shall be translated to the appropriate case-mix index. From the individual resident case-mix indices, two average case-mix indices for each Medicaid nursing facility shall be determined four times per year based on the first day of each calendar quarter.

C. The facility-wide average case-mix index is the simple average, carried to four decimal places, of all resident case-mix indices. The Medicaid average case-mix index is the simple average, carried to four decimal places, of all indices for residents where Medicaid is known to be the per diem payor source on the first day of the calendar quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 , R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

**§1309. State-Owned or Operated and Nonstate Government-Owned or Operated Facilities**

A. Nonstate government-owned or operated nursing facilities participating in an inter-governmental transfer program and state-owned or operated nursing facilities will be paid a prospective reimbursement rate. The aggregate prospective payment rates for these facilities will be calculated on a quarterly basis using the state's best estimate of what facilities would be paid under Medicare's prospective payment system for skilled nursing facilities. The acuity measurements used in the quarterly rate calculations will be the acuity of each facility's Medicaid residents, as determined under Medicare's 44 RUG classification methodology. Adjustments to these gross Medicare prospective payment rates will be made to account for differences in coverage between the Medicare and Medicaid programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 , R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

All rate adjustments specified in this Rule are contingent upon appropriation by the Louisiana Legislature. Implementation of the provisions of this Rule shall be contingent upon the approval of the State Plan Amendment by U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, April 25, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Nursing Facilities C Reimbursement Methodology**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that $800 ($400 SGF and $400 FED) will be expended in SFY 2001-02 for the state's administrative expense for promulgation of this proposed rule and the final Rule. It is anticipated that the implementation of this proposed rule will decrease state program costs by approximately

$2,918,739 for SFY 2002-03, $7,049,594 for SFY 2003-04, and $7,261,082 for SFY 2004-05.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately $6,928,559 for SFY 2002-03, $17,292,927 for SFY 2003-04, and $17,811,714 for SFY 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will establish a new reimbursement methodology based on a case-mix price-based reimbursement system for private and public nursing facilities. This proposed rule will decrease reimbursement by approximately $9,847,298 for SFY 2002-03, $24,342,521 for SFY 2003-04, and $25,072,796 for SFY 2004-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

| | |
|---|---|
| Ben A. Bearden | H. Gordon Monk |
| Director | Staff Director |
| 0203#091 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Revenue
### Office of Alcohol and Tobacco Control

Prohibition of Certain Unfair Business Practices
(LAC 55:VII.317)

The Office of Alcohol and Tobacco Control, under the authority of R.S. 26:792 and 26:150 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., proposes to amend LAC 55:VII.317 pertaining to the prohibition of certain unfair competition and unlawful practices in the marketing of alcoholic beverages.

These proposed amendments provide that the prohibition against certain unfair competition and unlawful practices as provided by the Federal Alcohol Administration Act, 27 U.S.C., §205 apply to all alcoholic beverage dealers.

**Title 55**
**PUBLIC SAFETY**
**Part VII. Alcohol and Tobacco Control**
**Chapter 3. Alcoholic Beverages**
**§317. Prohibition of Certain Unfair Business Practices**

A. Definitions

*Alcoholic Beverages*—any fluid or any solid capable of being converted into fluid, suitable for human consumption, and containing more than one-half of one percent alcohol by volume, including malt, vinous, spiritous, alcoholic or intoxicating liquors, beer, porter, ale, stout, fruit juices, cider, or wine.

*Beverages of High Alcoholic Content*—alcoholic beverages containing more than 6 percent alcohol by volume.

*Beverages of Low Alcoholic Content*—alcoholic beverages containing not more than 6 percent alcohol by volume.

*Brewer*—any person who, directly or indirectly, personally or through any agency, engages in the making or production of malt beverages.

*Bureau*—the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department.

*Commissioner*—the Louisiana Commissioner of Alcohol and Tobacco Control.

*Cost to Industry Members*—the invoice cost, or the replacement cost, of the merchandise to the industry member, whichever is lower:

a. Less all trade discounts except customary discounts for cash and discounts from the state or any governmental agency allowed for the payment of collection of any taxes.

b. Plus, in the following order:

i. freight charges not otherwise included in the invoice cost or the replacement cost of the merchandise;

ii. cartage cost which shall be three-fourths of one percent of the cost to the industry member after adding freight charges but before adding cartage, any existing tobacco stamp excise tax, and markup;

iii. any existing tobacco stamp excise tax;

iv. a markup to cover a proportionate part of the cost of doing business which markup, in the absence of proof of a lesser cost, shall be two percent of the cost to the industry member after adding freight charges, cartage, and any existing tobacco stamp excise tax.

*Exclusive Outlet*—the requirement, by agreement or otherwise, that any retail dealer engaged in the sale of distilled spirits, wine, malt beverages, or malt liquors purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, malt beverages, or malt liquors sold or offered for sale by other persons.

*Handle*—sell, use, distribute, store, consume, or otherwise handle.

*Importer*—any dealer who imports alcoholic beverages from any state, territory, possession, or foreign country for handling in Louisiana.

*Industry Member*—any person engaged in business as a distiller, brewer, rectifier, blender or other producer, or as an importer or wholesaler, of distilled spirits, wine or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, but shall not include an agency of a state or political subdivision thereof, or an officer or employee of such agency.

*Malt Beverages* or *Malt Liquors*—beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

*Manufacturer*—any person who, directly or indirectly, personally or through any agency, engages in the making, blending, rectifying, or other processing of alcoholic beverages in Louisiana.

*Person*—any individual, municipality, industry, public or private corporation, partnership, firm, or any other entity.

*Retail Dealer* or *Retailer*—any person who offers for sale, exposes for sale, has in his possession for sale or

distribution, or sells alcoholic beverages in any quantity to persons other than licensed wholesale or retail dealers.

*Tied House*—when any retail dealer engaged in the sale of distilled spirits, wine, or malt beverages is induced to purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, malt beverages, or malt liquors sold or offered for sale by other persons through any of the following means:

a. by acquiring or holding after the expiration of any existing license any interest in any license with respect to the premises of the retail dealer;

b. by acquiring any interest in real or personal property owned, occupied, or used by the retail dealer in the conduct of his business;

c. by furnishing, giving, renting, lending, or selling to the retail dealer, any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to such exceptions as the commissioner of alcohol and tobacco control shall by regulation prescribe, having due regard for public health, the quantity and value of articles involved, established trade customs not contrary to the public interest and the purposes of this Section;

d. by paying or crediting the retail dealer for any advertising, display, or distribution service;

e. by guaranteeing any loan or the repayment of any financial obligation of the retail dealer;

f. by extending to the retail credit; or

g. by requiring the retail dealer to take and dispose of a certain quota of any of such products.

*Wholesale Dealer* or *Wholesaler*—any person who sells alcoholic beverages to licensed wholesale dealers or licensed retail dealers exclusively within the state or to any person for delivery beyond the borders of the state and who conducts a bona fide wholesale business and maintains a warehouse or warehouses for the storage and warehousing of alcoholic beverages in the area where domiciled and licensed by the state, and conducts and maintains systematic and regular solicitations, distribution, deliveries, and sales of the alcoholic beverages to licensed retail dealers located within the boundary of each parish and municipality in which the wholesale dealer makes any sale or delivery.

B. Prohibition Against Certain Business Practices in the Alcoholic Beverage Industry

1. The Bureau of Alcohol, Tobacco and Firearms of the United States Treasury prohibits exclusive outlet and tied house arrangements with respect to the marketing and sale of beverages of both high and low alcoholic content as authorized by the Federal Alcohol Administration Act (FAA Act), 27 U.S.C., §205.

2. The bureau's enforcement of this federal law requires Louisiana to have a similar law that imposes similar requirements for similar transactions.

3. The bureau enforces the provisions of the FAA Act prohibiting exclusive outlets and tied house arrangements in the marketing and sale of alcoholic beverages in Louisiana under the authority of R.S. 51:422, the Louisiana Unfair Sales Law, and R.S. 26:287.A(9) and (10), which provide for additional causes for suspension and revocation of permits.

4. Prohibitions against exclusive outlets and tied house arrangements with respect to the marketing and sale of alcoholic beverages in Louisiana has stabilized the industry and prevented unlawful and unfair inducements for the retail purchase of alcohol and unlawful coercion, bribery, kickback demands, and other unfair and unlawful business practices.

5. It is in the best interest of the state's citizens that fair business dealings and unfettered competition govern the alcohol beverage industry in Louisiana, that it remain an industry dominated by fairness and integrity, and that it be safeguarded against the threat of corrupt and unfair business practices.

C. Marketing and Sale of Alcoholic Beverages in Louisiana

1. Exclusive outlet and tied house arrangements are unfair inducements to purchase goods or services by wholesalers or retailers, and it is unlawful for any person engaged in business as a distiller, brewer, rectifier, blender, manufacturer, or other producer, or as an importer or wholesaler of distilled spirits, wine, malt beverages or malt liquors, directly or indirectly or through an affiliate, to have exclusive outlet or tied house arrangements.

2. Exceptions

a. Equipment

i. In order to provide proper dispensing of alcoholic beverages by retail dealers, industry members may provide, without charge, coil cleaning service, tap markers which show brand, and tapping equipment such as rods, vents, taps, hoses, washers, couplings, vent tongues, and check valves.

ii. Accessories such as carbon dioxide gas tanks, regulators, and other draught equipment accessories with a reasonable open market price of more than $5 but less than $200 per item must be sold to retailers at a price no less than the cost to the industry member as defined herein. Such sales shall be made for cash only.

iii. Draught equipment accessories with a reasonable open market value of $200 or more per item are not included under this exception.

b. Inside Signs

i. An industry member may furnish, give, rent, loan, or sell to a retailer inside signs that bear advertising matter. Inside signs include such things as mechanical devices, illuminated devices, clocks, neon signs, and other devices that are designed for permanent use in a retail account. These items may be furnished to an industry member if the total value of such materials in use at any one time for any one brand does not exceed $225 to any one retail establishment, including all expenses incurred directly or indirectly by any industry member in connection with the purchase, manufacture, transportation, and assembly of such items and accessories. The industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or any expense incidental to their operation. In determining the value of these items for purposes of the limitation, value shall be the cost attributable to them at the time of their installation in the retail establishment.

ii. Display stackers, pricing cards, shelf talkers, rail strips, posters, and other such items constructed of paper, cardboard, and similar materials and which are designed and installed as point-of-sale material for temporary use in a retail account are not included under this section and may be provided without limitation. Prior approval of point-of-sale material is not required and will not be given.

iii. Product displays may be furnished by an industry member to a retailer, provided that the total value of

all product displays furnished by an industry member may not exceed $155 per brand in use at any one time in any one retail establishment. Product display are racks, bins, barrels, casks, shelving, and the like from which alcoholic beverages are displayed or sold. Product displays shall bear conspicuous and substantial advertising matter.

c. Outside Signs. The furnishing of outside signs by an industry member to licensed retail dealers is prohibited.

d. Advertising Specialties, Utility Items, Merchandise, and Supplies

i. Trays, coasters, paper napkins, clothing, groceries, snack foods, paper and plastic bags, cups, pitchers, glasses, menu covers, menu sheets, meal checks, match books, ash trays, ice, and other items that are primarily of utility value to a retailer cannot be given away but may be sold to retailers by industry members and the price charged for such items must be no less than the cost to the industry member as defined herein.

ii. Other retailer advertising specialties and novelty items, such as foam scrapers, thermometers, litter bags, pencils, bottle openers, balloons, lapel pins, and key rings that bear advertising matter, and are primarily valuable to the retailer as point-of-sale advertising media but have no utility value to the retailer, may be furnished, given, or sold to a retailer if the total cost to any industry member of the retailer advertising specialties furnished, given, or sold in connection with any one retail establishment in any one calendar year does not exceed $50.

iii. After the delivery of the retailer advertising specialties with a total cost to an industry member of $50 has been made by the industry member to a retail establishment during any one calendar year, any future deliveries of such items to that particular retail establishment by such respective industry member during the remainder of the calendar year must be effected only by the sale of the items at their reasonable open market price in the locality where sold. Any items sold, furnished, or given away under this section must be itemized separately on the industry member's invoice and other records.

iv. Carbon dioxide gas or ice may be sold to a retailer only if sold at a reasonable open market price in the locality where sold.

e. Sponsorships

i. Wholesalers and manufacturers may sponsor events relating to or on the premises of retail dealers if nothing of value is given to retail dealers except as allowed elsewhere in this Section.

ii. T-shirts, caps, and similar items may be given to event contestants or patrons of the retail establishment but the total cost of these items may not exceed $150 per event.

iii. An industry member shall not sponsor an event on the premises of a retail dealer within 60 days of their last sponsored event.

iv. Alcoholic beverage sales must be incidental to the event being sponsored.

v. Industry members shall not directly or indirectly require that the sponsor's product be the exclusive product offered for sale at the event.

vi. A manufacturer or wholesaler may donate alcohol and trophies of nominal value to unlicensed civic, religious, or charitable organizations.

vii. In conjunction with events held on regular licensed retail premises, all restrictions on advertising and signage will remain in full force and effect, except that temporary paper signs and posters may be used inside the premises to advertise the event for not more than 21 days.

f. Trade Calls

i. Bar spending during trade calls, where the alcohol purchased by a manufacturer or wholesaler for a consumer is consumed on retail licensed premises in the presence of the giver, shall be lawful so long as the state's laws regulating retail establishments such as the legal drinking age, etc., are observed and not more than $150 is expended during the trade call.

ii. No trade calls may occur on college campuses.

iii. Manufacturers and wholesalers may be accompanied by entertainers, sports figures, and other personalities during trade calls.

iv. The trade calls may be pre-announced to consumers in the retail account through table tents, posters, and other inside signs.

v. No outside advertising of such events through signs or any media is allowed.

g. Except as otherwise provided by law, the gift of beer, wine or beverage alcohol as a purely social courtesy to unlicensed persons by a manufacturer or wholesaler is not prohibited.

h. Sampling. Beer, wine, or beverage alcohol sampling for the purpose of allowing a customer to taste a brand of beverage alcohol must be conducted on any premises holding a permit as designated in R.S. 26:75.C.(1) and 275.B.(1) in accordance with the following restrictions.

i. A retail dealer, wholesaler or manufacturer may furnish the beer, wine, or beverage alcohol to be sampled and the cups to hold the beverages. The wholesaler or manufacturer may also provide and display point-of-sale material in an amount not to exceed $150 in value. The display materials shall only be placed inside of the facility and shall not block the aisles or other entrances or exits.

ii. No retail dealer, wholesaler, or manufacturer shall furnish a sampling of beverage alcohol in a greater quantity than two ounces per brand of beverage alcohol to each individual and no individual shall consume more than two ounces of each brand of beverage alcohol provided at the sampling. The sampling of a beverage alcohol having an alcoholic content of more than 23 percent by volume shall be limited to one-half ounce per serving per individual.

iii. All samplings shall be limited in duration to one day.

iv. No more than two samplings per brand of beverage alcohol shall be conducted on the same licensed premises in any month.

v. The retail dealer, wholesaler, or manufacturer shall provide the Office of Alcohol and Tobacco Control with written notice of the date, time, place, permit number and brand of beverage alcohol to be sampled at least one week prior to the date of the sampling.

i. Tubs and Other Single Containers. Tubs, ice chests, and other containers designed to hold single units of product and display them for sale in retail establishments may be furnished by manufacturers and wholesalers, provided that no more than two containers per retail location

may be furnished by an industry member and the value of the items furnished shall not exceed $155.

j. Consignment Sales and Returns

i. It is unlawful for an industry member to sell, offer for sale, or contract to sell to any retailer, or for any retailer to purchase or contract to purchase any products under the following circumstances:

(a). on consignment;

(b). under conditional sale;

(c). with the privilege of return;

(d). on any basis other than a bona fide sale;

(e). if any part of the sale involves, directly or indirectly, the acquisition of other products from the trade buyer or the agreement to acquire other products from the trade buyer; or

(f). if the return or exchange of a product is solely because it overstocked or slow-moving.

ii. Transactions involving the bona fide return of products for ordinary and usual commercial reasons arising after the product had been sold are not prohibited, but the industry member is under no obligation to accept such returns. "Ordinary and usual commercial reasons" include:

(a). the exchange of product for products that are unmarketable because of product deterioration, leaking containers or damaged labels;

(b). the correction of any discrepancy between products ordered and products delivered within a one-week period; or

(c). products on hand at the time a retail dealer closes a business or terminates business operations, in which case the return may be for cash or credit against outstanding indebtedness. This also includes a temporary seasonal event or temporary shutdown or slowdown where the industry member is able to show that the products are likely to spoil during the off season.

iii. Out-dated product or product that is within 21 days of date code expiration may be exchanged for other products. Products for which there is only a limited seasonal demand, such as holiday decanters and distinctive containers, may only be exchanged for non-distinctive like products.

D. Penalty. The commissioner of the Office of Alcohol and Tobacco Control may seek a suspension or revocation of the permit or permits of a violator and may impose such other penalties or administrative remedies against violators as are prescribed by law for violations of the Alcoholic Beverage Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:75.C, R.S. 26:150, R.S. 26:275.B, R.S. 26:287, R.S. 26:792, and R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20:671 (June 1994), amended by the Department of Revenue and Taxation, Office of Alcoholic Beverage Control, LR 22:116 (February 1996), amended by the Department of Revenue, Office of Alcohol and Tobacco Control LR 26:2631 (November 2000), amended LR 28:

**Family Impact Statement**

1. The implementation of this proposed rule will have no effect on the stability of the family.
2. The implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed rule will have no effect on the functioning of the family.
4. The implementation of this proposed rule will have no effect on family earnings and family budgets.
5. The implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.
6. The implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested person may submit written data, views, arguments or comments regarding these proposed amendments to Melissa Gregg, Legal Counsel, Office of Alcohol and Tobacco Control, Department of Revenue, by mail to P.O. Box 66404, Baton Rouge, LA 70896 or by fax to (225) 925-3975.

All comments must be received no later than 4:30 p.m., Thursday, April 25, 2002. A public hearing will be held on Friday, April 26, 2002, at 10 a.m. at 8549 United Plaza Boulevard, Suite 220 Conference Room, Baton Rouge, Louisiana.

Murphy J. Painter
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Prohibition of Certain Unfair Business Practices**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of these proposed amendments, which provide that the unfair competition and unlawful practices laws of the Federal Alcohol Administration Act 27 U.S.C., §205, apply to all alcoholic beverage dealers, will ensure equality for all alcoholic beverage dealers and will have no implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of these proposed amendments will have no impact on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments provide that all alcoholic beverage dealers are governed by the unfair competition and unlawful practices laws of the Federal Alcohol Administration Act, 27 U.S.C., §205. There should be no impact on the costs, receipts, or income of alcoholic beverage dealers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will ensure equal competition for alcoholic beverage dealers and have no impact on employment.

| | |
|---|---|
| Murphy J. Painter | John R. Rombach |
| Commissioner | Legislative Fiscal Officer |
| 0203#023 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Revenue
### Policy Services Division

Withholding Tax Statements—Magnetic Media Label Requirements (LAC 61:I.1515)

Under the authority of R.S. 47:114 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, proposes to adopt LAC 61:I.1515 relative to the labeling of magnetic media filings of withholding tax statements.

The secretary is authorized by R.S. 47:114.F.(2) to require employers who submit 250 or more withholding tax receipts to file the forms on magnetic media. This proposed rule requires a label to be attached to the outside of the magnetic media and specifies the information required on the label.

**Title 61**
**REVENUE AND TAXATION**
**Part I. Taxes Collected and Administered by the Secretary of Revenue**
**Chapter 15. Income: Withholding Tax**
**§1515. Withholding Tax Statements—Magnetic Media Label Requirements**

A. Employers required to submit withholding tax receipts on magnetic media must attach a label to each tape, cartridge, or diskette. The Annual Reconciliation Form L-3 must accompany each submission.

B. Label Format. Labels must be typed and contain the following information:

1. external label for diskettes:
   a. file name;
   b. Louisiana account number;
   c. transmitter name;
   d. transmitter's complete mailing address;
   e. tax year; and
   f. diskette number and total number of diskettes for multi-volume files (example: disk 1 of 3, etc.);
2. external label for magnetic tape and tape cartridges:
   a. file name;
   b. Louisiana account number;
   c. transmitter name;
   d. transmitter's complete mailing address;
   e. tax year;
   f. recording code (ASCII or EBCDIC );
   g. record length; and
   h. block size.

C. The label must be attached to the magnetic media so as not to hinder the ability to process the media.

D. If annual reconciliation information is being filed for multiple employers, a list with each employer's name, Louisiana account number, and complete mailing address must accompany the media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:114.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, LR 28:

### Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of this proposed rule will have no effect on the stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family. Implementation of this proposed rule will have no effect on the functioning of the family.
4. The effect on family earnings and family budget. Implementation of this proposed rule will have no effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 15409, Baton Rouge, LA 70895-5409 or by fax to 225-219-2759. All comments must be received no later than 4:30 p.m., April 24, 2002. A public hearing will be held on April 25, 2002 at 9 a.m. in the River Room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana 70802.

Cynthia Bridges
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
### RULE TITLE: Withholding Tax Statements—Magnetic Media Label Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed regulation requires a label to be attached to the outside of magnetic media submitted containing income tax withholding statements and prescribes the required information and the label layout and placement.

Implementation of this proposed regulation will result in minimal reduced agency processing costs incurred to identify and process improperly labeled income tax withholding statements submitted on magnetic media.

There will be no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed regulation will have no impact on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed regulation will require employers who file withholding tax receipts on magnetic media to properly label these filings. The impact on costs for these employers should be negligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

| | |
|---|---|
| Cynthia Bridges | H. Gordon Monk |
| Secretary | Staff Director |
| 0203#038 | Legislative Fiscal Officer |

## NOTICE OF INTENT

### Department of Social Services
### Office of Family Support

Child Care Assistance Program (CCAP)—Definitions; Conditions of Eligibility; Child Care Providers; Payment (LAC 67:III.5102, 5103, 5107, and 5109)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, the Child Care Assistance Program.

To provide for the eligibility of more applicants and eliminate or decrease co-payments required from participants, the agency proposes to increase the percentage of child care that the Child Care Assistance Program pays. Programmatic eligibility was increased from 60 percent to 75 percent of the state median income and the sliding fee scale at §5109 was adjusted by a Declaration of Emergency effective March 1, 2002. A change in the first aid training requirement for the benefit of Family Child Day Care Home Providers was also effected in the Emergency Rule.

The agency now also proposes these and other amendments for the following purpose: to remove the requirement that a Family Child Day Care Home provider provide proof of a clear tuberculin test, to further clarify when an eligible provider shall, or may, be terminated or permanently terminated, and to increase the State Maximum Rate for authorized services paid to an eligible provider.

In order to align CCAP policy with other program policy, a certification period up to 12 months will be allowed and change-reporting requirements will be amended. The agency also intends to change the term "case head" to "head of household" and to redefine this and the term "Training and Employment Mandatory Participant (TEMP)."

**Title 67**
**SOCIAL SERVICES**
**Subpart 12. Child Care Assistance**
**Chapter 51. Child Care Assistance**
**Subchapter B. Child Care Assistance Program**
**§5102. Definitions**

*Head of Household*—an individual who may apply for child care assistance for a child that customarily resides more than half the time with him/her. The individual may be the parent of a child needing child care assistance or may be the adult household member with primary responsibility for the child's financial support and care if the child's parent is not living in the home, or is living in the home but is under age 18 and not emancipated by law, or is disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or Veterans Administration Disability for a disability of 70 percent or more and not able to care for himself/herself and his/her child(ren) as verified by a doctor's statement.

*Household*—a group of individuals who live together, consisting of the head of household, that person's legal spouse or non-legal spouse, (if the parent of a child in the household), the disabled adult parent who is unable to care for himself/herself and his/her child(ren) who are in need of care and all children under the age of 18 who are dependent on the head of household and/or spouse, including the minor unmarried parent (MUP) who is not legally emancipated and the minor unmarried parent's children.

*Training or Employment Mandatory Participant (TEMP)*—a household member who is required to be employed or attending a job training or educational program, including the head of household, the head of household's spouse, and the minor unmarried parent age 16 or older whose children need child care assistance or in situations where the MUP, under age 16, and his/her child(ren) lives with a disabled parent/guardian who is unable to care for the MUP's child(ren) while the MUP goes to school/work.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:

**§5103. Conditions of Eligibility**

A. - B.2. ...

3. The child must customarily reside more than half the time with the person who is applying for child care services. A child is considered to be residing with the head of household during scheduled absences from the home/day care, lasting up to six weeks, if there are definite plans for the child to return to the home/day care facility.

4. The head of household, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), including any minor unmarried parent age 16 or older who is not legally emancipated, and whose children are in need of Child Care Assistance, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or Veteran's Administration Disability benefits for a disability of at least 70 percent must be:

a. - d. ...

5. Household income does not exceed 75 percent of the State Median Income for a household of the same size. Income is defined as the gross earnings of the head of household, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), and any minor unmarried parent who is not legally emancipated and whose children are in need of Child Care Assistance, from all sources of employment and from the following types of unearned income of all household members: Social Security Administration benefits, Supplemental Security Income, Veteran's Administration benefits, retirement benefits,

disability benefits, child support/alimony, unemployment compensation benefits, adoption subsidy payments, and worker's compensation benefits.

6. - 7. ...

C. Cases eligible for payment may be assigned a certification period of up to 12 months.

D. Households shall report any change that affects eligibility or the amount of benefits. Changes in income shall be reported if the household's gross monthly income changes more than $100 in earned income or $25 in unearned income. Households shall report within 10 days of knowledge of the change. If the CCAP household unit is included in a Food Stamp Program Semi-Annual Reporting household, the CCAP household shall be subject to the semi-annual reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:

**§5107. Child Care Providers**

A. The head of household, or parent/caretaker relative in the case of a FIND Work participant, shall be free to select a child care provider of his/her choice including center-based child care (licensed Class A Day Care Centers and licensed Class A Head Start Centers which provide before-and-after school care and/or summer programs), registered Family Child Day Care Homes, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before-and-after school care programs.

B. - 1.b. ...

c. effective March 1, 2002, furnish verification of 12 clock hours of training in job-related subject areas approved by the Department of Social Services and current verification of first aid training by the provider's renewal each year.

d. retain a statement of good health signed by a physician or his designee which must have been obtained within the past three years and be obtained/provided every three years thereafter; and

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

D. Under no circumstance can the following be considered an eligible child care provider;

1. - 3. ...

4. persons who have been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C. or who reside with or employ a person who has been convicted of such an offense, unless approved in writing by a district judge of the parish and the local district attorney.

D.5. - E. ...

1. A Family Child Day Care Home or In-Home provider shall be permanently terminated as a CCAP eligible provider if the criminal background check shows that the provider has been convicted of, or pled no contest, to a crime listed in R.S. 15:587.1.C, unless approved in writing by a district judge of the parish and the local district attorney.

2. A provider shall be terminated as a CCAP eligible provider if:

a. the agency determines that a condition exists which threatens the physical or emotional health or safety of any child in care;

b. a criminal background check response shows that an adult living at a Family Child Day Care Home provider's residence, or working in the provider's home or on his home property, has been convicted of, or pled no contest to, a crime listed in R.S.15:587.1.C, unless approved in writing by a district judge of the parish and the local district attorney;

c. a Family Child Day care Home provider fails to pass the second inspection by the fire marshal;

d. the provider fails to timely return all requested forms, fees, etc. at renewal;

e. a Class A Center's license is not renewed;

f. a school child care provider no longer meets the BESE regulations; or

g. a school child care provider is no longer Brumfield vs. Dodd approved.

3. A Family Child Day Care Home provider may be permanently terminated as a CCAP eligible provider if the provider is verified to have more than six children in his/her care.

4. A provider may be terminated as a CCAP eligible provider if the provider violates the terms of the provider agreement.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:

**§5109. Payment**

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels which are published annually. A non-FITAP household may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "copayment." The sliding fee scale is based on a percentage of the state median income.

**Sliding Fee Scale For Child Care Assistance Recipients Effective March 1, 2002C75 Percent Of Projected Median Income**

| Number in Household | 2 | 3 | 4 | 5 | 6 | DSS % |
|---|---|---|---|---|---|---|
| Monthly Household Income | 0 - 968 | 0 - 1219 | 0 - 1471 | 0 - 1723 | 0 - 1974 | 100% |
| | 969 - 1535 | 1220 - 1908 | 1472 - 2281 | 1724 - 2654 | 1975 - 3027 | 95% |
| | 1536 - 2101 | 1909 - 2596 | 2282 - 3090 | 2655 - 3585 | 3028 - 4079 | 85% |
| | above 2101 | above 2596 | above 3090 | above 3585 | above 4079 | 0% |

| Number in Household | 7 | 8 | 9 | 10 | 11 | DSS % |
|---|---|---|---|---|---|---|
| Monthly Household Income | 0 - 2226 | 0 - 2478 | 0 - 2729 | 0 - 2981 | 0 - 3233 | 100% |
| | 2227 - 3199 | 2479 - 3372 | 2730 - 3543 | 2982 - 3716 | 3234 - 3888 | 95% |
| | 3200 - 4172 | 3373 - 4265 | 3544 - 4357 | 3717 - 4450 | 3889 - 4543 | 85% |
| | above 4172 | above 4265 | above 4357 | above 4450 | above 4543 | 0% |

| Number in Household | 12 | 13 | 14 | 15 | 16 | DSS % |
|---|---|---|---|---|---|---|
| Monthly Household Income | 0 - 3484 | 0 - 3736 | 0 - 3988 | 0 - 4239 | 0 - 4491 | 100% |
| | 3485 - 4060 | 3737 - 4232 | 3989 - 4405 | 4240 - 4577 | 4492 - 4749 | 95% |
| | 4061 - 4636 | 4233 - 4728 | 4406 - 4821 | 4578 - 4914 | 4750 - 5006 | 85% |
| | Above 4636 | Above 4728 | Above 4821 | Above 4914 | Above 5006 | 0% |

| Number in Household | 17 | 18 | 19 | 20 | | DSS % |
|---|---|---|---|---|---|---|
| Monthly Household Income | 0 -4743 | 0 -4994 | 0 - 5246 | 0 - 5498 | | 100% |
| | 4744 - 4921 | 4995 - 5093 | 5247 - 5266 | | | 95% |
| | 4922 - 5099 | 5094 - 5192 | 5267 - 5285 | | | 85% |
| | above 5099 | above 5192 | above 5285 | | | 0% |

B. - 1.a. ...

b. the State Maximum Rate for authorized services as indicated below:

| Class A Centers | | |
|---|---|---|
| | Regular Care | Special Needs Care |
| Daily | $16.00 | $20.00 |
| Hourly | $2.00 | $2.50 |

| All Other Provider Types | | |
|---|---|---|
| | Regular Care | Special Needs Care |
| Daily | $13.00 | $16.00 |
| Hourly | $1.62 | $2.00 |

1.c. - 2.a. ...

b. the State Maximum Rate for authorized services as indicated below:

| Class A Centers | | |
|---|---|---|
| | Regular Care | Special Needs Care |
| Daily | $16.00 | $20.00 |
| Hourly | $2.00 | $2.50 |

| All Other Provider Types | | |
|---|---|---|
| | Regular Care | Special Needs Care |
| Daily | $13.00 | $16.00 |
| Hourly | $1.62 | $2.00 |

B.1.c. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:

**Family Impact Statement**

This Rule will have no impact on the stability and functioning of the family or on parental rights. This Rule may have an impact on the budget of an affected family by eliminating or decreasing copayments required from participants and by increasing the percentages paid by DSS.

Interested persons may submit written comments by April 25, 2002 to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065. She is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on April 25, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Child Care Assistance Program (CCAP)C Definitions; Conditions of Eligibility; Child Care Providers; Payment**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule change increases Child Care Assistance Program (CCAP) costs by increasing the State Median Income for eligibility from 60 percent to 75 percent (effected March 1). The State Maximum Rate for authorized services paid to eligible providers is being increased effective July 1. These changes will increase expenditures by approximately $13,500,000 in FY 01/02 and $48,200,000 in FY 02/03 and 03/04. However, increases will be kept within the current budgeted funding of the Child Care and Development Fund (federal block grant) and will not require any additional state or federal funds. The immediate implementation cost to state government is the cost of publishing the rule, programming changes, and printing related policy revisions. This cost is minimal, and funds for such actions are included in the program's annual budget. There are no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule results in no new costs to affected persons or non-governmental groups. The amounts shown in Item I. represent the projected economic benefits to affected CCAP recipients and providers. The rule will allow more participants to be eligible for child care assistance. It will benefit applicants and participants who meet the new State Median Income criteria as it will eliminate or decrease their copayments by increasing the percentages paid by DSS. It will also benefit providers as they will receive higher fees for each child cared for.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed actions will have no impact on competition and employment.

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|---|---|
| Ann S. Williamson | Robert E. Hosse |
| Assistant Secretary | General Government Section Director |
| 0203#047 | Legislative Fiscal Office |

## NOTICE OF INTENT

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

Family Independence Temporary Assistance Program (FITAP) and Kinship Care Subsidy Program (KCSP)CApplication, Eligibility, and Furnishing AssistanceCSubstance Abuse Treatment Program (LAC 67:III.1291 and 5391)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 2, Chapter 12, Family Independence Temporary Assistance Program (FITAP) and Subpart 13, Chapter 53, Kinship Care Subsidy Program (KCSP) by adding §§1291 and 5391.

In order to provide funding for payment for the cost of substance abuse screening, assessment, testing, and nonmedical treatment of FITAP and KCSP recipients (and certain post-FITAP and -KCSP recipients), and to fund the cost of conducting a pilot project in ten parish offices, the agency implemented the Substance Abuse Treatment Program pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature. The program was effected by a Declaration of Emergency signed September 28, 2001, and renewed January 26, 2002.

**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**
**§1291. Substance Abuse Treatment Program**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of FITAP recipients as well as certain post-FITAP recipients.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, specifically, family members who receive FITAP benefits. A needy family member who loses eligibility for FITAP benefits for any reason shall continue to be eligible for these services for the one-year period following the loss of FITAP benefits.

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

E. A pilot project will be conducted in the following parish offices: Orleans (Uptown District), Jefferson (West Bank), East Baton Rouge (North District), Terrebonne, St. Landry, Calcasieu, Rapides, Caddo, Ouachita, and Tangipahoa. OAD will assume responsibility for the screening and referral process provided below.

1. Compliance. All adult recipients of FITAP must be free from the use of or dependency on illegal drugs or abuse of or dependency on alcohol. All applicants for and recipients of FITAP benefits, age 18 and over, must satisfactorily comply with the requirements of the substance abuse screening, testing, education and rehabilitation process. An illegal drug is a controlled substance as defined in R.S. 40:961 et seq., Controlled Dangerous Substance.

2. Screening and Referral Process. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs or the abuse of or dependency on alcohol, at initial application and redetermination of eligibility using a standardized substance abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorders (OAD).

a. When the screening process indicates that there is reason to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, or when there is other evidence that a recipient is using or dependent

on illegal drugs or abusing or dependent on alcohol, the recipient will be referred to OAD to undergo appropriate substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

b. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs or abuse or dependency on alcohol received from a reliable source, the caseworker will refer the recipient to OAD to undergo appropriate substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

c. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs and not abusing or dependent on alcohol, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of substance abuse. If the formal assessment determines that the recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, OAD will determine the extent of the problem and recommend the most appropriate and cost effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

3. Child care and transportation costs required for participation in the substance abuse screening, testing, education, and rehabilitation program will be paid by the Office of Family Support.

4. If residential treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

5. Failure to Cooperate. Failure or refusal of a recipient to participate in substance abuse screening, testing, or participation in the education and rehabilitation program, without good cause, will result in the following.

a. The recipient's needs will be removed from the FITAP cash benefits for three months. Eligibility of the other family members will continue during this three-month period.

b. If the recipient cooperates during this three-month period, the recipient will regain eligibility for cash benefits effective the fourth month.

c. If the recipient does not cooperate during this three-month period, the FITAP cash case for the entire family will be closed effective the fourth month and will remain closed until the individual cooperates.

d. A subsequent failure to cooperate will result in case closure until the recipient cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes substance abuse screening, testing, or satisfactory participation for two weeks in an education and rehabilitation program.

6. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs or abuse or be dependent on alcohol, the recipient will be ineligible for FITAP cash benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is substance abuse free. The eligibility of other family members will not be affected as long as the individual participates in the education and rehabilitation program.

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:

**Subpart 13. Kinship Care Subsidy Program (KCSP)**

**Chapter 53. Application, Eligibility, and Furnishing Assistance**

**Subchapter D. Special Initiatives**

**§5391. Substance Abuse Treatment Program**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of KCSP recipients as well as certain post-KCSP recipients.

B. These services meet the TANF goal to end the dependence of needy families on government benefits by providing them with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, specifically, family members who receive KCSP benefits. A needy family member who loses eligibility for KCSP benefits for any reason shall continue to be eligible for these services for the one-year period following the loss of KCSP benefits.

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

E. A pilot project will be conducted in the following parish offices: Orleans (Uptown District), Jefferson (West Bank), East Baton Rouge (North District), Terrebonne, St. Landry, Calcasieu, Rapides, Caddo, Ouachita, and Tangipahoa. OAD will assume responsibility for the screening and referral process provided below:

1. Compliance. All recipients of KCSP benefits, age 18 and over, must satisfactorily comply with the requirements of the substance abuse screening, testing, education, and rehabilitation process.

2. Screening and Referral Process. All applicants for and recipients of KCSP age 18 and over will be screened for the use of or dependency on illegal drugs or the abuse of or dependency on alcohol, at initial application and redetermination of eligibility using a standardized substance abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorders (OAD). An illegal drug is a controlled substance as defined in R.S. 40:961 et seq., Controlled Dangerous Substance.

a. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, or when there is other evidence that a recipient is using or dependent

on illegal drugs or abusing or dependent on alcohol, the recipient will be referred to OAD to undergo appropriate substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

b. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs or abuse of or dependency on alcohol, received from a reliable source, the caseworker will refer the recipient to OAD to undergo appropriate substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

c. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs or not abusing or dependent on alcohol, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of substance abuse. If the formal assessment determines that the recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, OAD will determine the extent of the problem and recommend the most appropriate and cost-effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

3. If inpatient treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

4. Failure to Cooperate. Failure or refusal of a recipient to participate in substance abuse screening, testing, or participation in the education and rehabilitation program, without good cause, will result in ineligibility of the recipient until he/she cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes substance abuse screening, substance abuse testing, or satisfactory participation for two weeks in an education and rehabilitation program.

5. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs or abuse or be dependent on alcohol, the recipient will be ineligible for KCSP benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is substance abuse free.

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:

**Family Impact Statement**

1. What effect will this rule have on the stability of the family? Implementation of this programs should lead to increased self-sufficiency by providing substance abuse treatment to drug and/or alcohol dependent individuals resulting in improved family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The program aims to effect immediate and long-term improvement of the functioning of the family unit.

4. What effect will this have on family earnings and family budget? This rule has no immediate effect on family earnings or budget.

5. What effect will this have on the behavior and personal responsibility of children? This rule should have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, the program is strictly an agency function.

All interested persons may submit written comments through April 25, 2002, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed rule will be held on

April 25, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Family Independence Temporary Assistance Program (FITAP) and Kinship Care Subsidy Program (KCSP)C Application, Eligibility, and Furnishing AssistanceC Substance Abuse Treatment Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost for the Substance Abuse Treatment Program for recipients of Family Independence Temporary Assistance Program (FITAP) and the Kinship Care Subsidy Program (KCSP) for FY 01/02 is $757,866 and $254,134 for FY 02/03. Costs of preparing and publishing rulemaking are routinely included in the agency's budget. Future expenditures are subject to legislative appropriation.

There are no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Through interagency transfer, the Department of Health and Hospitals, Office for Addictive Disorders (OAD), will receive increased revenues totaling $1,012,000 to be expended in the provision of services. OAD advised that it intends to spend an estimated $757,866 to provide services from October 2001 through June 2002 and $254,134 for the period July-

September 2002. There is no effect on revenue collection of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits to non-governmental groups.

The appropriated funds will provide services to the targeted groups with the long-term goal of improving the economic position of these groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Any new positions associated with the initiatives will be at the discretion of the Office for Addictive Disorders and will be subject to the same terms of availability and appropriation of TANF funds. OAD projects that 30 new employees will be hired for the pilot program.

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| Ann S. Williamson | Robert E. Hosse |
| Assistant Secretary | General Government Section Director |
| 0203#048 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Transportation and Development
### Office of Weights, Measures and Standards

Critical Off-Road Equipment Permit Requirements
(LAC 73:I.1709)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend a rule entitled "Critical Off-Road Equipment Permit Requirements," in accordance with R.S. 32:386-389.

**Title 73**
**WEIGHTS, MEASURES AND STANDARDS**
**Part I. Weights and Standards**
**Chapter 17. Requirements for Permitting Off-Road Equipment**
**§1709. Critical Off-Road Equipment Permit Requirements**

A. …

B. The owner shall provide escort service during the move in accordance with the department's escort procedures and regulations to control traffic with the following exception: Equipment classified as critical off-road equipment in which no single axle is in excess of 30,000 pounds, no tandem axles are in excess of 54,000 pounds and no tridum axles are in excess of 60,000 pounds shall be exempt from the escort requirement.

C. - I. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 32.2, et seq. and R. S. 32:386-389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by Weights, Measures and Standards, LR 22:120 (February 1996), LR 28:

**Family Impact Statement**

The proposed adoption of this rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.
2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.
4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.
5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.
6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, telephone (225)237-1359.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Critical Off-Road Equipment Permit Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs to the department. The permits that are the subject of this Rule have been issued for some time. This Rule simply allows certain loads classified as "critical off-road" equipment to travel without an escort.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The department anticipates no effect on revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule change should benefit the industry that moves certain critical off-road equipment if they are no longer required to utilize escorts when they move on Louisiana highways.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The implementation of this rule change should have a favorable effect on competition and employment because the operators of the applicable permit loads will realize a savings on each job.

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| Kam K. Movassaghi, Ph.D., P.E. | Robert E. Hosse |
| Secretary | General Government Section Director |
| 0203#046 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Transportation and Development
### Office of Weights, Measures and Standards

Definition of "Measurable Precipitation"
(LAC 73:I.501)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to amend the definitions contained in Part I, Chapter 5 of Title 73 to include the definition of "Measurable Precipitation," in accordance with the provisions of R.S. 32:388.

**Title 73**
**WEIGHTS, MEASURES AND STANDARDS**
**Part I. Weights and Standards**
**Chapter 5. Legal Limitations for Size and Weight**
**§501. Definitions**

* * *

*Measurable Precipitation*—a minimum of 1 inch of precipitation in a 24-hour period as recorded by a National Weather Service recognized observation station.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:388.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 7:410 (August 1981), amended by Weights, Measures, and Standards, LR 22:120 (February 1996), LR 28:

**Family Impact Statement**

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.
2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.
4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.
5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.
6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, telephone (225)237-1359.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Definition of "Measurable Precipitation"

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be cost to state or local governmental units to implement this rule. It simply states current policy for both Department of Transportation and Development weight enforcement personnel, as well as the mobile weight enforcement personnel employed by Louisiana State Police. (An identical rule has been published by Louisiana State Police in LAC 55:I.2303.)

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rulemaking should have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Other than clarification of existing rules for the trucking industry that hauls solid waste, directly affected persons and nongovernmental groups will no be affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment as a result of this rulemaking.

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| Kam K. Movassaghi, Ph.D., P.E.<br>Secretary | Robert E. Hosse<br>General Government<br>Section Director |
| 0203#045 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Transportation and Development
### Office of Weights, Measures and Standards

Enforcement Procedures and Penalties
(LAC 73:I.1101)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend Chapter 11 of Title 73 entitled "Enforcement Procedures and Penalties," in accordance with R.S. 32:389.C.(8).

**Title 73**
**WEIGHTS, MEASURES AND STANDARDS**
**Part I. Weights and Standards**
**Chapter 11. Enforcement Procedures and Penalties**
**§1101. General Procedures**

A. All vehicles, rated one ton or over are required to stop at DOTD stationary enforcement units except the following:

1. automobiles, including those towing another vehicle;
2. pickup trucks under one ton, if they are not towing another vehicle;
3. vans, if they have less than one-ton capacity;
4. recreational vehicles, if they are not oversize or overweight;
5. buses;

6. wreckers towing a vehicle which would not be required to stop at the scales.

B. In accordance with R.S. 32:389.C.(8), failure to stop at stationary scales is excused if a serious traffic hazard has been created. "Serious traffic hazard" is defined as "a situation in which motor vehicles fill the interstate ramps leading to weight enforcement locations causing excess vehicles to extend past the ramp entrance into the travel lanes or into the shoulder of the travel lanes, as recognized and indicated with the flashing indicator lights activated by DOTD personnel at the location. The flashing indicator lights must be activated and flashing in order for a vehicle to legally bypass the weight enforcement location."

C. Penalty for vehicles failing to stop at stationary scales, or disregarding the mobile unit's efforts to stop a vehicle or combination of vehicles is $100 fine. is provided for in R.S. 32:388.A.

D. Any owner or driver who disagrees with a penalty or the enforcement of these laws must pay the penalty assessed and give the officer notice at the time of payment of his or her intention to file suit for its recovery. Any owner or operator has 90 days to file suit against the Department of Transportation and Development in the state district court located either in the parish in which the violation occurred, in the parish of domicile of the vehicle, or in East Baton Rouge Parish. No court may restrain the collection of any penalty assessed by DOTD. Provisions for appeal of violation tickets are set forth in §1201.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by Weights, Measures and Standards, LR 22:120 (February 1996), LR 28:

**Family Impact Statement**

The proposed adoption of this rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Denny Silvio, Weights and Standards Administrator, P.O. Box 94042, Baton Rouge, LA 70804-9052, (225)377-7100.

Kam K. Movassaghi, P.E., Ph.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Enforcement Procedures and Penalties**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no cost to state or local governmental units to implement this rule. It simply explains the situations in which vehicles are not required to stop at weight enforcement locations. These procedures have been in effect since approximately 1995.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rulemaking should have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Other than clarification of existing rules for the trucking industry, directly affected persons and nongovernmental groups will not be affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment as a result of this rulemaking.

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| Kam K. Movassaghi, Ph.D., P.E.<br>Secretary | Robert E. Hosse<br>General Government<br>Section Director |
| 0203#044 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Treasury
### Deferred Compensation Commission

Public Employees Deferred Compensation Plan
(LAC 32:VII.Chapters 1-19)

Editor's Note: In accordance with OSR uniform formatting procedure, these rules have been moved from Title 71 to Title 32 for topical placement.

Under the authority of R.S. 42:1301-1308, and §457 of the *Internal Revenue Code* of 1986 as amended, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of the Treasury, Deferred Compensation Commission advertises its intent to amend the Public Employees Deferred Compensation Plan. The proposed amendments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

The State of Louisiana Public Employees Deferred Compensation Plan (the "Plan") was adopted by the Louisiana Deferred Compensation Commission (the commission), effective September 15, 1982. The Plan was established in accordance with R.S. 42:1301-1308, and §457 of the *Internal Revenue Code of 1986*, as amended, for the purpose of providing supplemental retirement income to

employees and independent contractors by permitting such individuals to defer a portion of compensation to be invested and distributed in accordance with the terms of the Plan. The Plan was repealed and repromulgated in its entirety in the (volume 24, number 10) October 20, 1998 *Louisiana Register* for codification in *Louisiana Administrative Code* format.

**Title 32**

**GROUP BENEFITS**

**Part VII. Public Employee Deferred Compensation**

**Chapter 1. Administration**

**§101. Definitions**

*Administrator* or *Plan Administrator*—the person, persons or entity appointed by the Louisiana Deferred Compensation Commission to administer the Plan pursuant to LAC 71:VII.103.A, if any.

*Age 50 or Older Catch-up*—the deferred amount described pursuant to LAC 71:VII.303.C.

*Beneficiary*—the person, persons or entities designated by a participant pursuant to LAC 71:VII.301.A.5.

* * *

*Compensation*—all payments paid by the employer to an employee or independent contractor as remuneration for services rendered, including salaries and fees, and, to the extent permitted by Treasury regulations or other similar guidance, accrued vacation and sick leave pay.

* * *

*Includible Compensation*—(for purposes of the limitation set forth in LAC 71:VII.303.A), compensation for services performed for the employer as defined in IRC §457(e)(5).

* * *

*IRC*—the *Internal Revenue Code of 1986*, as amended, or any future United States Internal Revenue law. References herein to specific section numbers shall be deemed to include Treasury regulations thereunder and Internal Revenue Service guidance thereunder and to corresponding provisions of any future United States internal revenue law.

* * *

*Limited Catch-Up*—the deferred amount described in LAC 71:VII.305.A.

*Normal Retirement Age*—

1. the age designated by a participant, which age shall be between:

a. the earliest date on which such participant is entitled to retire under the public retirement system of which that participant is a member without actuarial reduction in his or her benefit, and

b. age 70 1/2, provided, however, that if a participant continues in the employ of the employer beyond 70 1/2, *normal retirement age* means the age at which the participant severs employment.

2. If the participant is not a member of a defined benefit plan in any public retirement system, the participant's *normal retirement age* may not be earlier than age 50, and may not be later than age 70 1/2.

3. If a participant continues to be employed by employer after attaining age 70 1/2, not having previously elected an alternate *normal retirement age*, the participant's alternate *normal retirement age* shall not be later than the mandatory retirement age, if any, established by the employer, or the age at which the participant actually severs employment with the employer if the employer has no mandatory retirement age.

*Participant*—an individual who is eligible to defer compensation under the Plan, and has executed an effective deferral authorization. *Participant* also includes an employee or independent contractor who has severance from employment but has not received a complete distribution of his or her interest in deferred compensation under the Plan.

* * *

*Plan*—the State of Louisiana Public Employees Deferred Compensation Plan established by this document and any applicable amendment.

* * *

*Qualified Domestic Relations Order* or *QDRO*—as specified in LAC 71:VII.1503.B.

*Severance from Employment or Severs Employment*—

1. *severance* of the participant's employment with the employer. A participant shall be deemed to have severed employment with the employer for purposes of this Plan when both parties consider the employment relationship to have terminated and neither party anticipates any future employment of the participant by the employer. In the case of a participant who is an independent contractor, *severance from employment* shall be deemed to have occurred when:

a. the participant's contract for services has completely expired and terminated;

b there is no foreseeable possibility that the employer shall renew the contract or enter into a new contract for services to be performed by the participant; and

c. it is not anticipated that the participant shall become an employee of the employer.

2. with respect to an employee, the permanent *severance* of the employment relationship with the employer on account of such employee's:

a. retirement;

b. discharge by the employer;

c. resignation;

d. layoff; or

e. in the case of an employee who is an appointed or elected officer, the earlier of:

i. the taking of the oath of office of such officer's successor, or

ii. the cessation of the receipt of compensation.

3. If an employee incurs a break in service for a period of less than 30 days or transfers among various Louisiana governmental entities, such break or transfer shall not be considered a *severance from employment*.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1962 (October 1998), amended LR 28:

**§105. Duties of Commission**

A.1. - 7. …

8. appointing an emergency committee comprised of at least three individuals. Applications for a withdrawal of deferred compensation based on an unforeseeable emergency shall be approved or disapproved by such committee.

8.a. - b.iii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1963 (October 1998), amended LR 28:

## Chapter 3. Plan Participation, Options and Requirements

### §301. Enrollment in the Plan

A. The following rules apply to compensation deferred under the Plan.

1. A participant may not defer any compensation unless a deferral authorization providing for such deferral has been completed by the participant and accepted by the commission prior to the beginning of such payroll period. With respect to a new employee, compensation will be deferred in the payroll period during which a participant first becomes an employee if a deferral authorization providing for such deferral is executed on or before the first day on which the participant becomes an employee. Any prior employee who was a participant in the Plan and is rehired by employer may resume participation in the Plan by entering into a participation agreement. Unless distributions from the Plan have begun due to that prior severance from employment, however, any deferred commencement date elected by such employee with respect to those prior Plan assets shall be null and void.

2. - 3. …

4. Notwithstanding LAC 71:VII.301.A.1, to the extent permitted by applicable law, the administrator may establish procedures whereby each employee becomes a participant in the Plan and, as a term or condition of employment, elects to participate in the Plan and consents to the deferral by the employer of a specified amount for any payroll period for which a participation agreement is not in effect. In the event such procedures are in place, a participant may elect to defer a different amount of compensation per payroll period, including zero, by entering into a participation agreement.

5. Beneficiary. Each participant shall initially designate in the participation agreement a beneficiary or beneficiaries to receive any amounts, which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing with the commission a written notice on a form approved by the commission. If no such designation is in effect at the time of participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:

### §303. Deferral Limitations

A. Except as provided in LAC 71:VII.305.A.1-2.a-b, the maximum that may be deferred under the Plan for any taxable year of a participant shall not exceed the lesser of:

1. the applicable dollar amount in effect for the year, as adjusted for the calendar year in accordance with IRC §457(e)(15); or

2. 100 percent of the participant's includible compensation, each reduced by any amount specified in Subsection B of this §303 that taxable year.

B. The deferral limitation shall be reduced by any amount excludable from the participant's gross income attributable to elective deferrals to another eligible deferred compensation plan described in IRC §457(b).

C. A participant who attains age 50 or older by the end of a Plan year and who does not utilize the limited catch-up for such Plan year may make a deferral in excess of the limitation specified in Subsection A.1-2 of this §303, up to the amount specified in and subject to any other requirements under IRC §414(v).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:

### §305. Limited Catch-up

A. For one or more of the participant's last three taxable years ending before the taxable year in which normal retirement age under the Plan is attained, the maximum deferral shall be the lesser of:

1. twice the otherwise applicable dollar limit under IRC §457(e)(15) for that taxable year; reduced by any applicable amount specified in LAC 71:VII.303.B; or

2. the sum of:

a. the limitations established for purposes of §303.A of these rules, for such taxable year (determined without regard to this §305); also

b. so much of the limitation established under §303.A of the Plan or established in accordance with IRC §457(b)(2) and the regulations thereunder under an eligible deferred compensation plan sponsored by an entity other than the employer and located in the same state for prior taxable years (beginning after December 31, 1978 and during all or any portion of which the participant was eligible to participate in this Plan) and has not theretofore been used under §§303.A or 305.A hereof or under such other plan (taking into account the limitations under and participation in other eligible deferred compensation plans in accordance with the *Internal Revenue Code*); provided, however, that this §305 shall not apply with respect to any participant who has previously utilized, in whole or in part, the limited catch-up under this Plan or under any other eligible deferred compensation plan (within the meaning of IRC §457 and the regulations thereof).

B. If a participant is not a member of a defined benefit plan in any public retirement system, normal retirement age may not be earlier than age 50, and may not be later than age 70 1/2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:

### §307. Participant Modification of Deferral

A. The participant shall be entitled to modify the amount (or percentage) of deferred compensation once each enrollment period with respect to compensation payable no earlier than the payroll period after such modification is entered into by the participant and accepted by the commission. Notwithstanding the above, if a negative election procedure has been implemented pursuant to §301.A.4 of this Chapter, a participant may enter into or modify a participation agreement at any time to provide for no deferral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:

**§309. Employer Modification of Deferral**

A. The commission shall have the right to modify or disallow the periodic deferral of compensation elected by the participant:

1. in excess of the limitations stated in LAC 71:VII.303.A and 305.A;

2. - 6. …

B. And to the extent permitted by and in accordance with the *Internal Revenue Code*, the employer or administrator may distribute the amount of a participant's deferral in excess of the distribution limitations stated in LAC 71:VII.301, 303, 305, 307 and 309 notwithstanding the limitations of LAC 71:VII.701.A; provided, however, that the employer and the commission shall have no liability to any participant or beneficiary with respect to the exercise of, or the failure to exercise, the authority provided in this LAC 71:VII.309.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:

**§311. Revocation**

A. A participant may, at any time, revoke his or her deferral authorization by notifying the commission, in writing, on forms acceptable to the commission. Upon the acceptance of such notification, deferrals under the plan shall cease no later than the commencement of the first pay period beginning at least 30 days after acceptance; provided, however, that the commission shall not be responsible for any delay which occurs despite its good faith efforts. In no event shall the revocation of a participant's deferral authorization permit a distribution of deferred compensation, except as provided in §701.A of these rules, and shall be subject to the terms and provisions of the affected investment.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:

**§313. Re-Enrollment**

A. A participant who revokes the participation agreement as set forth in §311.A above may execute a new participation agreement to defer compensation payable no earlier than the payroll period after such new participation agreement is executed by the participant and accepted by the commission.

B. A former participant who is rehired after retirement may rejoin the Plan as an active participant unless ineligible to participate under other Plan provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:

**Chapter 5. Investments**

**§505. Participant Accounts**

A. The commission shall maintain or cause to be maintained one or more individual deferred compensation ledger account or similar individual account(s) for each participant. Such accounts shall include separate accounts, as necessary, for IRC §457 Deferred Compensation, IRC §457 rollovers, IRA rollovers, other qualified plan and IRC §403(b) plan rollovers, and such other accounts as may be appropriate from time to time for plan administration. At regular intervals established by the commission, each participant's account shall be:

A.4. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:

**Chapter 7. Distributions**

**§701. Conditions for Distributions**

A. Payments from the participants §457 Deferred Compensation Plan account to the participant or beneficiary shall not be made, or made available, earlier than:

1. the participant's severance from employment pursuant to LAC 71:VII.703.A or death; or

2. the participant's account meets all of the requirements for an in-service *de minimus* distribution pursuant to LAC 71:VII.705.A and B; or

3. the participant incurs an approved unforeseeable emergency pursuant to LAC 71:VII.709.A; or

4. the participant transfers an amount to a defined benefit governmental plan pursuant to LAC 71:VII.705.C; or

5. April 1 of the calendar year following the calendar year in which the participant attains age 70 1/2.

B. Payments from a participant's rollover account(s) may be made at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:

**§703. Severance from Empl oyment**

A. Distributions to a participant shall commence following the date in which the participant severs employment, in a form and manner determined pursuant to LAC 71:VII.713.A, 715.A and 717.A.

B. Upon notice to participants, and subject to LAC 71:VII.701.A., 703.B and 721.A, the administrator may establish procedures under which a participant whose total §457 deferred compensation account balance is less than an amount specified by the administrator (not in excess of $5,000 or other applicable limit under the *Internal Revenue Code*) will receive a lump sum distribution on the first regular distribution commencement date (as the employer or administrator may establish from time to time) following the participant's severance from employment, notwithstanding any election made by the participant pursuant to LAC 71:VII.721.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:

**§705. In-Service Distributions**

A. Voluntary In-Service Distribution of *De Minimis* Accounts. A participant who is an active employee shall receive a distribution of the total amount payable to the participant under the Plan if the following requirements are met:

1. the portion of the total amount payable to the participant under the Plan does not exceed an amount specified from time to time by the commission (not in excess of $5,000 or other applicable limit under the *Internal Revenue Code*);

2. the participant has not previously received an in-service distribution of the total amount payable to the participant under the Plan;

3. no amount has been deferred under the Plan with respect to the participant during the two-year period ending on the date of the in-service distribution; and

4. the participant elects to receive the distribution.

B. Involuntary In-Service Distribution of *De Minimis* Accounts. Upon notice to participants, and subject to LAC 71:VII.721.A, the commission may establish procedures under which the Plan shall distribute the total amount payable under the Plan to a participant who is an active employee if the following requirements are met:

1. the portion of the total amount payable to the participant under the Plan does not exceed an amount specified from time to time by the commission (not in excess of $5,000 or other applicable limit under the *Internal Revenue Code*);

2. the participant has not previously received an in-service distribution of the total amount payable to the participant under the Plan; and

3. no amount has been deferred under the Plan with respect to the participant during the two-year period ending on the date of the in-service distribution.

C. Purchase of Defined Benefit Plan Service Credit

1. If a participant is also a participant in a defined benefit governmental plan (as defined in IRC §414(d)), such participant may request the commission to transfer amounts from his or her account for:

a. the purchase of permissive service credit (as defined in IRC §415(n)(3)(A)) under such plan; or

b. a repayment to which IRC §415 does not apply by reason of IRC §415(k)(3).

2. Such transfer requests shall be granted in the sole discretion of the commission, and if granted, shall be made directly to the defined benefit governmental plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:

**§707. Deferred Commencement Date at Separation from Service**

A. Following the date in which the participant severs employment, the participant may select a deferred commencement date for all or a portion of the participant's account balance. If the participant elects to defer the entire account balance, the future commencement date may not be later than April 1 of the calendar year following the calendar year in which the participant attains age 70 1/2

B. If the participant is an independent contractor:

1. in no event shall distributions commence prior to the conclusion of the 12-month period beginning on the date on which all such participant's contracts to provide services to or on behalf of the employer expire; and

2. in no event shall a distribution payable to such participant pursuant to §703.A of these rules commence if, prior to the conclusion of the 12-month period, the participant performs services for the employer as an employee or independent contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:

**§709. Unforeseeable Emergency**

A. If a participant has incurred a genuine unforeseeable emergency and no other resources of financial relief are available, the commission may grant, in its sole discretion, a participant's request for a payment from the participant's account. Any payment made under this provision shall be in a lump sum.

1. The commission shall have the right to request and review all pertinent information necessary to assure that hardship withdrawal requests are consistent with the provisions of IRC §457.

2. In no event, however, shall an unforeseeable emergency distribution be made if such hardship may be relieved:

a. through reimbursement or compensation by insurance or otherwise;

b. by liquidation of the participant's assets, to the extent the liquidation of the participant's assets would not itself cause a severe financial hardship; or

c. by cessation of deferrals under this Plan.

3. The amount of any financial hardship benefit shall not exceed the lesser of:

a. the amount reasonably necessary, as determined by the commission, to satisfy the hardship; or

b. the amount of the participant's account.

4. Payment of a financial hardship distribution shall result in mandatory suspension of deferrals for a minimum of six months from the date of payment (or such other period as mandated in Treasury regulations).

5. Currently, the following events are not considered unforeseeable emergencies under the Plan:

a. enrollment of a child in college;

b. purchase of a house;

c. purchase or repair of an automobile;

d. repayment of loans;

e. payment of income taxes, back taxes, or fines associated with back taxes;

f. unpaid expenses including rent, utility bills, mortgage payments, or medical bills;

g. marital separation or divorce; or

h. bankruptcy (except when bankruptcy resulted directly and solely from illness or casualty loss).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:

**§711. Death Benefits**

A. Upon the participant's death, the participant's remaining account balance(s) will be distributed to the beneficiary commencing after the administrator receives satisfactory proof of the participant's death (or on the first regular distribution commencement date thereafter as the employer or administrator may establish from time to time), unless prior to such date the beneficiary elects a deferred commencement date, in a form and manner determined pursuant to LAC 71:VII.713.A and 717.A.

B. If there are two or more beneficiaries, the provisions of this §711 and of §717.A of these rules shall be applied to each beneficiary separately with respect to each beneficiary's share in the participant's account.

C. If the beneficiary dies after beginning to receive benefits but before the entire account balance has been distributed, the remaining account balance shall be paid to the estate of the beneficiary in a lump sum.

D. Under no circumstances shall the commission be liable to the beneficiary for the amount of any payment made in the name of the participant before the commission receives satisfactory proof of the participant's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:

**§713. Payment Options**

A. A participant's or beneficiary's election of a payment option must be made at least 30 days prior to the date that the payment of benefits is to commence. If a timely election of a payment option is not made, benefits shall be paid in accordance with §715.A of this Chapter 7. Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one of the following payment options:

1. a single lump-sum payment;

2. installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) which extends no longer than the life expectancy of the participant or beneficiary as permitted under the requirements of IRC §401(a)(9);

3. installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) automatically adjusted for cost-of-living increases based on the rise in the *Consumer Price Index for All Urban Consumers* (CPI-U) from the third quarter of the last year in which a cost-of-living increase was provided to the third quarter of the current year. Any increase shall be made in periodic payment checks beginning the following January;

4. partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years, as described in Subsection A of this §713.

5. annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the participant or for the lifetime of the participant and beneficiary in compliance with IRC §401(a)(9);

6. such other forms of installment payments as may be approved by the commission consistent with the requirements of IRC §401(a)(9).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:

**§715. Default Distribution Option**

A. In the absence of an effective election by the participant, beneficiary or other payee, as applicable, as to the commencement and/or form of benefits, distributions shall be made in accordance with the applicable requirements of IRC §§ 401(a)(9) and 457(d), and proposed or final Treasury regulations thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:

**§717. Limitations on Distribution Options**

A. No distribution option may be selected by a participant or beneficiary under this §717 unless it satisfies the requirements of IRC §§401(a)(9) and 457(d) and proposed or final Treasury regulations thereunder.

B. If installment payments are designated as the method of distribution, the minimum distribution shall be no less than $100 per check and the payments made annually must be no less than $600.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:

**§719. Taxation of Distributions**

A. To the extent required by law, income and other taxes shall be withheld from each benefit payment, and payments shall be reported to the appropriate governmental agency or agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998).

**§721. Transfers and Rollovers**

A. Transfers to the Plan. If the participant was formerly a participant in an eligible deferred compensation plan maintained by another employer, and if such plan permits the direct transfer of the participant's interest therein to the Plan, then the Plan shall accept assets representing the value of such interest; provided, however, that the participant has separated from service with that former employer and become an employee of employer. Such amounts shall be held, accounted for, administered and otherwise treated in the same manner as compensation deferred by the participant except that such amounts shall not be considered compensation deferred under the Plan in the taxable year of such transfer in determining the maximum deferral under LAC 71:VII.303.A.1-2. The commission may require such documentation from the predecessor plan, as it deems necessary to confirm that such plan is an eligible deferred compensation plan within the meaning of IRC §457, and to assure that transfers are provided under such plan. The commission may refuse to accept a transfer in the form of assets other than cash, unless the commission agrees to hold such other assets under the Plan.

B. In-Service Transfers from the Plan. If a participant separates from service prior to his or her required beginning date, and becomes a participant in an eligible deferred compensation plan of another governmental employer, and provided that payments under this Plan have not begun, such participant may request a transfer of his or her account to the eligible deferred compensation plan of the other employer. Requests for such transfers must be made in writing to the commission and shall be granted in the sole discretion of the commission. If an amount is to be transferred pursuant to this provision, the commission shall transfer such amount directly to the eligible deferred compensation plan of the other employer. Amounts transferred to another eligible deferred compensation plan shall be treated as distributed from this Plan and this Plan shall have no further responsibility to the participant or any beneficiary with respect to the amount transferred.

C. Rollovers to the Plan

1. The Plan shall accept a rollover contribution on behalf of a Participant or Employee who may become a participant. A *rollover contribution*, for purposes of this Subsection, is an eligible rollover contribution (as defined in IRC §402(f)(2)) from any:

a. plan qualified under IRC §401(a) or 403(a);

b. tax-sheltered annuity or custodial account described in IRC §403(b);

c. individual retirement account or annuity described in IRC §408;

d. eligible deferred compensation plan described in IRC §457(b).

2. Prior to accepting any rollover contribution, the commission may require that the participant or employee establish that the amount to be rolled over to the Plan is a valid rollover within the meaning of the *Internal Revenue Code*. A participant's rollover contribution shall be held in a separate rollover account or accounts, as the commission shall determine from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:

**§723. Eligible Rollover Distributions**

A. General. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this §723, a distributee may elect, at the time and in the manner prescribed by the employer, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

B. Definitions. For purposes of this §723, the following definitions shall apply:

*Eligible Rollover Distribution***C**an eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for:

a. a specified period of 10 years or more;

b. any distribution to the extent such distribution is required under IRC §401(a)(9);

c. any distribution that is a deemed distribution under the provisions of IRC §72(p);

d. the portion of any distribution that is not includable in gross income; and any hardship distribution or distribution on account of unforeseeable emergency.

*Eligible Retirement Plan***C**an eligible retirement plan is an individual retirement account described in IRC §408(a), an individual retirement annuity described in IRC §408(b), an annuity plan described in IRC §403(a) that accepts the distributee's eligible rollover distribution, a qualified trust described in IRC §401(a) (including §401(k)) that accepts the distributee's eligible rollover distribution, a tax-sheltered annuity described in IRC §403(b) that accepts the distributee's eligible rollover distribution, or another eligible deferred compensation plan described in IRC §457(b) that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

*Distributee***C**includes an employee or former employee, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in IRC §414(p), are distributees with regard to the interest of the spouse or former spouse.

*Direct Rollover***C**a payment by the Plan to the eligible retirement plan specified by the distributee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:

**§725. Elections**

A. Elections under this Chapter 7 shall be made in such form and manner as the commission may specify from time to time. To the extent permitted by and in accordance with the *Internal Revenue Code*, any irrevocable elections as to the form or timing of distributions executed prior to January 1, 2002, are hereby revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:

**§727. Practices and Procedures**

A. The commission may adopt practices and procedures applicable to existing and new distribution elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:

**Chapter 9. Leave of Absence**

**§901. Paid and Unpaid Leave of Absence**

A. Paid Leave of Absence. If a participant is on an approved leave of absence from the employer with compensation, or on approved leave of absence without compensation that does not constitute a severance from employment within the meaning of IRC §402(d)(4)(A)(iii) which under the employer's current practices is generally a leave of absence without compensation for a period of one

year or less, said participant's participation in the Plan may continue.

B. Unpaid Leave of Absence. If a participant is on an approved leave of absence without compensation and such leave of absence continues to such an extent that it becomes a severance from employment within the meaning of IRC §402(e)(4)(A)(iii), said participant shall have severed employment with the employer for purposes of this Plan. Upon termination of leave without pay and return to active status, the participant may execute a new participation agreement to be effective when permitted by LAC 71:VII.313.B of the Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:

## Chapter 11. Participant Loans

### §1101. Authorization of Loans

A. The commission may direct the administrator to make loans to participants on or after the effective date of Treasury regulations or other guidance under IRC §457 and to the extent allowable under and in accordance with IRC §457. Such loans shall be made on the application of the participant in a form approved by the administrator and on such terms and conditions as are set forth in this Chapter 11, provided, however, that the administrator may adopt rules or procedures specifying different loan terms and conditions, if necessary or desirable, to comply with or conform to such Treasury regulations or other guidance and other applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:

### §1103. Maximum Loan Amount

A. In no event shall any loan made to a participant be in an amount which shall cause the outstanding aggregate balance of all loans made to such participant under this Plan exceed the lesser of:

1. $50,000, reduced by the excess (if any) of:

a. the highest outstanding balance of loans from the Plan to the participant during the one-year period ending on the day before the date on which the loan is made;

b. over the outstanding balance of loans from the Plan to the participant or the beneficiary on the date on which the loan is made; or

2. one-half of the participant's total amount deferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:

### §1105. Repayment of Loan

A. Each loan shall mature and be payable, in full and with interest, within five years from the date such loan is made, unless:

1. the loan is used to acquire any dwelling unit that within a reasonable time (determined at the time the loan is made) will be used as the principal residence of the participant; or

2. loan repayments are, at the employer's election, suspended as permitted by IRC §414(u)(4) (with respect to qualified military service).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:

### §1107. Loan Terms and Conditions

A. In addition to such rules as the administrator may adopt, which rules are hereby incorporated into this Plan by reference, all loans to participants shall comply with the following terms and conditions.

1. Loans shall be available to all participants on a reasonably equivalent basis.

2. Loans shall bear interest at a reasonable rate to be fixed by the administrator based on interest rates currently being charged by commercial lenders for similar loans. The administrator shall not discriminate among participants in the matter of interest rates, but loans granted at different times may bear different interest rates based on prevailing rates at the time.

3. Each loan shall be made against collateral, including the assignment of no more than one-half of the present value of the participant's total amount deferred as security for the aggregate amount of all loans made to such participant, supported by the participant's collateral promissory note for the amount of the loan, including interest.

4. Loan repayments must be made by payroll deduction. In all events, payments of principal and interest must be made at least quarterly and such payments shall be sufficient to amortize the principal and interest payable pursuant to the loan on a substantially level basis.

5. A loan to a participant or beneficiary shall be considered a directed investment option for such participant's account balance.

6. No distribution shall be made to any participant, or to a beneficiary of any such participant, unless and until all unpaid loans, including accrued interest thereon, have been satisfied. If a participant terminates employment with the employer for any reason, the outstanding balance of all loans made to him shall become fully payable and, if not paid within 30 days, any unpaid balance shall be deducted from any benefit payable to the participant or his beneficiary. In the event of default in repayment of a loan or the bankruptcy of a participant who has received a loan, the note will become immediately due and payable, foreclosure on the note and attachment of security will occur, the amount of the outstanding balance of the loan will be treated as a distribution to the participant, and the defaulting participant's accumulated deferrals shall be reduced by the amount of the outstanding balance of the loan (or so much thereof as may be treated as a distribution without violating the requirements of the *Internal Revenue Code*).

7. The loan program under the Plan shall be administered by the administrator in a uniform and nondiscriminatory manner. The administrator shall establish procedures for loans, including procedures for applying for loans, guidelines governing the basis on which loans shall be approved, procedures for determining the appropriate interest rate, the types of collateral which shall be accepted

as security, any limitations on the types and amount of loans offered, loan fees and the events which shall constitute default and actions to be taken to collect loans in default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:

## Chapter 13. Plan Amendment or Termination

### §1301. Termination

A. The commission may at any time terminate this Plan; provided, however, that no termination shall affect the amount of benefits, which at the time of such termination shall have accrued for participants or beneficiaries. Such accrued benefits shall include any compensation deferred before the time of the termination and income thereon accrued to the date of the termination.

B. Upon such termination, each participant in the Plan shall be deemed to have revoked his agreement to defer future compensation as provided in LAC 71:VII.311.A as of the date of such termination. Each participant's full compensation on a non-deferred basis shall be restored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:

### §1303. Amendments to the Plan

A. The commission may also amend the provisions of this Plan at any time; provided, however, that no amendment shall affect the amount of benefits which at the time of such amendment shall have accrued for participants or beneficiaries, to the extent of compensation deferred before the time of the amendment and income thereon accrued to the date of the amendment, calculated in accordance with LAC 71:VII.505.A and the terms and conditions of the investment options hereunder; and provided further, that no amendment shall affect the duties and responsibilities of the trustee unless executed by the trustee.

B. Copies of Amendments. The administrator shall provide a copy of any plan amendment to any trustee or custodian and to the issuers of any investment options.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:

### §1305. Disclaimer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1971 (October 1998), repealed LR 28:

Editor's Note: Disclaimer text is included in §1505 of these rules.

## Chapter 15. Taxes, Nonassignability and Disclaimer

### §1501. Tax Treatment of Amounts Deferred

A. It is intended that pursuant to IRC §457, the amount of deferred compensation shall not be considered current compensation for purposes of federal and state income taxation. This rule shall also apply to state income taxation unless applicable state laws provide otherwise. Such amounts shall, however, be included as compensation to the extent required under the Federal Insurance Contributions Act (FICA). Payments under this Plan shall supplement retirement and death benefits payable under the employer's group insurance and retirement plans, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1971 (October 1998), amended LR 28:

### §1503. Nonassignability

A. It is agreed that neither the participant, nor any beneficiary, nor any other designee shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments hereunder, which payments and right thereto are expressly declared to be nonassignable and nontransferable; and in the event of attempt to assign or transfer, the commission shall have no further liability hereunder, nor shall any unpaid amounts be subject to attachment, garnishment or execution, or be transferable by operation of law in event of bankruptcy, or insolvency, except to the extent otherwise required by law.

B. Qualified Domestic Relations Orders approved by the commission shall be administered as follows.

1.a. To the extent required under a final judgment, decree, or order made pursuant to a state domestic relations law, herein referred to as a Qualified Domestic Relations Order (QDRO) which is duly filed upon the commission, any portion of a participant's account may be paid or set aside for payment to an alternate payee.

NOTE: For purposes for this §1503, an alternate payee is a person or persons designated by a domestic relations order who may be a spouse, former spouse, or a child of the participant.

b. Where necessary to carry out the terms of such a QDRO, a separate account shall be established with respect to the alternate payee, and such person(s) shall be entitled to make investment selections with respect thereto in the same manner as the participant. All costs and charges incurred in carrying out the investment selection shall be deducted from the account created for the alternate payee making the investment selection.

2. Any amounts so set aside for an alternate payee shall be paid out immediately in a lump sum, unless the QDRO directs a different form of payment or later payment date. Nothing in this §1503.B shall be construed to authorize any amounts to be distributed under the employer's plan at a time or in a form that is not permitted under IRC §457. Any payment made to a person other than the participant pursuant to this §1503.B shall be reduced by required income tax withholding. Such withholding and income tax reporting shall be done under the terms of the *Internal Revenue Code* as amended from time to time.

3. The commission's liability to pay benefits to a participant shall be reduced to the extent that amounts have been paid or set aside for payment to an alternate payee pursuant to this §1503.B. No amount shall be paid or set aside unless the commission, or its agents or assigns, has been provided with satisfactory evidence releasing them from any further claim by the participant with respect to these amounts. The participant shall be deemed to have released the commission from any claim with respect to such amounts in any case in which the commission has been notified of or otherwise joined in a proceeding relating to a QDRO, which sets aside a portion of the participant's account for an alternate payee, and the participant fails to

obtain an order of the court in the proceeding relieving the employer from the obligation to comply with the QDRO.

4. The commission shall not be obligated to comply with any judgment, decree or order which attempts to require the Plan to violate any plan provision or any provision of §457 of the *Internal Revenue Code*. Neither the commission nor its agents or assigns shall be obligated to defend against or set aside any judgment, decree, or order described herein or any legal order relating to the division of a participant's benefits under the plan unless the full expense of such legal action is borne by the participant. In the event that the participant's action (or inaction) nonetheless causes the commission, its agents or assigns to incur such expense, the amount of the expense may be charged against the participant's account and thereby reduce the commission's obligation to pay benefits to the participant. In the course of any proceeding relating to divorce, separation, or child support, the commission, its agents and assigns shall be authorized to disclose information relating to the participant's individual account to the participant's spouse, former spouse or child (including the legal representatives of the alternate payee), or to a court.

5. Any Conforming Equitable Distribution Order (CEDO), filed prior to January 2002 may be amended to comply with this §1503.B, pursuant to a Qualified Domestic Relations Orders (QDRO), which is duly filed upon the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:

### §1505. Disclaimer

A. The commission makes no endorsement, guarantee or any other representation and shall not be liable to the Plan or to any participant, beneficiary, or any other person with respect to:

1. the financial soundness, investment performance, fitness, or suitability (for meeting a participant's objectives, future obligations under the Plan, or any other purpose) of any investment option in which amounts deferred under the Plan are actually invested; or

2. the tax consequences of the Plan to any participant, beneficiary or any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:

## Chapter 17. Employer Participation

### §1701. Additional Compensation Deferred

A. Notwithstanding any other provisions of this Plan, the employer may add to the amounts payable to any participant under the Plan additional deferred compensation for services to be rendered by the participant to the employer during a payroll period, provided:

1. the participant has elected to have such additional compensation deferred, invested, and distributed pursuant to this Plan, prior to the payroll period in which the compensation is earned; and

2. such additional compensation deferred, when added to all other compensation deferred under the Plan, does not exceed the maximum deferral permitted by LAC 71:VII.303.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1972 (October 1998), amended LR 28:

## Chapter 19. Applicable Terms

### §1901. Interpretation

A. Governing Law. This Plan shall be construed under the laws of the state of Louisiana.

B. Section 457. This Plan is intended to be an eligible deferred compensation plan within the meaning of §457 of the *Internal Revenue Code*, and shall be interpreted so as to be consistent with such Section and all regulations promulgated thereunder.

C. Employment Rights. Nothing contained in this Plan shall be deemed to constitute an employment agreement between any participant and the employer and nothing contained herein shall be deemed to give a participant any right to be retained in the employ of the employer.

D. Days and Dates. Whenever time is expressed in terms of a number of days, the days shall be consecutive calendar days, including weekends and holidays, provided, however, that if the last day of a period occurs on a Saturday, Sunday or other holiday recognized by the employer, the last day of the period shall be deemed to be the following business day.

E. Word Usage. Words used herein in the singular shall include the plural and the plural the singular where applicable, and one gender shall include the other genders where appropriate.

F. Headings. The headings of articles, sections or other subdivisions hereof are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Plan, the text shall control.

G. Entire Agreement. This Plan document shall constitute the total agreement or contract between the commission and the participant regarding the Plan. No oral statement regarding the Plan may be relied upon by the participant. This Plan and any properly adopted amendment, shall be binding on the parties hereto and their respective heirs, administrators, trustees, successors, and assigns and on all designated beneficiaries of the participant.

AUTHORITY NOTE: Promulgated in accordance with RS 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:

## Family Impact Statement

1. The Effect on the Stability of the Family. None. There will be no impact on the Stability of the family.

2. The Effect of the Authority and Rights of Parents Regarding the education and Supervision of their Children. None. There will be no impact on the Authority and Rights of Parents Regarding the Education and Supervision of their Children.

3. The Effect of the Functioning of the Family. None. There will be no impact on the functioning of the family.

4. The Effect on Family Earnings and Family budget. None. There will be no impact on family earnings and family budget.

5. The Effect on the behavior and Personal Responsibility of Children. None. There will be no impact on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. None. There will be no impact on the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons may submit comments to Joseph A. Dionisi, Administrator, Louisiana Deferred Compensation Plan, 2237 South Acadian Thruway, Suite 702, Baton Rouge, LA 70808. Telephone: (225) 926-8082. Fax: (225) 926-4447

A public hearing will be held on Tuesday, April 16, 2002, at 11 a.m., at the above address. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said hearing. The deadline for the receipt of all comments is April 16, 2002, at 11 a.m.

Individuals with disabilities who require special service should contact the Louisiana Deferred Compensation Plan office prior to the hearing.

Emery Bares
Chairman

0203#024

## NOTICE OF INTENT

### Department of Wildlife and Fisheries
### Wildlife and Fisheries Commission

Experimental Fisheries Program—Permits (LAC 76:VII.701)

The secretary of Department of Wildlife and Fisheries hereby advertises its intent to amend the following rule which provides for the harvest of underutilized species under the experimental fisheries program and the issuance of permits.

**Title 76**
**WILDLIFE AND FISHERIES**
**Part VII. Fish and Other Aquatic Life**
**Chapter 7. Experimental Fisheries Programs**
**§701. Permits**

A. - B.9. …

10. Permitted vessel and permitted gear is the specific gear and vessel designated on the permit.

11. When a permit is issued, only the permitted specie(s) can be retained. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

12. The permittee shall have the permit in possession at all times when using permitted gear or harvesting permitted specie(s). Permit holder shall be on board permitted vessel when operating under conditions of permit. No permit is transferable without written permission from the department secretary.

13. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee.

14. If citation(s) are issued to any permittee for violation of a Class Two fish or game law or conditions regulated by the permit, all permittee's permits shall be suspended until such time as the permittee appears before the department's officials for the purpose of reviewing the citation(s) issued. The secretary, after reviewing the proceedings, may reinstate or revoke the permit, and the permittee may lose all rights and privileges to participate in the program.

15. Any violation of the conditions of the permit shall result in the immediate suspension of the permit and forfeiture of the deposit and may result in the permanent revocation of the permit.

C. - D.8. …

9. The harvest of shad *(Dorosoma sp.)* and skipjack *(Alosa chrysochloris)* with an experimental seine.

a. Closed Seasons, Times and Areas

i. The season for the commercial taking of shad and skipjack under the provision of the experimental seine permit shall be closed during the months of July, August, September and October of each year. Shad and skipjack may not be taken commercially with an experimental seine at any time outside of this season.

ii. Commercial harvest of shad and skipjack with an experimental seine under the provisions of this section shall not be allowed on Saturday and Sunday. There shall be no commercial taking of shad and skipjack with an experimental seine during the period after sunset and before sunrise.

iii. Experimental seines shall not be used in areas closed to seining.

b. Commercial Taking

i. Only shad and skipjack may be taken; all other species shall be immediately returned to waters from which they were caught; no other fish may be in the possession of the permitted and all fish on board of the permitted vessel shall have the head and caudal fin (tail) intact.

ii. An experimental seine is a seine with a mesh size not less than 1 inches bar and 2 inches stretched and not more than 2 inches bar and 4 inches stretched, not exceeding 1,200 feet in length. The experimental seine may not be constructed of monofilament.

iii. Only "strike" fishing will be permitted; this means the school of fish to be taken must be visible from the surface and the seine then placed around the selected school.

iv. The use of more than one experimental seine from any one or more vessels at any time is prohibited.

v. No more than two vessels may fish an experimental seine at one time.

vi. Experimental seines shall not be used in a manner that unduly restricts navigation of other vessels.

vii. Net shall not be left unattended as defined in Title 56. Experimental seine shall be actively fished at all times by the permittee.

viii. Each experimental seine shall have attached to each end a 1-gallon jug painted international orange and marked with black lettering; the word "experimental" and the permit number shall be legibly displayed on the jug.

ix. The permitted gear shall only be fished in the freshwater areas of the state.

x. All provisions of Title 56 shall apply to persons involved in any experimental fishery or possessing any commercial gear.

c. Commercial Limits. During the season, there shall be no daily take or possession limit for the commercial

harvest of shad and skipjack by properly licensed and permitted fishermen.

d. Permits

i. Any person who has been convicted of an offense under the provisions of the experimental fishery permit program shall not participate in the harvest, in any manner, of fish taken under an experimental permit.

ii. No person shall receive more than one experimental seine permit to commercially take shad and skipjack.

iii. This permit along with other applicable licenses authorize the bearer to sell his shad and skipjack herring.

iv. Violating any provision or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in Title 56.

v. The permitted gear must be properly licensed as a fish seine.

e. General Provisions. Effective with the closure of the season for using the experimental seine permit for shad and skipjack, the possession of the experimental seine on the waters of the state shall be prohibited. Nothing shall prohibit the possession, sale, barter or exchange off the water of shad and skipjack legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

10. Shad *(Dorosoma sp.)* and Skipjack *(Alosa chrysochloris)* Gill Net Permit (Lake Des Allemands Only)

a. Closed Seasons, Times and Areas

i. The season for the commercial taking of shad and skipjack under the provision of the experimental gill net permit shall be closed during the months of July, August, September and October of each year. Shad and skipjack may not be taken commercially with an experimental gill net at any time outside of this season.

ii. Commercial harvest of shad and skipjack with an experimental gill net under the provisions of this section shall not be allowed on Saturday and Sunday. There shall be no commercial taking of shad and skipjack with an experimental gill net during the period after sunset and before sunrise.

iii. Experimental gill net shall not be used in areas closed to gill netting.

b. Commercial Taking

i. Only shad and skipjack may be taken; all other species shall be immediately returned to waters from which they were caught; no other fish may be in the possession of the permitted and all fish on board of the permitted vessel shall have the head and caudal fin (tail) intact.

ii. An experimental gill net is a gill net with a mesh size not less than 1 inch bar and 2 inches stretched and not more than 2 inches bar and 4 inches stretched, not exceeding 1,200 feet in length.

iii. Only "strike" gill net fishing will be permitted; this means the school of fish to be taken must be visible from the surface and the gill net then placed in or directly near the selected school. Once deployed, the experimental gill net is to remain stationary until being run (gill net remains in place while fish are removed) or gill net is retrieved (gill net remains in place until lifted into boat).

iv. The use of more than one experimental gill net from any one or more vessels at any time is prohibited.

v. No more than two vessels may fish an experimental gill net at one time.

vi. Experimental gill net shall not be used in a manner that unduly restricts navigation of other vessels.

vii. Net shall not be left unattended as defined in Title 56.

viii. Each experimental gill net shall have attached to each end a 1-gallon jug painted international orange and marked with black lettering; the word "experimental" and the permit number shall be legibly displayed on the jug.

ix. The permitted gear shall only be fished in Lac Des Allemands. Streams, bayous, canals and other connecting waterbodies are not included in this permit.

x. All provisions of Title 56 shall apply to persons involved in any experimental fishery or possessing any commercial gear.

c. Commercial Limits. During the season, there shall be no daily take or possession limit for the commercial harvest of shad and skipjack by properly licensed and permitted fishermen.

d. Permits

i. Any person who has been convicted of an offense under the provisions of the experimental fishery permit program shall not participate in the harvest, in any manner, of fish taken under an experimental permit.

ii. No person shall receive more than one gill net permit to commercially take shad and skipjack.

iii. This permit along with other applicable licenses authorize the bearer to sell his shad and skipjack herring.

iv. Violating any provision or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in Title 56.

v. The permitted gear must be properly licensed as a freshwater gill net.

e. General Provisions. Effective with the closure of the season for using the experimental gill net permit for shad and skipjack, the possession of the experimental gill net on the waters of the state shall be prohibited. Nothing shall prohibit the possession, sale, barter or exchange off the water of shad and skipjack legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

11. Experimental Freshwater River Shrimp *(Macrobrachium ohione)* Permit

a. May experimentally fish a wire mesh shrimp net, 1/4 inch bar, 6 feet in length in the Intercoastal Canal and Mississippi River within 1.5 miles of the boat ramp adjacent to the locks in Port Allen.

b. Only freshwater river shrimp may be taken; all other species shall be immediately returned to waters from which they were caught; no other fish may be in the possession of the permittee.

c. The permittee shall have the permit in possession at all times when using permitted gear; permittee shall be on board permitted vessel when operating under conditions of permit.

d. The permitted gear must be properly licensed as a Shrimp Trawl and may be fished in freshwater areas only.

e. Permitted gear must be marked using a 1 gallon jug painted international orange and marked with black lettering; the word "experimental" and the permit number should be legibly displayed on the jug.

f. This permit may be canceled at any time if in the judgment of the secretary or his designee, the permit is being used for purposes other than that for which the permit was issued.

g. Violating any provision or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in Title 56.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:571.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), amended LR 12:847 (December 1986), amended by the Office of Fisheries, LR 15:1098 (December 1989), amended by the Wildlife and Fisheries Commission, LR 28:

**Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972.B.

Interested persons may submit comments relative to the proposed Rule to Bennie Fontenot, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Tuesday, May 7, 2002.

James H. Jenkins, Jr.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Experimental Fisheries Program Permits**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes may increase fishing costs and negatively impact receipts and income of 25 permitted fishermen currently participating in the experimental fisheries program. The proposed changes in minimum mesh size, maximum gear length, season, time and area closures, and prohibition on the use of monofilament webbing may require some permitted permitted fishermen to purchase new gear, cause decreases in the quantity of fish harvested and/or increase effort in order to maintain current harvest levels. In addition, the proposed season, time and area closures and vessel number restriction will not only restrict fishing effort, but could cause permitted fishermen to redirect their fishing effort to other fisheries that may be less profitable. This could result in decreased income and cause some fishermen to exit the fisheries.

The magnitude of impact on costs and income to the 25 permitted fishermen will depend on their ability to adjust to the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have no net significant impact on competition and employment in the public and private sectors.

| | |
|---|---|
| James L. Patton | Robert E. Hosse |
| Undersecretary | General Government Section Director |
| 0203#035 | Legislative Fiscal Office |

## NOTICE OF INTENT

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

General and WMA Hunting (LAC 76:XIX.111)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

**Title 76**
**WILDLIFE AND FISHERIES**
**Part XIX. Hunting and WMA Regulations**
**Chapter 1. Resident Game Hunting Season**
**§111. General and Wildlife Management Area Hunting Rules and Regulations**

A. Hunting Seasons and Wildlife Management Area Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the Department of Wildlife and Fisheries a sum of money equal

to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire rifle, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours during the open rabbit season. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is one per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally from September 1 through February 28 during legal shooting hours by any legal hunting method with no limit. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than BB lead or F steel and during gun deer seasons anyone taking nutria must display 400 square inches of "hunter orange" and wear a "hunter orange" cap or hat. Pelting or selling of carcasses is illegal except when taken by a licensed trapper during the trapping season. Trespass upon private property without consent for the purpose of taking nutria is punishable by fines and possible jail time (R.S. 56:265).

4. Blackbirds and Crows. The season for crows shall be September 1 through January 2 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans.

5. Pheasant. Closed.

6. Falconry. Special permit required. Resident and migratory game species except turkeys may be taken. Seasons and bag limits are the same as for statewide and WMA regulations except squirrels may be taken by licensed falconers until the last day of February. Refer to LAC 76:V.301 for specific Falconry Rules.

7. Licensed Hunting Preserve. October 1-April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve Rules.

8. Deer Management Assistance Program (DMAP). Land enrolled in the voluntary program will be assessed a $25 registration fee and $0.05/acre fee. Deer management assistance tags must be in the possession of the hunter and attached and locked to antlerless deer (including those taken on either-sex days and those taken with bow or muzzleloader) through the hock in a manner that it cannot be removed before the deer is moved from the site of the kill. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. Refer to LAC 76:V.111 for specific DMAP Rules.

9. Farm Raised White-Tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

*Exotics*C for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

*Hunting*C in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

*Same as Outside*C for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission (LWFC).

*Supplemented Hunting Preserve*C for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is authorized in writing by the LDAF and LDWF to permit hunting.

*White-Tailed Deer*C for purposes of this rule means any animal of the species Odocoileus virginianus which is confined on a Supplemented Hunting Preserve.

b. Seasons

i. Farm-Raised White-Tailed Deer: Consult the regulations pamphlet.

ii. Exotics: year round.

c. Methods of Take

i. White-Tailed Deer: Same as outside.

ii. Exotics: Exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including saboted bullets only.

d. Shooting Hours

i. White-Tailed Deer: Same as outside.

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

e. Bag Limit

i. Farm-Raised White-Tailed Deer: Same as outside.

ii. Exotics: No limit.

f. Hunting Licenses

i. White-Tailed Deer: Same as outside.

ii. Exotics: No person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-Tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

D. Hunting—General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. No person born on or after September 1, 1969 shall hunt with a firearm unless that person has first been issued a certificate of satisfactory completion of a firearm and hunter education course taught or approved by the Department of Wildlife and Fisheries. However, a person younger than 16 years of age may hunt without such certificate if he is accompanied by and is under the direct and immediate supervision of a person 18 years of age or older.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer or turkey. A separate wild turkey stamp is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of Taking Resident Game Birds and Quadrupeds

a. Use of a longbow (including compound bow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey and migratory game birds. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a muzzleloader rifle larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

b. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the department, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a regional office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the department. This permit shall be valid for 30 days from the date of issuance. Contact the local regional office for details.

7. Threatened and Endangered Species. Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Unregulated Quadrupeds. Holders of a legal hunting license may take coyotes, unmarked hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to "chase only" during still hunting segments of the firearm and archery only season for deer. Foxes and bobcats are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

10. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with bow, muzzleloader and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. Sex Identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the state of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile

of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

E. General Deer Hunting Regulations

1. One antlered and one antlerless (when legal on private lands) deer per day except on Wildlife Management Areas, Federal Refuges and National Forest Lands where the daily limit shall be one deer per day. Six per season (all segments included) by all methods of take.

2. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically allowed.

3. Deer hunting restricted to legal bucks only, except where otherwise allowed.

4. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

5. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

6. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

7. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. Except in wildlife management areas, a leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

8. Areas not specifically designated as open are closed.

9. Muzzleloader Segment. (Special license and muzzleloader firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Muzzleloader license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except Area 5 and as specified on Public Areas. It is unlawful to carry a gun, other than a muzzleloader, including those powered by air or other means, while hunting during the special muzzleloader segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Muzzleloader Firearms For Special Season. Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including saboted bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

10. Archery Segment. Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Residents 60 years of age and older may use a crossbow without a special permit or license. Either sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, archer's must conform to the bucks only regulations. Either sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and Arrow Regulations. Hunting arrows for deer must have well-sharpened metal broadhead blades not less than 7/8 inch in width. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only.

(b). to have in possession or use any poisoned or drugged arrow, arrows with explosive tips, or any bow drawn, held or released by mechanical means except that hand held releases are lawful.

(c). to hunt deer with a bow having a pull less than 30 pounds.

(d). to hunt with a bow or crossbow fitted with an infrared or laser sight.

11. Hunter Orange. Any person hunting deer shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" during the open deer gun season including muzzleloader season. Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange."

12. Special Handicapped Either-Sex Deer Season on Private Land. See regulations pamphlet for dates. Restricted to individuals with Physically Challenged Hunter Permit.

13. Special Youth Deer Hunt. See regulations pamphlet for dates. Youth must be under the age of 16, must have proof of successfully completing a department-approved hunter safety course, and must be accompanied by an adult licensed to hunt big game.

F. Description of Areas

1. Area 1

a. All of the following parishes are open: East Feliciana, St. Helena, Concordia, Franklin, Tensas, East Baton Rouge, Madison, Washington.

b. Portions of the following parishes are also open.

i. Catahoula—All except that portion lying west of Boeuf River from Caldwell parish line to Ouachita River, north and east of Ouachita River to La. 559 at Duty Ferry, west of La. 559 to La. 124. North and west of La. 124 westward to LaSalle parish line.

ii. Grant—East of U.S. 165 and south of La. 8.

iii. LaSalle—Portion south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to La. 124. South of La. 124 eastward to Catahoula Parish line.

iv. Livingston—North of I-12.

v. Rapides—East of U.S. 165 and north of Red River.

vi. St. Tammany—All except that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

vii. Tangipahoa—North of I-12.

viii. West Feliciana—All except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes.

i. Catahoula—South of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to La. 8 at Harrisonburg, west of La. 8 to La. 913, west of La. 913 and La. 15 to Deer Creek.

ii. East Feliciana and East Baton Rouge—East of Thompson Creek from the Mississippi state line to La. 10. North of La. 10 from Thompson Creek to La. 67 at Clinton, west of La. 67 from Clinton to Mississippi state line. South of Mississippi state line from La. 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of La. 67 from La. 64 north to Parish Line, south of Parish Line from La. 64 eastward to Amite River. West of Amite River southward to La. 64, north of La. 64 to La. 37 at Magnolia, east of La. 37 northward to La. 64 at Indian Mound, north of La. 64 from Indian Mound to La. 67. Also, that portion of East Feliciana Parish east of La. 67 from parish line north to La. 959, south of La. 959 east to La. 63, west of La. 63 to Amite River, west of Amite River, southward to parish line, north of parish line westward to La. 67.

iii. Franklin—All

iv. St. Helena—North of La. 16 from Tickfaw River at Montpelier westward to La. 449, east and south of La. 449 from La. 16 at Pine Grove northward to La. 1045, south of La. 1045 from its junction with La. 449 eastward to the Tickfaw River, west of the Tickfaw River from La. 1045 southward to La. 16 at Montpelier.

v. Tangipahoa—That portion of Tangipahoa Parish north of La. 10 from the Tchefuncte River to La. 1061 at Wilmer, east of La. 1061 to La. 440 at Bolivar, south of La. 440 to the Tchefuncte River, west of the Tchefuncte River from La. 440 southward to La. 10.

vi. Washington and St. Tammany—East of La. 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from La. 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to La. 21. Also, that portion of Washington Parish west of La. 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany parish line to the Tangipahoa parish line, east of the Tangipahoa parish line to the Mississippi state line, south of the Mississippi state line to its junction with La. 25.

vii. West Feliciana—West of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of U.S. 61 and La. 966, east of La. 966 from U.S. 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open.

i. Bienville, Jackson, Union, Bossier, Lincoln, Webster, Caddo, Natchitoches, Winn, Claiborne, Red River, DeSoto, Sabine, Caldwell.

ii. except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open.

i. Allen—North of U.S. 190 from the parish line westward to Kinder, east of U.S. 165 from Kinder northward to La. 10 at Oakdale, north of La. 10 from Oakdale, westward to the parish line.

ii. Avoyelles—That portion west of I-49.

iii. Catahoula—That portion lying west of Boeuf River from Caldwell parish line to Ouachita River, north and east of Ouachita River to La. 559 at Duty Ferry. West of La. 559 to La. 124. North and west of La. 124 westward to LaSalle parish line.

iv. Evangeline—All except the following portions: east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte, and north of U.S. 167 east of Ville Platte.

v. Grant—All except that portion south of La. 8 and east of U.S. 165.

vi. Jefferson Davis—North of U.S. 190.

vii. LaSalle—All except south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to La. 124. South of La. 124 eastward to Catahoula parish line.

viii. Morehouse—West of U.S. 165 (from Arkansas state line) to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to

Bastrop, west of La. 139 to junction of La. 593, west and south of La. 593 to Collinston, west of La. 138 to junction of La. 134 and north of La. 134 to Ouachita line at Wham Brake.

ix. Ouachita—All except south of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Brake.

x. Rapides—All except north of Red River and east of U.S. 165. South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill, and north of La. 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and U.S. 167 to junction of U.S. 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.

xi. Vernon—North of La. 10 from the parish line westward to La. 113, south of La. 113 eastward to the parish line. Also the portion north of La. 465, west of La. 117 from Kurthwood to Leesville, and north of La. 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes.

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).

ii. Ouachita—East of Ouachita River.

iii. Rapides—West of U.S. 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to U.S. 165, east of U.S. 165 northward to U.S. 167 at Alexandria. North of La. 465 from Vernon Parish line to La. 121, west of La. 121 to I-49, west of I-49 to La. 8, south and east of La. 8 to La. 118 (Mora Road), south and west of La. 118 to Natchitoches Parish line.

iv. Vernon—East of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to La. 465, east and north of La. 465 to Rapides Parish line.

3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open.

i. Allen—South of U.S. 190 and west of La. 113.

ii. Beauregard—West of La. 113. ALSO east of La. 27 from the parish line north to DeRidder and north of U.S. 190 westward from DeRidder to Texas line.

iii. Calcasieu—South of U.S. 90. Also east of La. 27 from Sulphur northward to the parish line.

iv. Iberia—West of U.S. 90 and north of La. 14.

v. Jefferson Davis—All except north of U.S. 190.

vi. Lafayette—West of I-49 and U.S. 90.

vii. Rapides—South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill and north of La. 113 from Union Hill to Vernon Parish line.

viii. St. Landry—West of U.S. 167.

ix. Vernon—West and north of La. 113, south of La. 465, east of La. 117 from Kurthwood to Leesville, and south of La. 8 from Leesville to Texas state line.

4. Area 4

a. All of East Carroll and Richland parishes are open.

b. Portions of the following parishes are open.

i. Morehouse—East of U.S. 165 (from Arkansas state line) to Bonita, south and east of La. 140 to junction of La. 830-4 (Cooper Lake Road), east of La. 830-4 to Bastrop, east of La. 139 at Bastrop to junction of La. 593, east and north of La. 593 to Collinston, east of La. 138 to junction of La. 134 and south of La. 134 to Ouachita line at Wham Brake.

ii. Ouachita—South of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Bake.

5. Area 5

a. All of West Carroll Parish is open.

i. All deer hunting with firearms is for bucks only including muzzleloader season.

6. Area 6

a. All of Orleans Parish is closed to all forms of deer hunting.

b. All of the following parishes are open: Ascension, Plaquemines, St. John, Assumption, Pointe Coupee, St. Martin, Iberville, St. Bernard, Jefferson, St. Charles, Lafourche, St. James, West Baton Rouge.

c. Portions of the following parishes are also open.

i. Avoyelles—All except that portion west of I-49.

ii. Evangeline—That portion east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte and north of U.S. 167 east of Ville Platte.

iii. Iberia—East of U.S. 90.

iv. Lafayette—East of I-49 and U.S. 90.

v. Livingston—South of I-12.

vi. Rapides—South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

vii. St. Landry—East of U.S. 167.

viii. St. Mary—North of U.S. 90.

ix. St. Tammany—That portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

x. Tangipahoa—South of I-12.

xi. Terrebonne—North of La. 182 from Assumption Parish line eastward to Houma, east of Houma Navigation Canal southward to the Gulf of Mexico.

xii. West Feliciana—West of Mississippi River, known as Raccourci and Turnbull Islands.

d. Still hunting only in all or portions of the following parishes.

i. Avoyelles—North of La. 1 from Simmesport westward to La. 115 at Marksville, east of La. 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to La. 1 at Simmesport.

ii. Plaquemines—East of the Mississippi River.

iii. Rapides—South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

iv. St. Bernard - All of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.

v. St. John—South of Pass Manchac from Lake Pontchartrain to U.S. 51, east of U.S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U.S.

51 to Lake Pontchartrain. West of Lake Pontchartrain from La. 638 to Pass Manchac.

vi. St. Landry—Those lands surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10, and south by La. 103.

7. Area 7

a. Portions of the following parishes are open.

i. Iberia and St. Mary Parishes - South of La. 14 and west U.S. Hwy. 90.

ii. Terrebonne—South of La. 182 from Assumption Parish line eastward to Houma, west of Houma Navigation Canal southward to the Gulf of Mexico.

8. Area 8

a. Portions of the following parishes are open.

i. Allen—That portion east of La. 113 from the parish line to U.S. 190, north of U.S. 190 eastward to Kinder, west of U.S. 165 northward to La. 10 at Oakdale and south of La. 10 from Oakdale eastward to parish line;

ii. Vernon—That portion east of La. 113 from the parish line northward to Pitkin, and south of La. 10 from Pitkin southward to the parish line;

iii. Beauregard—That portion lying east of La. 113. Also that portion west of La. 27 from parish line northward to DeRidder, south of U.S. 190 from DeRidder to Texas state line;

iv. Calcasieu—That portion lying east of La. 27 from the parish line southward to Sulphur and north of U.S. 90 from Sulphur to the Texas state line.

G. Wildlife Management Area Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. Wildlife management area seasons may be altered or closed anytime by the Department Secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 3:00 a.m. unless otherwise specified. On days when Daily permits are required, permit stations will open 2 hours before legal shooting hours. Hunters must check out and exit the WMA no later than two hours after sunset, except for Lake Boeuf, Salvador/Timken and Pointe-aux-Chenes or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt deer according to the regular season dates applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF regional office for additional information.

f. Dumping garbage or trash on WMAs except in designated locations is prohibited.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Commercial activities prohibited without prior approval or unless otherwise specified.

i. Damage to or removal of trees, shrubs, hard mast (acorn, pecans, etc.) and wild plants is prohibited without prior approval. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to five gallons per person per day. Persons engaged in commercial activities must obtain a permit from the Region Office.

j. Burning of marshes is prohibited except by permit. Permits may be obtained from the Fur and Refuge Division.

k. Nature trails. Access to trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

l. Deer seasons are for legal buck deer unless otherwise specified.

m. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

n. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and State Seed Grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

2. Permits

a. Daily. Daily permits when required shall be obtained at permit stations on or near each WMA after first presenting a valid hunting license to a department employee. Hunters must retain permit in possession while hunting. Hunters may enter the area no earlier than two hours before legal shooting time unless otherwise specified. Hunters must checkout daily and exit the area not later than two hours after sunset unless otherwise specified.

b. Self Clearing Permits. A Self-Clearing Permit is required for all activities (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise specified. The Self-Clearing Permit will consist of three portions: check in, check out and a Vehicle Tag. On WMAs where Self-Clearing Permits are required, all persons must obtain a WMA Self-Clearing Permit from an Information Station. The check in portion must be completed and put in a permit box before each day's activity on the day of the activity. the check out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a camp. each person must leave the Vehicle Tag portion of his permit on the dashboard of the vehicle used to enter into the WMA in such a way that it can be easily read from outside of the vehicle. This must be done only when the vehicle is parked and left unattended on the WMA. In an ATV, boat or other type vehicle was used to enter the WMA, then the vehicle tag must be attached to that vehicle in such a manner that it can be readily seen and read. When Mandatory Deer Checks are specified on WMAs, hunters must check deer at a check station. Call the appropriate Region office for the location of

the deer check station on these WMAs. (Self-Clearing Permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

c. Wild Louisiana Stamp. Persons using WMAs or other department administered lands for purposes other than hunting and fishing, such as camping, shooting on rifle ranges, berry picking, hiking, photography, bird-watching and the like, must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement.

3. Special Seasons

a. Youth Deer Hunt. Only youths younger than 16 years of age may hunt. All other seasons are closed except Handicapped Seasons. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of a hunter safety certification, a valid Louisiana hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Contact the appropriate region office for special check station locations when daily permits are required and maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

b. Handicapped Season. For hunters possessing a Physically Challenged Hunter Permit only. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Handicapped Seasons. Pointe-aux-Chenes will have an experimental Lottery Handicapped waterfowl hunt. Contact New Iberia Office, Fur and Refuge Division for details.

c. Deer Lottery Hunts. Hunts restricted to those persons selected as a result of the pre-application lottery. Consult the regulations pamphlet for deadlines. A non-refundable application fee must be sent with application. Contact region offices for applications. Consult regulations pamphlet for WMAs offering lottery hunts.

d. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at Self Clearing station. Contact Region Offices for more details. Consult separate Turkey Hunting Regulations pamphlet for WMAs offering lottery hunts.

e. Trapping. Permits to take fur bearers from WMAs may be obtained at appropriate offices when required. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. On WMAs where permits are required, each trapper must submit an annual trapping report to the Region Office where his permit was obtained. Non-compliance will result in forfeiture of trapping privileges on the WMAs. Permits may be obtained only between hours of 8 a.m. to 4:30 p.m. on normal working days at region offices. Hunter orange required when a deer gun season is in progress. A permit is required to carry a firearm outside of the normal hunting season and is available at the Region Office.

f. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. Nighttime Experimental Season dates for specific WMAs are for nighttime raccoon hunting and permits may be required. There is no bag limit for raccoons at night unless specified in the annual regulations pamphlet. Raccoon hunters with dogs must submit an annual report of their kill to the region office for WMAs where permits are required. Non-compliance will result in forfeiture of raccoon or all hunting privileges on WMAs. Permits, when required, may be obtained at region offices only between hours of 8 a.m. to 4:30 p.m. on normal working days.

g. Commercial Fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines allowed on Dewey Wills WMA north of La. 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year there after. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

h. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

i. Additional Department Lands. The department manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Rapides, Vernon, Evangeline, St. Helena and other parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate Wildlife and Fisheries Region Office for specific information and any additional season dates.

4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under Wildlife Management Area listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season.

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails or their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On Wildlife Management Areas, Federal Refuges and National Forest Lands the daily limit shall be one deer per day, six per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included). Unmarked hogs may be taken on some WMAs by properly licensed hunters from the beginning of archery season on the area until February 28 and only with guns/ammunition or bow and arrow legal for specified seasons in progress. Consult the specific WMA for additional information. Proper licenses and permits are required for hunting.

d. Hunters who kill deer on WMAs that require daily permits must have deer checked at the check station on same day of kill.

e. Deer hunting on WMAs is restricted to still hunting only. No WMA will be open for deer during early still hunt season unless specified in the regulation pamphlet.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed.

g. On Wildlife Management Areas and Refuges, all deer stands must be removed from the area no later than two hours after the end of legal shooting hours each day. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

h. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal, poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. All decoys must be removed from the WMA daily.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the department. This action is necessary to prevent preemption of hunting space.

l. Hunters shall not hunt, take or pursue birds or animals from moving vehicles on any WMA. No person shall take birds or animals from or by any motor boat or sail boat unless the motor has been completely shut off and/or the sail furled and its progress therefrom has ceased.

m. Spot lighting (shining) from vehicles is prohibited on all WMAs.

n. Horses and mules may be ridden on Wildlife Managements Areas except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified.

o. All hunters except waterfowl hunters and dove hunters (including archers and small game hunters) on WMAs must display 400 square inches of "hunter orange" and wear a "hunter orange" cap during open gun season for deer. Quail hunters, woodcock hunters and archers (while on the ground) as well as hunters participating in special dog seasons for rabbit and squirrel are required to wear a minimum of a "hunter orange" cap. Also all persons afield during hunting seasons are encouraged to display "hunter orange".

p. Archery Season for Deer. The archery season on WMAs is the same as outside and is open for either sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or handicapped hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Muzzleloader Season for Deer. See WMA deer schedule.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16-day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to Department-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed 16 consecutive days. Permits are required for the mooring of houseboats on Pass-a-Loutre and Atchafalaya

Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by State and Federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

7. Restricted Areas

a. All oil and gas production facilities (wells, dumping stations and storage facilities) are off limits.

b. No unauthorized entry or hunting in restricted areas or refuges.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting and bird dog training when allowed. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight≤750 pounds, length≤85 inches, and width≤48 inches. ATV tires are restricted to those no larger than 25 x 12 with a maximum 1-inch lug height and a maximum allowable tire pressure of 7 psi. as indicated on the tire by the manufacturer.

b. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

c. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within wildlife management areas due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

d. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

e. Airboats, aircraft, personal water craft and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA.

f. No internal combustion engines allowed in certain Greentree reservoirs.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Motorized vehicles, including ATVs, and motorcycles, are restricted entirely to designated roads and ATV trails as indicated on WMA maps. WMA maps available at all region offices. This restriction does not apply to bicycles.

j. Use of special ATV trails for handicapped persons is restricted to special ATV handicapped permittees. Handicapped ATV permittees are restricted to handicapped ATV trails or other ATV trails only as indicated on WMA maps. Persons 60 years of age and older, with proof of age, are also allowed to use special handicapped trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Handicapped persons should make application for a Physically Challenged Hunter Program Permit with the department.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to handicapped-only ATV trails will be marked with blue colored paint. Routes of all trails are as indicated on WMA maps. Deviation from the trails indicated on the map constitutes a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 3 a.m. ATVs are prohibited from March 1 through August 31. except certain trails may be open during this time period to provide access for fishing or other purpose. These trails will be marked by signs at the entrance of the trail and designated on WMA maps. Raccoon hunters may use ATVs during nighttime raccoon take seasons only.

n. Caution: Many department-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

10. Commercial Activities. Hunting Guides/Outfitters: No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any Wildlife Management Area,

regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

11. Wildlife Management Areas Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, dove, woodcock, snipe, rail and gallinule). Consult regulations pamphlet.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet.

14. Archery. Consult regulations pamphlet.

15. Hogs. Consult regulations pamphlet.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet.

17. Wildlife Management Areas Hunting Schedule and Regulations

a. Alexander State Forest. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas.

b. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the Department of Wildlife and Fisheries at any time. ATVs, ATCs and motorcycles prohibited.

c. Attakapas. Free-ranging livestock prohibited.

d. Bayou Macon. All night activities prohibited except as otherwise provided. Mules are allowed for nighttime raccoon hunting.

e. Bayou Pierre

f. Bens Creek

g. Big Colewa Bayou. All nighttime activities prohibited.

h. Big Lake. Free-ranging livestock prohibited.

i. Biloxi

j. Bodcau

k. Boeuf. Free-ranging livestock prohibited.

l. Boise-Vernon

m. Buckhorn. Free-ranging livestock prohibited.

n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self Clearing Permit required once per year. Free-ranging livestock prohibited. All game harvested must be reported. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details.

o. Dewey W. Wills. Crawfish: 100 pounds per person per day.

p. Elm Hall. No ATVs allowed.

q. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self Clearing Permit required once per year. Special regulations apply to ATV users.

r. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. Free-ranging livestock prohibited. No hunting in restricted area.

s. Jackson-Bienville. ATVs are allowed on non-public maintained gravel roads and timber management woods, roads and trails.

t. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.

u. Lake Boeuf

v. Lake Ramsay. Foot traffic only - all vehicles restricted to Parish Roads.

w. Little River

x. Loggy Bayou

y. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.

z. Ouachita. Waterfowl Refuge: North of La. Hwy. 15 closed to all hunting, fishing and trapping during duck season including early teal season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided.

aa. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the Department Pass-a-Loutre WMA map. ATVs, ATCs and motorcycles prohibited on this area. Oyster harvesting is prohibited.

bb. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting will be closed when the river stage at Pearl River reaches 16.5 feet except waterfowl hunting south of Hwy. 90. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open noon until 4 p.m. Friday, and 8 a.m. to 4:30 p.m. Saturday and Sunday with a fee.

cc. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self Clearing Permit required once per year. Special federal regulations apply to ATV users.

dd. Plum Creek (Formerly Georgia-Pacific). Except as otherwise provided, all nighttime activities prohibited.

ee. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for dove hunting and experimental youth deer hunt as specified in regulation pamphlet. Point Farm: Gate will be open during each Saturday of the second split of dove season and all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational

purposes only and any commercial use is prohibited. Mudboats or vessels with engines larger than 25 h.p. prohibited in the Montegut and Grand Bayou marsh management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue. Vehicles prohibited on Point Farm properties unless authorized by the department. ATVs, ATCs and motorcycles prohibited on this area.

ff. Pomme de Terre. Commercial Fishing: permitted Monday through Friday, except closed during duck season. Commercial Fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside except allowed after 2 p.m. only during waterfowl season. Crawfish: April 1 - July 31, recreational only, 100 lbs. per boat or group daily. Free-ranging livestock prohibited.

gg. Red River. Free-ranging livestock prohibited. Crawfishing prohibited on Wetland Restoration Areas.

hh. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided.

NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. Waterfowl hunting after 2 p.m. prohibited. All vehicles including ATVs prohibited.

ii. Sabine

jj. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

kk. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 hp are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes - "Baie Des Chactas" and Baie du Cabanage" and the Rathborne Access ditch. Operation of the above described internal combustion engines in interior ditches is prohibited except by experimental permit to be obtained from the New Orleans Office, Fur and Refuge Division, Room 217. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. Special Use Permits may be issued for persons interested in clearing existing ditches (trenasses). Permits will be considered on a case-by-case basis. Contact Pointe-aux-Chenes. ATVs, ATCs and motorcycles prohibited on this area.

ll. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Organized trail rides prohibited. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. No motorized vehicles allowed off designated roads. Free-ranging livestock prohibited.

mm. Sherburne. Crawfishing: Recreational crawfishing only on the North and South Farm Complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing allowed on the remainder of the area. Permit is required. Free-ranging livestock prohibited. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. Vehicular traffic prohibited on east Atchafalaya River levee within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne Wildlife Management Area will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

nn. Sicily Island Hills. Firearms and any game harvested cannot be transported through the area except during the corresponding open season on area. Free-ranging livestock prohibited.

oo. Soda Lake. No motorized vehicles allowed. All trapping and hunting prohibited except archery hunting for deer.

pp. Spring Bayou. Commercial Fishing: permitted Monday through Friday except slat traps and hoop nets permitted any day. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this camp site. Water skiing allowed only in Old River and Grand Lac.

qq. Thistlethwaite. No hunting or trapping in restricted area (See WMA Map). All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas.

rr. Three Rivers. Free-ranging livestock prohibited in area.

ss. Tunica Hills. All vehicles restricted to Parish roads. ATVs restricted to designated trails. Driving on food plots prohibited. Access to restricted areas is unauthorized. Refer to WMA map. Camping prohibited on area. North of Hwy. 66 (Angola Tract) closed to the general public March 1-September 30 except spring turkey hunting access allowed for those individuals drawn for special lottery hunt.

tt. Union. All nighttime activities prohibited except as otherwise provided.

uu. West Bay. Road Travel and Hunting Restrictions: All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. Hunting prohibited on roads designated for motorized vehicular travel.

vv. Wisner

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:

**Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Public hearings will be held at the following locations: Region 1—March 19, 6:30 p.m., Minden Civic Center, Minden, Louisiana; Region 2—March 18, 7 .p.m., Ruston Civic Center, Ruston, Louisiana; Region 3—March 19, 7 p.m., Alexandria Convention Center, Alexandria, Louisiana; Region 4—March 12, 7 p.m., Concordia Parish Community Center, Ferriday, Louisiana; Region 5—March 20, 7 p.m., Burton Coliseum, Chalkley Room, Lake Charles, Louisiana; Region 6—March 14, 7 p.m., East Houma Bingo Hall, Houma, Louisiana; Region 7—March 14, 7 p.m., Elmer E. Lyons Auditorium, Covington High School, Covington, Louisiana. Also comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings from April through July. Interested persons may submit written comments relative to the proposed rule until Tuesday, May 7, 2002 to Tommy Prickett, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: General and WMA Hunting**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule amends permanent rules and regulations for the state at large as well as Wildlife Management Areas. Establishment of hunting regulations is an annual process. The cost of implementing the proposed rules, aside from staff time, is the production of the regulation pamphlet. Cost of printing the 2001-2002 state hunting pamphlet was $14,163 and no major increase in expenditures is anticipated. Local government units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State hunting license fee collections are between $8 million and $9 million annually. Additionally, hunting and related activities generate approximately $25 million in state sales tax, $5.6 million in state income tax and $24 million in local sales tax revenues annually (Southwick and Assoc., 1997). Failure to adopt rule changes would result in no hunting season being established and a potential loss of some of these revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Over 400,000 hunters and numerous businesses that provide goods and services to hunters are directly affected by this proposal. Hunting in Louisiana generates in excess of $596,000,000 annually through the sale of outdoor related equipment, associated items and trip-related expenditures (Southwick and Assoc., 1997). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of commerce revenues associated with these activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting in Louisiana provides 15,271 jobs (Southwick and Assoc., 1997). Not establishing hunting seasons might have a negative and direct impact on these jobs.

| | |
|---|---|
| James L. Patton | Robert E. Hosse |
| Undersecretary | General Government Section Director |
| 0203#034 | Legislative Fiscal Office |

## NOTICE OF INTENT

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

Resident Game Hunting Season—2002-2003
(LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

**Title 76**
**WILDLIFE AND FISHERIES**
**Part XIX. Hunting and WMA Regulations**
**Chapter 1. Resident Game Hunting Season**
**§101. General**

A. The Resident Game Hunting Season, 2002-2003 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:

**§103. Resident Game Birds and Animals 2002-2003**

A. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

| Species | Season Dates | Daily Bag Limit | Possession Limit |
|---|---|---|---|
| Quail | Nov. 16-Feb. 28 | 10 | 20 |
| Rabbit | Oct. 5-Feb. 28 | 8 | 16 |
| Squirrel | Oct. 5-Feb. 9 | 8 | 16 |
| Deer | See Schedule | 1 antlered and 1 antlerless (when legal on private lands) | 6/season (Only 2 may be legal bucks) |

C. Deer Hunting Schedule

| Area | Archery | Muzzleloader (All Either Sex) | Still Hunt (No Dogs Allowed) | With or Without Dogs |
|---|---|---|---|---|
| 1 | Oct. 1-Jan. 31 | Nov. 16-Nov. 22<br>Jan. 18-Jan. 26 | Nov. 23-Dec.6<br>Jan. 6-Jan.17 | Dec. 7-Jan. 5 |
| 2 | Oct. 1-Jan. 31 | Oct. 26-Nov. 1<br>Jan. 11-Jan. 19 | Nov. 2-Dec. 6 | Dec. 7-Jan.10 |
| 3 | Sept.14-Jan.15 | Oct. 5-Oct.11<br>Dec. 2-Dec. 6 | Oct.12-Dec. 1<br>Dec. 7-Jan. 1 | |
| 4 | Oct. 1-Jan. 31 | Nov. 9-Nov. 15<br>Jan. 11-Jan. 19 | Nov.16-Jan.10 | |
| 5 | Oct. 1-Jan. 31 | Nov. 16-Nov. 22<br>Jan. 11-Jan. 19<br>Bucks Only | Nov.23-Dec. 1 | |
| 6 | Nov. 1-Feb. 2 | Dec. 9-Dec. 20 | Nov.23-Dec. 8 | Dec.21-Feb. 2 |
| 7 | Oct. 1-Jan. 31 | Oct.12-Oct. 18<br>Nov. 9-Nov. 15 | Oct.19-Nov. 8<br>Nov.16-Dec. 1 | Dec. 2-Jan.1 |
| 8 | Sept.14-Jan. 15 | Oct. 5-Oct. 11<br>Dec. 2-Dec. 6 | Oct.12-Dec. 1 | Dec. 7-Jan.1 |

D. Modern Firearm Schedule (Either Sex Seasons)

| Parish | Modern Firearm Either-Sex Days |
|---|---|
| Acadia | Oct. 12-13, 19-20, 26-27, Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1 |
| Allen | Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8 |
| | Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8 |
| | Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8 |
| Ascension | Nov. 23-24, 27-30, Dec. 1, 21-22 |
| Assumption | Nov. 23-24, 27-30, Dec. 1, 21-22 |
| Avoyelles | Area 2: Nov. 2-3, 23-24, 29-30, Dec. 1, 7-8 |
| | Area 6: Nov. 23-24, 29-30, Dec. 1, 21-22 |
| Beauregard | Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8 |
| | Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8 |
| Bienville | Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8 |
| Bossier | Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8 |
| Caddo | Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8 |
| Calcasieu | Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8 |
| | Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8 |
| Caldwell | Nov. 2-3, 23-24, 29-30, Dec. 1, 7-8 |
| Cameron | Oct. 12-13, 19-20, 26-27, Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1 |
| Catahoula | Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8 |
| | Area 2: Nov. 2-3, 23-24, 29-30, Dec. 1, 7-8 |
| Claiborne | Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8 |
| Concordia | Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15, 21-22 |
| DeSoto | Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8 |
| East Baton Rouge | Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15 |
| East Carroll | Nov. 16-17, 23-24, 29-30, Dec. 1, 7-8, 14-15, 21-22, East of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison parish line. |
| | Nov. 16-17, 29-30, Dec. 1 the remainder of the parish. |
| East Feliciana | Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15 |
| Evangeline | Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8 |
| | Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| Franklin | Nov. 23-24, 27-30, Dec. 1 |
| Grant | Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8 |
| | Area 2: Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8 |
| Iberia | Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8 |
| | Area 6: Nov. 23-24, 27-30 Dec. 1, 21-22, 28-29 |
| | Area 7: Oct. 19-20, Nov. 16-17, 23-24, 29-30, Dec. 1, 7-8 |
| Iberville | Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| Jackson | Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8 |
| Jefferson | Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| Jefferson Davis | Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8 |
| | Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8 |
| Lafayette | Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-24, 29-30, Dec. 1 |
| | Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| Lafourche | Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| LaSalle | Area 1: Nov. 23-24, 29-30, Dec. 1, 7-8 |
| | Area 2: Nov. 2-3, 23-24, 29-30, Dec. 1, 7-8 |
| Lincoln | Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8 |
| Livingston | Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15 |
| | Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| Madison | Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15, 21-22 |
| Morehouse | Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8 |
| | Area 4: Nov. 16-17, 29-30, Dec. 1 |
| Natchitoches | Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8 |
| Orleans | Closed to all deer hunting |
| Ouachita | Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8 |
| | Area 4: Nov. 16-17, 29-30, Dec. 1 |
| Plaquemines | Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| Pointe Coupee | Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| Rapides | Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8 |
| | Area 2: Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8 |
| | Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 29-30, Dec. 1, 7-8 |
| | Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22 |
| Red River | Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8 |
| Richland | Nov. 16-17, 29-30, Dec. 1 |
| Sabine | Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8 |
| St. Bernard | Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| St. Charles | Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| St. Helena | Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| St. James | Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| St. John | Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| St. Landry | Area 3: Oct. 12-13, Nov. 29-30, Dec. 1, 7-8 |
| | Area 6: Nov. 23-24, 29-30, Dec. 1, 21-22 |
| St. Martin | Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| St. Mary | Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| | Area 7: Oct. 19-20, Nov. 16-17, 23-24, 29-30, Dec. 1, 7-8 |
| St. Tammany | Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15 |
| | Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| Tangipahoa | Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15 |
| | Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| Tensas | Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15, 21-22 |
| Terrebonne | Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| | Area 7: Oct. 19-20, Nov. 16-17, 23-24, 29-30, Dec. 1, 7-8 |
| Union | Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8 |
| Vermillion | Oct. 12-13, 19-20, 26-27, Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1 |
| Vernon | Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8 |
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| | Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8 |
| Washington | Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15 |
| Webster | Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8 |
| West Baton Rouge | Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| West Carroll | Closed |
| West Feliciana | Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15 |
| | Area 6: Nov. 23-24, 27-30, Dec. 1, 21-22, 28-29 |
| Winn | Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8 |

E. Farm Raised White-tailed Deer on Supplemented Shooting Preserves

| Archery | Modern Firearm | Either Sex |
|---|---|---|
| Oct. 1-Jan. 31 (Either Sex) | Nov. 1-Jan. 31 | Nov. 1-7<br>Dec. 1-7<br>Jan. 1-7 |

F. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), amended LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:

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Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Resident Game Hunting SeasonC2002-2003**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of hunting regulations is an annual process. The cost of implementing the proposed rules, aside from staff time, is the production of the regulation pamphlet. Cost of printing the 2001-2002 state hunting pamphlet was $14,163 and no major increase in expenditures is anticipated. Local government units will not be impacted.

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| James L. Patton | Robert E. Hosse |
| Undersecretary | General Government Section Director |
| 0203#036 | Legislative Fiscal Office |