

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Office of Business Development

Enterprise Zone Program (LAC 13:I.Chapter 7)

The Department of Economic Development, Office of Business Development, pursuant to the authority of R.S. 51:1786(5) and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice to amend LAC 13.I.Chapter 7, Enterprise Zone Program. The following Sections are repealed: §§702, 703, 718, 735, 745, 747 and 751. The following Sections are adopted and contain new language: §§703, 713-745. The following Sections are amended: §§701, 705-711, and 749. The purpose of the amended Rules is to comply with changes to the Enterprise Zone legislation made by Acts 2002 1st Extra Session, No. 4, which changed the basis of determining Enterprise Zones to the most recent census and extended the \$5,000 per job tax credit for motor vehicle parts manufacturers. The changes also further clarify requirements for creating the minimum number a jobs.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 7. Enterprise Zone Program

§701. Scope

A. Intent of Program. The intent of the program is to stimulate employment for residents in depressed areas of the State which are designated as enterprise zones by providing tax incentives to a business hiring from these areas.

B. Description of Program. The Louisiana Enterprise Zone Program is a jobs program which gives tax incentives to a business hiring from Enterprise Zones in Louisiana or from one of the other targeted groups. Enterprise Zone Program incentives are in addition to other State sponsored incentives such as the Industrial Tax Exemption Program and the Restoration Tax Abatement Program. Enterprise Zone and Quality Jobs programs are mutually exclusive.

C. The following incentives are available.

1. A one-time tax credit of \$2,500 for each net new job filled with a Louisiana resident added to the applicant's payroll. The tax credit may be used to satisfy State Income tax and/or Franchise tax liabilities. If the entire tax credit cannot be used in the year created, the remainder may be applied against the State Income tax and/or Franchise tax liabilities for the succeeding 10 taxable years or until the entire credit is used, whichever occurs first.

2. In lieu of §701.C.1 tax credit, aviation and aerospace industries (as defined in the 3720s and 3760s Standard Industrial Classification (SIC) manual) and auto parts manufacturers (as defined in 3363s North American Industrial Classification System (NAICS) manual) are eligible for a one-time tax credit of \$5,000 for each net new job filled with a Louisiana resident added to the applicant's

payroll. The tax credit may be used to satisfy State Income tax and/or Franchise tax liabilities. If the entire tax credit cannot be used in the year created, the remainder may be applied against the State Income tax and/or Franchise tax liabilities for the succeeding 10 years, or until the entire credit is used, whichever occurs first. The \$5,000 tax credit for auto parts manufacturers will sunset June 30, 2006.

3. An additional \$2,500 tax credit is available to an applicant hiring Temporary Assistance for Needy Families (TANF) recipients. This Tax Credit is in addition to the incentive for new jobs created in §701.C.1 and §701.C.2. The TANF recipient must receive compensation which will disqualify them from continued participation in TANIF and must be employed for two years to generate the additional Tax Credit. The Tax Credit may be used to satisfy State Income tax and/or Franchise tax liabilities. If the entire Tax Credit cannot be used in the year created the remainder may be applied against the State Income tax and/or Franchise tax liabilities for the succeeding 10 years or until the entire credit is used, whichever occurs first. An employer shall not obtain the Jobs Tax Credit for more than 10 TANIF employees in the first year of participation in the program.

4. Rebates can consist of sales/use taxes imposed by the State and imposed by local governmental subdivisions, upon approval of the governing authority of the appropriate municipality, parish, or district, where applicable, on all eligible purchases during the specified Project/Construction Period per §725.H. The Project/Construction Period is limited to a 24 month period. Upon a written request, a Project/Construction Period extension, not to exceed six months, may be granted by the Office of Business Development, Business Incentives Division (BI). Rebates paid by local governmental subdivisions can only consist of those sales/use taxes that are not dedicated to the repayment of bond indebtedness or dedicated to schools. Final requests for the payment of any rebate must be filed with the Louisiana Department of Revenue (LDOR) and/or its local governmental subdivision no later than six months after the project's completion is documented or six months after the date of the governor's signature on the contract, whichever is later. Documentation of the completion of a project shall be either by using the application certification section or the filing of a separate Project Completion Report (PCR), as applicable, whichever date is later. An extension of up to six months on filing the rebate request with the LDOR may be granted upon written request to the BI. This request must be received by BI prior to the standard rebate request time period has expired.

D. Qualifications

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

2. Any business, except residential developments, (including but is not limited to the construction, selling, or leasing of single-family or multi-family dwellings, apartment buildings, condominiums, town houses, etc), churches, and businesses with gaming (See Title 13.1.3 Gaming Ineligibility) may apply for Enterprise Zone benefits.

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

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

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

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

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

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

§702. Future Contract Availability

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, amended LR 22:447 (June 1996), repealed Department of Economic Development, Office of Business Development, LR 29:

§703. Definitions

Affiliate

1. any business entity that is:
 - a. controlled by the applicant business;
 - b. a controlling owner of the applicant business; or
 - c. controlled by an entity described in i or ii.
2. for purposes of this definition, *Control* is defined as owning either directly, or indirectly through control of or by another business entity:
 - a. a majority of the voting stock or other voting interest of such business entity or the applicant business; or
 - b. stock or other interest whose value is a majority of the total value of such business entity or the applicant business.

3. a business entity may be treated as a non-affiliate if the applicant business proves that neither the applicant business nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

Beginning of Project/Construction the first day on which foundations are started or where foundations are unnecessary, the first day on which installation of the facility begins or the first day that materials or equipment purchased for that project are received. Where there is no construction, the first day on which a new hire is made in connection with the project shall mean "Beginning of Project/Construction" for the purposes of this Chapter.

Contract Effective Date either the day that the Advance Notification was received by BI or the beginning date of the

Project/Construction shown on the Application. The Contract Effective Date cannot be earlier than the date the Advance Notification was received by BI unless a waiver of timely filing has been approved by the Board of Commerce and Industry (Board).

Date of Hire the first day of work for which the applicant directly pays an employee and is reported on the applicant's Louisiana Department of Labor (LDOL) Quarterly Report of Wages Paid.

Economic Development Zone (EDZ)—a geographic area of contiguous real properties defined by a visible boundary, designated as such by the State or the local governmental subdivision in which it is located and approved by the Board. The location of an EDZ once defined is permanent, cannot be moved, expanded, or relocated, and is owned or operated by the State or a political subdivision of the State or operated by an entity created by the State or a political subdivision of the State. EDZs must have been created by State statute and are defined to include the following:

1. industrial park;
2. business park;
3. airport or air park;
4. research park;
5. research and development park;
6. downtown development district with taxing and bonding authority;
7. former federal facility cannot be a single building or small grouping of prior federally owned and occupied buildings. The immediate previous occupant of this facility must have been a federal governmental entity; and
8. port Only the contiguous real property actually owned by that port.

Enterprise Zone Can area of high unemployment, low income and/or an area where a large number of residents are receiving some form of public assistance. For purposes of R.S.51:1787.B.4 and D.4 the term "some form of public assistance" shall include any program of assistance financed in whole or in part by a Federal, State, or any local government agency, eligibility for which is dependant upon the employment status or income level of the individual. Any such assistance must have been received by the individual within a six month period prior to their employment. Receiving unemployment is not public assistance.

Full Time Employee Can employee reported on the applicant's Louisiana Department of Labor (LDOL) Quarterly Report of Wages Paid and who is scheduled to work 35 hours per week on a permanent basis and receive benefits.

Lacking Basic Skills Can employee that exhibits below a 9th grade level proficiency in reading or writing or math.

Louisiana Resident shall be someone who has lived in Louisiana at least 30 consecutive days prior to being hired by the applicant.

Net New Job In addition to all the other employees reported on the applicant's LDOL Quarterly Report of Wages Paid based at the site of the Enterprise Zone project.

Minimum Net New Jobs Required Can applicant must create the lesser of expanding their current workforce by a minimum of 10 percent of their present statewide workforce, minimum of 1, within the first 12 months of the contract or expand their workforce by a minimum of five net new

employees within the first 24 months of the contract. The applicant's statewide workforce and the statewide workforce of all of its Louisiana affiliates will be considered when calculating the 10 percent.

Part Time Employee Can employee reported on the applicant's LDOL Quarterly Report of Wages Paid and works a minimum of 20 hours each week for six consecutive months.

Project/Construction Ending Date the date all construction and purchasing is completed for the project.

Project/Construction Period the time encompassed by the Contract Effective Date and the Project/Construction Ending Date.

Rural Parish Ca parish having a current U.S. Census population of 75,000 or less.

Some Form of Public Assistance Cany program of assistance financed in whole or in part by a Federal, State, or any local government agency, eligibility for which is dependant upon the employment status or income level of the individual. Any such assistance must have been received by the individual within a six month period prior to their employment.

Unemployable by Traditional Standards Can employee that qualifies as physically challenged.

Urban Parish Ca parish having a current U.S. Census population greater than 75,000.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§705. Endorsement Resolution

A. An applicant seeking a local sales/use tax rebate must obtain an endorsement resolution(s) from the local governmental subdivision(s) where those taxes are paid. The endorsement resolution must clearly state if the local governmental subdivision intends to rebate the allowable sales/use taxes for the project. This endorsement resolution must be passed by the local governmental subdivision(s) before the Board approves the EZ application. Each project seeking a local sales/use tax rebate must have an endorsement resolution specific to the project.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:253 (March 1991), Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Commerce and Industry, Business Incentives Division, LR 23:295 (March 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:

§707. Documentation of Location

A. A current U.S. Census or the appropriate EDZ map with the project site location clearly marked shall be filed with the BI before the Board approves the EZ application.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the

Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:253 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:

§709. Targeted Employees for an Applicant in an Urban Parish

A. Applicant located in an urban parish and receiving the benefits of this Chapter must certify that all net new employees creating tax credits are Louisiana residents and at least 35 percent meets one of the following requirements:

1. are residents of an Enterprise Zone in the same parish at the project's location of the applicant's;
2. are residents of an Enterprise Zone in a contiguous parish if the applicant has 500 or more employees at the project's location;
3. are/were receiving some form of public assistance, as defined in Section 703. *Some Form Of Public Assistance*, within a six month period prior to their employment by the applicant;
4. are lacking basic skills; or
5. are unemployable by traditional standards.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Finance Division, LR 17:253 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:

§711. Targeted Employees for an Applicant in a Rural Parish and in an Enterprise Zone

A. Applicant located in an Enterprise Zone in a rural parish and receiving the benefits of this Chapter must certify that all net new employees creating tax credits are Louisiana residents and at least 35 percent meets one of the following requirements:

1. are residents of the same parish as the project's location of the applicant's;
2. are residents of an Enterprise Zone in a contiguous parish if the applicant business has 500 or more employees at the project's location;
3. are/were receiving some form of public assistance within the six month period prior to their employment by the applicant. (See §703. *Some Form of Public Assistance*);
4. are lacking basic skills; or
5. are unemployable by traditional standards.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:254 (March 1991), amended by the Department of

Economic Development, Office of Commerce and Industry, LR 22:448 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:

§713. Targeted Employees for an Applicant in a Rural Parish and not in an Enterprise Zone

A. Applicant located in a rural parish and not located in an Enterprise Zone and receiving the benefits of this Chapter must certify that all net new employees creating tax credits are Louisiana residents and at least 35 percent meets one of the following requirements:

1. are residents of an Enterprise Zone in the same parish as the project's location of the applicant;
2. are residents of an Enterprise Zone in a contiguous parish if the applicant has 500 or more employees at the project's location;
3. are/were receiving some form of public assistance within a six month period prior to their employment by the applicant. (See Rule 703. *Some Form of Public Assistance*);
4. are lacking basic skills; or
5. are unemployable by traditional standards.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§715. Targeted Employees for an Applicant in an Economic Development Zone

A. Applicant business located in an EDZ and receiving the benefits of this Chapter must certify that all net new employees creating tax credits are Louisiana residents and at least 35 percent meets one of the following requirements:

1. are residents of the same parish as the project's location of the applicant;
2. are residents of an Enterprise Zone in a contiguous parish if the applicant has 500 or more employees at the project's location;
3. are/were receiving some form of public assistance within a six month period prior to their employment by the applicant. (See Rule 703. *Some Form of Public Assistance*);
4. are lacking basic skills; or
5. are unemployable by traditional standards.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§717. Annual Employee Certification

A. An annual Employee Certification Report (ECR) must be filed with the BI by March 1 on all active contracts validating compliance with Rules 709, 711, 713, and 715. Failure to file may result in contract cancellation.

B. The "beginning number" from which the net new jobs will be determined shall meet one of the following:

1. the number of employees that an applicant has on the day before the contract effective date; or
2. the last annual average number of employees that was certified under a valid Enterprise Zone contract the day prior to the new Contract Effective Date on contiguous contracts.

C. An employee count will be taken from the applicant's entire contiguous site for the purposes of calculating the Jobs Tax Credit generated. If the applicant has more than one site within the metropolitan area where the project is located, BI may consider the total employee count using all locations in calculating the Jobs Tax Credits generated.

D. Monthly totals of permanent full time employees will be averaged over a minimum of six months to determine the number of Jobs Tax Credit generated. Only employees reported on the LDOL Quarterly Report of Wages Paid will be used to calculate this average monthly total. In no case shall the new employees exceed the net increase in total employment.

E. Part time employees may be counted after completing a minimum of 20 hours every week for that continuous six month period. Only employees reported on the LDOL Quarterly Report of Wages Paid will be used to calculate this average monthly total. In no case shall the new employees exceed the net increase in total employment.

F. If the ECR substantiates that the company has not met the hiring requirements in this Chapter, the Board shall cancel the contract and no Jobs Tax Credit will be granted. The Department of Economic Development (LDED) will notify LDOR within thirty days after cancellation of a contract. Upon notification by LDED of the failure to meet the minimum jobs requirement, LDOR will immediately assess tax liability to the applicant equal to all State sales/use tax rebates paid pursuant to this Chapter plus any penalty and interests due.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§718. Advance Notification, Timely Filing

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development Office of Commerce and Industry, Business Incentives Division, LR 23:295 (March 1997), repealed by the Department of Economic Development, Office of Business Development, LR 29:

§719. Arbitrary Termination of Employees

A. The Board shall not accept an application from an applicant which performs essentially the same job at the same or new location but for a different ownership in order to qualify for the benefits of this Chapter. New Jobs Tax Credits shall not be generated by those persons whether or not the name or owner of the business changes over a short period of time (less than two weeks), i.e., a business closes on Friday under one ownership and opens on Monday under a different ownership. These are not net new jobs and shall not generate Jobs Tax Credits under this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§721. Items Eligible for Sales/Use Tax Rebate

A. Materials that are permanently at the Enterprise Zone project site during the Project/Construction Period are eligible for sales/use tax rebates.

B. Materials that originate from a contractor/subcontractor's inventory and are permanently installed at the Enterprise Zone project site during the Project/Construction Period are eligible for sales/use tax rebates.

C. Machinery and/or equipment purchased for the Enterprise Zone project site during the Project/Construction Period are eligible for sales/use tax rebates.

D. Machinery and or equipment transferred into Louisiana for the Enterprise Zone project site during the Project/Construction Period are eligible for sales/use tax rebates.

E. Software purchased, capitalized, and used by the applicant primarily at the Enterprise Zone project site during the Project/Construction Period are eligible for sales/use tax rebates.

F. Consumable items are not eligible for sales/use tax rebate. A partial listing of ineligible items are: per diem, labor, service contracts, storage, freight, radios, laptop computers, utilities, permits and fees, office supplies, construction consumables, blades, drill bits, PVC sheeting, tape, gloves, dusk masks, and all leases and rentals.

G. Lease-purchases may be eligible for a sales/use tax rebate upon LDOR's approval. A copy of the lease-purchase agreement must be submitted with the Claim for Rebate Request to LDOR, Office Audit Division.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§723. Filing of Advance Notification

A. An Advance Notification form and fee shall be filed prior to the Beginning of Project/Construction with BI. All incentives for the same project must be indicated on one Advance Notification and be identified by one project number. It is not acceptable to apply for Enterprise Zone Program and use the same project in a Miscellaneous Capital Addition application for the Industrial Tax Exemption Program. Internet filing of the Advance Notification may be made at <http://www.laemall.com>.

B. An Advance Notification lacking the proper application will expire one year after the Project/Construction Ending Date" shown on the Advance Notification unless a written request for a date revision request is received by BI prior to the expiration date.

C.1. An Advance Notification received by BI after the Beginning of the Project/Construction will obligate the applicant to file written reason(s) for the late filing. The Board will accept reasons that fall within the following two categories in determining if it will consider waiving the late filing:

- a. events beyond the control of the applicant caused the late filing; or
- b. there was some documented fault or error on the part of the BI that caused the applicant's late filing.

2. Lack of knowledge of the existence of the Enterprise Zone Program or its benefits will not be accepted as a valid reason for waiving the timely filing requirement.

D. An Advance Notification which receives a waiver of late filing will allow the applicant to proceed as if the Advance Notification was filed timely.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development LR 29:

§725. Filing of Applications

A. Applications must be filed with the Office of Business Development, Business Incentives Division, P.O. Box 94185, Baton Rouge, Louisiana, 70804-9185, on the form prescribed, within three months after Project/Construction

Ending Date. Internet filing of the Application may be made at <http://www.laemall.com>.

B.1. An Application Fee shall be submitted with the each application based on the following formula:

Application Fee = Total Estimated Tax Relief x 0.2% (.002)

Total Estimated Tax Relief =

Jobs Tax Credit* + State sales/use tax rebate

Application Fee = Total Estimated Tax Relief x .2% (.002)

(Minimum fee is \$200 and the maximum fee is \$5,000 application per Program.)

2. An additional Application Fee will be due if a project's employment or investment scope is increased, resulting in a minimum fee of \$100 more than what has already been submitted, unless the maximum has been paid.

3. Jobs Tax Credit the total amount calculated by multiplying all the new jobs estimated to be created within the five year contract period by \$2,500 (\$5,000 for aerospace or auto parts manufacturers).

4. All fees shall be made payable to: Louisiana Department of Economic Development.

D. The applicant shall file an original and a copy of the Inspection/Audit Affidavit Form showing a complete list of building(s) and equipment and the cost of each item on the project with the appropriate fee for the inspection which will be conducted by the BI. This Affidavit must be filed within six months of the Project/Construction Ending Date or when the signed original contracts are returned to the BI, whichever is later.

E. The BI reserves the right to return the Advance Notification, Application, or Inspection/Audit Affidavit to the applicant if the estimated tax relief or the fee submitted is incorrect. The Application or Inspection/audit Affidavit may be resubmitted within 30 days with the correct fee without penalty.

F. The Advance Notification, Application, and the Inspection/audit Affidavit will not be considered officially received or accepted without the appropriate fee being received by BI. Processing fees for the Advance Notification, Application, or Inspection/Audit Affidavit, which have been received and accepted, will not be refunded.

G. Applications must be submitted to the BI at least 45 days prior to the Board meeting where it is intended to be presented for approval.

H. The applicant proposing a project with a construction period greater than two years is required to separate the project into phases with no phase having over a two year construction period. Each construction phase shall require a separate Advance Notification, Application and fee to be filed with the BI. The applicant must comply with Rule 701.D for each application.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§727. Recommendations of the Secretaries of Economic Development and Revenue

A. BI shall forward the Applications with recommendations to the Secretary of Louisiana Department of Revenue and the Secretary of Louisiana Department of Economic Development for their review. The Secretaries of

LDOR and LDED may submit a Letter of No Objection in lieu of a letter of recommendation.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§729. Application Shall Be Presented to the Board of Commerce and Industry

A. BI shall present an agenda of applications to the Board and with recommendations based upon its findings.

B. Applicant or their representatives will be notified of the Board meeting date at which their application will be considered. The applicant business should have someone present who is able to answer any questions the Board may have regarding the information contained in the Application. In the event there is no representative present, the Application may be deferred or denied.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§731. Board of Commerce and Industry Enters into Contract

A. Upon approval of the Application, the Board shall enter into contract with the applicant for the benefits allowed by this Chapter. The applicant must execute their portion of the contract and return it within 30 days to BI. The State will complete the execution. A fully executed original contract will be returned to the applicant. An original and a copy will be sent to the LDOR and, if applicable, a copy sent to the local governmental subdivision.

B. BI must be notified of any change that will effect the contract. This includes, but is not limited to, changes in the ownership or operational name of the applicant business holding a contract, or the suspension, closing, or abandonment of operations. Failure to report any changes within six months may constitute a breach of contract.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§733. Rebates of Sales/Use Taxes

A. The contract will not authorize the applicant to make tax exempt purchases from vendors. The applicant will be contacted by the LDOR on the proper procedures to obtain the State sales/use tax rebate. Rebates will be obtained by the filing of a rebate request with the LDOR, Office Audit Division, which must include the following:

1. a list of eligible purchases (See Rule 721) including a brief description of each item, the vendor's name, date of the delivery, sales price and the amount of State sales/use tax paid. The listed items must have been purchased by the applicant of the project, a builder, a contractor, or other party that contracted with the owner to provide materials, equipment, machinery, or software that is used by the applicant primarily at the project site or is listed in Schedule 3 of the Enterprise Zone contract;

2. a certification that the listed materials are reasonably expected to qualify for a rebate under provisions of this Chapter; and

3. a certification that State sales/use taxes have been paid on the listed items.

B. The request may be filed on the official LDOR "Claim for Rebate" form or on other forms prepared by the applicant. After LDOR has validated the information on the Claim for Rebate, a rebate check will be issued for the amount of substantiated State sales/use taxes paid.

C. The applicant should contact the local governmental subdivision issuing the endorsement resolution to determine the procedure for local sales/use tax rebate.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§735. Applicant with a Contract Must File State Income and Franchise Tax Returns

A. Applicant that have satisfied their Louisiana Income tax and/or Franchise tax liability by applying Jobs Tax Credits earned under this Chapter shall file the same required forms and tax returns with the LDOR that are required if no Jobs Tax Credit were taken. Each annual return where Jobs Tax Credit are taken will have a copy the letter from BI certifying the tax credits and the unused Jobs Tax Credits from previous years provided. If total Jobs Tax Credits are less than the total taxes, remittance in the amount of the difference must be enclosed with the tax return. Limited Liability Companies, Sub Chapter S Corporations, etc., must have the name(s) of owners and their social security numbers listed on the contract in order for Job Tax Credits to flow through to the owner(s).

B. Partnerships and sole Proprietorships shall file the same returns that are required if the Jobs Tax Credit had not been granted.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§737. Violations of Rules, Statutes, or Documents

A. On the initiative of the Board or whenever a written complaint of violation of the terms of the Rules, the contract documents, or the Statutes, is received the Board or its representative shall determine if a full investigation should be made. The Board shall have full authority for such investigation, including but not exclusively, the authority to call for reports, pertinent records, or other information from the applicant. If the investigation appears to substantiate a violation the Board or its representative will present the subject contract for formal action. If an applicant is found to be in violation of these Rules or the contract, the applicant shall remit back to the State all Jobs Tax Credit taken on Income tax and/or Franchise returns, all sales and use tax rebates, and any other taxes that would have been imposed but for the issuance of this contract.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§739. Economic Development Zone Annual Reporting

A. Each EDZ will submit an annual report which will compare activity in the last completed year to the previous year's activity.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§741. Multi-Tenant Facility

A. For a multi-tenant facility to be eligible for the benefits of this Chapter, the applicant must meet one of the following:

1. occupy a minimum of 33 percent of the total floor area of the building;
2. tenants are businesses new to the State;
3. tenants are Louisiana businesses increasing their number of locations within the State by placing a new location within this facility;
4. tenants are relocating within Louisiana and will generate the minimum of new job credits over and above the total jobs at their previous location per Rule 701.D.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§743. Relocation of Enterprise Zones

A. A local governmental subdivision requesting the relocation of an Enterprise Zone must provide valid reason(s) for requesting the move and must have the approval of the Board. All Relocation of Enterprise Zone requests must be accompanied by a single map showing the location of the old and the new Enterprise Zones.

B. The residents of originally designated Enterprise Zone may qualify as part of the 35 percent residency requirement.

C. The effective date of a relocation approved by the Board shall be the date of passage affixed to the resolution by the local governing authority requesting the relocation.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§745. Appeals and Petition Procedure

A. Applicants who wish to appeal an action of the Board of Commerce and Industry must submit their appeals along with any necessary documentation to the Office of Business Development, Business Incentives Division no later than 90 days after the Board action to be appealed. The appeal shall not be considered by the Board less than one month after it is submitted.

B. Petitions, and all documentation, on matters not yet presented to or ruled on, by the board, must be submitted to the Office of Business Development, Business Incentives Division at least one month prior to the meeting of the board or any of its committees in which the petition will be made.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:

§747. Exclusion of Residential Developments

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 9:546 (August 1983), amended by the Department of commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:97 (February 1985), amended by the Department of Commerce, Office of Commerce and Industry Finance Division, LR 12:660 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:257 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:451 (June 1996), repealed by the Department

of Economic Development, Office of Business Development, LR 29:

§749. Prohibit Local Fees and Prohibit Local Conflicting Employment Practices

A. No local governmental subdivision shall charge any fees or require any employment practices which conflict with state law as a precondition to authorize tax benefits under this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:257 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:451 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:

§751. Application Procedures

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:257 (March 1991), amended LR 22:451 (June 1996), repealed by the Department of Economic Development, Office of Business Development, LR 29:

Family Impact Statement

The proposed amendments to LAC 13:I. Chapter 7 Enterprise Zone Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Daryl Manning through the close of business on January 30, 2001, at Post Office Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802.

Don J. Hutchinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Enterprise Zone Program

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

The additional administrative work due to these rules changes will be absorbed and done by personnel already in place. No cost increase is anticipated.

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

An estimated fee revenue increase of \$2,000 is probable based upon an addition 10 applications from auto parts manufacturers. There will be a reduction in revenue collections

equal to \$5,000 multiplied by each new permanent job created by these 10 applicants.

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

Auto parts manufacturers will receive tax credits of \$5,000 for each net new permanent job created which can be applied to their income and/or corporate franchise tax. In addition, sales/use taxes may be refunded on new machinery and equipment. It is estimated only 10 applications will be received in this category. No estimate of the total impact can be made.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Intent of the Enterprise Zone Program is to stimulate business and industrial growth in depressed areas of the state which are designated as enterprise zones; and, in certain other areas designated as Economic Development Zones, by providing tax incentives for new jobs created. No estimate of the number of new jobs can be made.

Michael Williams
Director
Resource Services
0212#083

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Business Development
Business Resources Division**

Quality Jobs Program
(LAC 13:I.Chapter 11)

The Department of Economic Development, Office of Business Development, pursuant to the authority of R.S. 51:2459 and R.S. 51:2451-2462 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to amend §§1101-1111, 1115-1119, of the following rules of the Quality Jobs Program, to repeal §1113, and to adopt the following Sections with new language: §§1121, 1123, 1125, 1127, 1129. and 1131. The purpose of the amended Rules is to comply with changes to the Quality Jobs legislation made by Acts 2002 1st Extraordinary Session, No. 153, which made significant changes to the Program including lowering the amount a wages required to be paid in order to qualify, providing for a sales/use tax rebate, changing to a fixed benefit rate rather a calculated benefit rate, setting minimum wage requirements, and increasing the health care benefits requirement.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 11 Quality Jobs Program

§1101. General

A. Intent of Law

1. To provide benefits used primarily as an inducement for businesses to locate or expand existing operations in Louisiana in accordance with *Louisiana Vision 2020* with a focus on Louisiana's traditional and seed clusters:

a. to provide appropriate incentives to support employers who will make significant contributions to the development of the economy of the state;

b. to provide or make available incentives that shall be directly related to the new direct jobs created as the result of the employer locating or expanding existing operations in the state;

c. the Departments of Economic Development, Revenue and Labor shall implement the provisions of this program.

B. Program Description

1. A qualified employer must create a minimum of five new direct jobs. If the employer employs more than 50 employees prior to the beginning of the contract, it must have an annual gross payroll for new direct jobs equal to or greater than \$500,000. If the employer employs 50 or less employees, it must have an annual gross payroll for new direct jobs equal to or greater than \$250,000. The annual payroll for new direct jobs must be created by the third fiscal year of the contract.

2. A qualified employer must employ full-time employees working 35 or more hours per week in new direct jobs. If the qualified employer is a Call Center (NAICS code 56142) it must employ full-time employees working 30 or more hours per week in new direct jobs.

3. The amount of the rebate is directly related to the new direct jobs created and to the new annual gross payroll generated as the result of a qualified employer locating or expanding in the state.

4. The qualified employer is entitled to sales and use tax rebates authorized in R.S. 51:1787 if the employer meets the Enterprise Zone Program hiring requirements.

5. Approval by the Louisiana Board of Commerce and Industry and the Governor of Louisiana is required, after consultation with the Secretary of the Department of Labor and the Secretary of the Department of Revenue.

6. An establishment that is engaged in retail; business associations and professional organizations; state and local government enterprises; real estate agents, operators, and lessors; automotive rental and leasing; local solid waste disposal, local sewage systems, and local water systems; nonprofit organizations; the gaming industry; and attorneys shall not be eligible for rebates under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1103. Definitions

Affiliate

1. any business entity;
 - a. controlled by the applicant business;
 - b. which is a controlling owner of the applicant business; or
 - c. which is controlled by an entity described in a or b.

2. for purposes of this definition, "Control" is defined as owning either directly or indirectly through control of or by another business entity:

- a. A majority of the voting stock or other voting interest of such business entity or the applicant business; or
- b. Stock or other interest whose value is a majority of the total value of such business entity or the applicant business.

3. a business entity may be treated as a non-affiliate if the applicant business proves that neither the applicant business nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

Basic Health Benefits Plan or the *Health Insurance Coverage* that which is required to be offered and/or provided shall include coverage for basic hospital care, coverage for physician care, and coverage for health care which shall be the same as that provided to executive, administrative, or professional employees.

Benefit Rate One of the following percentages:

1. for new direct jobs created which pay at least 1 3/4 times the federal minimum hourly wage rate, the benefit rate shall be 5 percent;

2. for new direct jobs created which pay at least 2 1/4 the federal minimum hourly wage rate and meet one of the following criteria, the benefit rate shall be 6 percent;

a. the new direct jobs are located in a distressed region designated by the Department of Economic Development. If an area is designated a distressed region, such designation shall be maintained for the period of the initial contract and during the renewal contract. To qualify an employer shall either be located in a distressed region or at least 50 percent of the new direct jobs of the employer shall be filled by persons who reside in a distressed region; or

b. the new direct jobs are with an employer categorized in a traditional or seed cluster identified by the Louisiana Economic Development Council and the Department of Economic Development. The Department of Economic Development shall promulgate rules and regulations defining traditional or seed cluster employers prior to these rules taking effect.

Department the Louisiana Department of Economic Development.

Distressed Region shall be defined as one of the following:

1. a parish with a per capita income in the lowest 25 percent of the parishes; or

2. a census tract and block group that is below the state median per capita income, based on the most recent federal decennial census.

Employer A legal person who executes a contract with the department pursuant to the provisions of R.S. 51:2452-2462, and who offers, or will offer within 90 days of the effective date of qualifying for the incentive rebates, a basic health benefits plan to the individuals it employs in new direct jobs:

1. for advance notifications filed with the department before June 1, 2000, the employer shall pay not less than 50 percent of the insurance premium;

2. for advance notifications filed with the department on or after June 1, 2000, but before May 1, 2002, the employer shall pay not less than 75 percent of the premium for full-time employees. The employer shall offer group coverage for dependents of full-time employees, but the employer is not required to pay the premium;

3. for advance notifications filed with the department on or after May 1, 2002, the employer shall offer the employee with the choice of one of the following health insurance coverage programs.

a. the employer shall pay not less than 85 percent of the total premium for full-time employees choosing to participate under individual coverage and shall offer coverage for dependents of full-time employees, but the employer is not required to pay the premium; or

b. the employer shall pay not less than 50 percent of the total premium for full-time employees who choose to participate and choose to cover their dependents.

Gross Payroll wages for the new direct jobs upon which the specified benefit rate is calculated.

NAICS North American Industrial Classification System
New Direct Job

1. employment in the state of an employee

a. working the average hours per week provided in §1101.B.2; and

b. who was not previously on the payroll of;

i. the employer;

ii. the employer's parent entity, subsidiary, or affiliate; or

iii. any business whose physical plant and employees are substantially the same as those of the employer.

2. a new direct job:

a. shall be with an employer that has qualified for the incentive rebate;

b. did not exist in this state prior to the advance notification being filed by the employer with the department pursuant to the provisions of R.S. 51:2455;

c. shall be filled by an individual domiciled in the state of Louisiana;

d. shall not be a job that is the result of job shifts due to the gain or loss of an in-state contract to supply goods and services; and

e. shall not include an employee retained following the acquisition of all or part of an in-state business by an employer.

Wages All remuneration for services from whatever source, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, and dismissal payments which the employer is required by law or contract to make. Gratuities shall be estimated in accordance with the Internal Revenue Code and its rules and regulations. Wages shall not include the following:

1. the amount of any payment with respect to services performed after January 1, 1951, to or on behalf of an individual in its employ under a plan or system established by an employer which makes provision for individuals in its employ generally, or for a class of classes of such individuals, including any amount paid by an employer for insurance or annuities, or into a fund to provide for any such payment, on account of:

a. retirement;

b. sickness or accident disability;

c. medical and hospitalization expenses in connection with sickness or accident disability;

d. death, provided the individual in its employment does not have the option to receive, instead of provision of such death benefit, any part of such payment or, if such death benefit is insured, any part of the premium or contributions to premiums paid by his employer or does not have the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to

assign such benefit or to receive cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon the termination of such plan or system or policy of insurance or of his services with such employer; or

e. a bona fide thrift or savings fund, providing such payment is conditioned upon a payment of a substantial sum by such individuals in its employment and such sum paid by the employer cannot under the provisions of such plan be withdrawn by an individual more frequently than once in any 12 month period, except upon an individual's separation from that employment

2. any payment made to, or on behalf of, an employee or his beneficiary under a cafeteria plan of the type described in 26 U.S.C. 125 and referred to in 26 U.S.C. 3306(b)(5)(G);

3. any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such financing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under an educational assistance program as described in 26 U.S.C. 127 or a dependent care assistance program as described in 26 U.S.C. 129 and as referred to in 26 U.S.C. 3306(b)(13);

4. the payment by an employer, without deduction from the remuneration of the individual in its employ, of the tax imposed upon such individual in its employ under Section 3101 of the federal Internal Revenue Code with respect to domestic services in a private home of the employer or for agricultural labor performed after December 31, 1980.

5. dismissal payments that the employer is not required by law or contract to make; or

6. the value of any meals and lodging furnished by or on behalf of an employer to an individual in his employ, provided the meals and lodging are furnished on the business premises of the employer for the convenience of the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1105. Qualified Employers

A. To qualify for a contract an employer must meet one of the following provisions:

1. be one of the six Vision 2020 cluster industries
 - a. Medical and Biomedical;
 - b. Micromanufacturing;
 - c. Software, Auto Regulation, Internet, and Telecommunications Technology;
 - d. Environmental Technologies;
 - e. Food Technologies; or
 - f. Materials

2. be a manufacturer whose primary function is identified by NAICS codes 113310, 211, 213111, 541360, 311-339, 511-512, and 54171.

3. be an oil and gas field services business as defined by the NAICS code 213112 and must pay not less than \$30,000 per year for each new direct job, and Louisiana must be the national or regional headquarters of a multi-state

business whose service territory includes Louisiana and the Gulf of Mexico;

4. have or will have sales of at least 75 percent of its total sales within one year to:

- a. out-of-state customers or buyers;
- b. in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use; or
- c. the federal government.

5. meet the requirements of both a and b:

a. have or will have sales of at least 50 percent of its total sales within one year to:

- i. out-of-state customers or buyers;
- ii. in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use; or
- iii. the federal government; and

b. meet one of the following requirements:

i. be classified as an industry defined by NAICS codes that have a direct state employer multiplier of 2.0 or greater in accordance to the Regional Input/Output Multiplier System II or its successor.

ii. be a central administrative office that influences the environment in which data processing, customer service, credit accounting, telemarketing, claims processing, and other administrative functions are accomplished.

iii. have data processing, back office operations, and telephone call center operations (NAICS Code 56142).

iv. be a wholesale trade business (NAICS Code 42) and have a distribution center of not less than 25,000 square feet.

6. must be a National Basketball Association Team, which relocates to Louisiana and may enter into a contract prior to November 1, 2003; however, contracts with such teams:

a. shall not grant a tax rebate greater than \$3,650,000 in any taxable year;

b. shall not allow the salary of any person who owns more than 25 percent of such team to be included in the gross payroll to calculate the rebate;

c. may be renewed for an additional five years, provided the team has complied with all the terms of the contract, has not performed, or failed to perform, any act which made the applicant liable for suspension;

d. shall be awarded a benefit rate of no more than 5 percent; and

e. shall include the wages of players and coaches of the team subject to Louisiana income tax in the calculation of the gross payroll, even though the players and coaches may be non-residents of Louisiana.

B. The following employers or persons shall not be eligible for benefits provided under this chapter:

1. retail employers identified by NAICS Code Sections 44 and 45;

2. business associations and professional organizations identified by NAICS Code 8139;

3. state and local government enterprises;

4. real estate agents, operators, and lessors;

5. automotive rental and leasing;

6. local solid waste disposal, local sewage systems, and local water systems businesses;

7. nonprofit organizations;
8. employers engaged in the gaming industry identified by NAICS Code Sections 713210 and 721120; and
9. attorneys.

C. The Department may promulgate rules annually listing other ineligible employers, professions, or service industries that are not eligible for rebates under the provisions of this program. Such rules shall not take place until the Louisiana Economic Development Council, the House Committee on Ways and Means, and the Senate Committee on Revenue and Fiscal Affairs approves.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1107. Application Fees, Timely Filing

A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of \$100, for each program applied for, shall be submitted with the advance notification form. An advance notification filing shall be considered by the department to be a public record under Louisiana Revised Statutes, Title 44, Chapter 1, Louisiana Public Records Law, and subject to disclosure to the public.

B. An application for the Quality Jobs Program must be filed with the Office of Business Development, P.O. Box 94185, Baton Rouge, Louisiana 70804-9185 on the prescribed forms within 90 days of the creation of the jobs or completion of the project, whichever occurs first. Failure to file an application may result in the application being denied or restricted.

C. An application fee shall be submitted with the application based on the following:

1. 0.2% percent times the estimated total incentive rebates (see application fee worksheet to calculate);
2. the minimum application fee is \$200 and the maximum application fee is \$5,000 for a single project;
3. the check is made payable to the Louisiana Department of Economic Development.

D. A Project Completion Report shall be filed within 90 days after the completion of construction/installation.

E. An Affidavit of Annual Certification shall be filed within 90 days of completing a company's fiscal year. A fee of \$100 must be filed with the initial report.

F. An application to renew a contract shall be filed within 60 days of the initial contract expiring. A fee of \$50 must be filed with the renewal contract.

G. The Office of Business Development reserves the right to return the advance notification, application, or affidavit of annual certification to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees for advance notifications, applications, or affidavits of annual certification that have been accepted for eligible projects, shall not be refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1109. Application Review, Analysis, Evaluation, Determination

A. Application Review

1. The department will assign a project number and review the advance notification form to determine if the employer is qualified pursuant to §1105.A. The employer will be notified of the project number and due date of the application packet.

2. The application packet must be completed and returned to the Department of Economic Development by the due date. The department must authorize any omissions to the application by the employer in writing. If the application is incomplete, the department may request additional information prior to further action. The application fee must accompany the application packet pursuant to §1107.C.

B. Analysis, Evaluation, Determination

1. The department shall determine qualification for the employer:

- a. the employer shall create a minimum of five new direct jobs;
- b. the employer shall meet the annual payroll requirements pursuant to §1101.B.1 and 2;
- c. the employer shall offer a basic health benefits plan to the individuals it employs in new direct jobs pursuant to §1103.B. A copy of said plan must be provided to the department;
- d. the department will analyze the proposed new direct jobs to determine they meet the program criteria;
- e. the employer must furnish all sources of remuneration that make up the wages that are used in the determination of the gross payroll. A listing that will identify all positions and wages of all employees shall be furnished to verify the gross payroll;
- f. the department will determine the effective date of the contract.

2. The department shall determine the benefit rate pursuant to §1103.E and F and §1105.A.5.c.(5).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1111. Consultation with the Departments of Labor and Revenue

A. The department will provide a copy of the application and all relative information to the Department of Labor and the Department of Revenue for review. Either the Department of Labor or the Department of Revenue or both may require additional information from the applicant.

B. The department must obtain a letter-of-no-objection or a letter-of-approval from the Department of Labor and the Department of Revenue, prior to submitting the application to the Board of Commerce and Industry for action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1113. Application to Department of Revenue and Taxation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), repealed by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1115. Economic Development Recommendations to Board

A. The department after review and analysis will prepare the application information in a format suitable for presentation to the Board of Commerce and Industry.

B. The department will make a presentation to the Board of Commerce and Industry as to the economic impact and the benefits to be received.

C. The department will make recommendations for approval or disapproval, and will provide information on behalf of the Department of Labor and the Department of Revenue.

D. The Board of Commerce and Industry must approve the application prior to a contract being issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1117. The Contract

A. The Board of Commerce and Industry or its successor, after no-objection from the secretaries of the Department of Labor and the Department of Revenue, with the approval of the governor, may enter into a contract with an employer for a period up to five years.

1. A contract with an employer shall be limited to a single physical location, and the benefits the employer shall receive will be based solely upon the operations at that location.

2. An employer may have more than one contract covering multiple locations; however, the eligibility of each location shall be determined separately, with the exception of determining new direct jobs. The department shall certify that the employer has a net overall increase in employment statewide for each new direct job.

B. The contract may be renewed for an additional five years provided that:

1. the employer has complied with all the terms of the contract; and

2. the employer has met the statutory minimum hourly wage for the new direct jobs subject to the benefit rate established when the contract was entered into and the hourly wage has increased by an amount which is equal to or greater than one of following:

a. the wage rate has grown by the percentage increase in the Consumer Price Index published by the U.S. Department of Labor for the five years of the initial term of the contract, compounded; or

b. the wage rate has increased by 2 percent for the five years of the initial term of the contract, compounded.

C. No contract shall be executed if:

1. the employer has defaulted, not repaid a loan, or not repaid an obligation involving public funds.

2. the employer declared bankruptcy and the obligation to pay or repay public funds or monies was discharged as part of such bankruptcy a contract shall not be executed;

3. the employer is in default on any filing or payment to the state, to any of its agencies, or to any of its political subdivisions, and in which an assessment or judgment is final; or

4. the employer employs more than 50 employees and has entered into a contract or other agreement with any person or entity where required payment is contingent upon their success in obtaining the benefits of this program.

D. Contract Voided. Violation of the provisions of §1117.C shall void the contract and any rebates paid to the employer prior to the date the violation is discovered, the rebates will be recovered by adding to the income tax liability for the taxable year the violation occurred. Additionally, interest will be assessed from the date of the violation and the employer shall receive no further rebates.

E. Contract Suspended

1. If a rebate is received by an employer as provided under this provision and the employer is rendered an assessment or judgment that is final and nonappealable in favor of the state or any of its agencies or any of its political subdivisions, the contract shall be suspended pending the settlement of the assessment. No rebate shall accrue to the employer under the contract during the period of suspension.

2. If at any time during the 10-year contract period the employer applies for a rebate following the end of the employer's fiscal year, and the verified gross payroll for the fiscal year does not demonstrate the required minimum of five new direct jobs and the gross payroll does not equal or exceed a total of \$500,000 or \$250,000, whichever is applicable to said contract, the rebates shall be suspended and shall not be resumed until such time as the payroll and job requirements are met. No rebate shall accrue or be paid to the employer during a period of suspension.

F. Contract Rebates Reduced

1. If the employer receives a rebate and it is subsequently determined the employer did not qualify for the rebate, future rebates will be reduced by the amount received by the employer.

2. If there are no future rebates to deduct the amount owed the state, the tax liability of the employer will be increased by the amount of the rebate for the taxable period non-qualification was determined.

3. The secretary of the Department of Revenue may recover any rebates previously granted to an employer but which rebates disallowed as authorized by R.S. 47:1561.2. The employer shall waive prescription for the purpose of recovering any disallowed rebates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1119. Incentive Rebates

A. Except as otherwise provided herein an employer who has entered into a contract may receive a rebate that is calculated by multiplying the benefit rate, as defined in LCA 1103.F.1 and 2, times the annual gross payroll of new direct jobs, as defined in LCA 1103.H.1-9, for the specified period in the contract.

B. Notwithstanding anything to the contrary in either Chapter 1 or Chapter 5 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as amended, the following rules shall apply with respect to the application of the rebate allowed:

1. The incentive rebate allowed an S corporation shall be paid to the S corporation entity and not the individual shareholders of the corporation.

2. The incentive rebate allowed a partnership, limited liability partnership (LLP), or limited liability company (LLC) shall be paid to the entity and shall not be paid to the individual partners or members of the entity.

C. Notwithstanding any other provision of law to the contrary in Title 47 of the Louisiana Revised Status of 1950, as amended, the Secretary of the Department of Revenue shall make the rebate.

D. In order to receive the rebate provided for by the contract, an employer shall apply with the Department.

1. The application shall be filed on the prescribed form designated by the Department and shall contain the required information to determine if the applicant is qualified.

2. The application shall contain a sworn statement, by a duly authorized officer of the employer, listing the names of persons or other entities who have received or who will receive any payment or other consideration from the employer for the purpose of representing the employer in applying for or receiving the benefits of this program.

E. In order to qualify to receive the rebate, the employer applying shall meet the requirements of LCA 1101.B.1 and 2.

F. The Department shall determine if an applicant is qualified to receive rebates.

G. The approved employer shall apply annually for rebates with the Department in the prescribed format and provide the information as described in LCA 1123. The employer may be audited by the department to verify eligibility. The rebates may continue as long as the employer complies with the approved contract and remains eligible.

H. The benefit rate shall be determined annually based on information provided by the employer on the rebate claim reports made annually.

I. The payroll rebates shall be paid annually after the employer submits the required annual report as specified in LCA 1123 and the department determines the employer is eligible for the rebate for that fiscal year. The report shall be filed within 90 days following the end of the employer's fiscal year with the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1121. Rebate Payments

A. In addition to the payroll rebates, an employer shall be entitled to sales and use tax rebates as authorized in R.S. 51:1787, if the employer meets the hiring requirements as defined in the Enterprise Zone Program and meets the other limitations, procedures, and requirements of R.S. 51:1787 and the rules promulgated there under, Louisiana Administrative Code, Title 13, Part I, Chapter 7.

B. An employer may request rebates of local sales and use taxes. This request must be accompanied by an endorsement resolution approved by the local governing authority of the appropriate municipality, parish, port district, or industrial district board in whose jurisdiction the employer is or will be located and taxes are paid. The endorsement resolution must clearly state if the local governmental subdivision intends to rebate the allowable sales and use taxes for the project. A copy of the resolution must be filed with the Department of Economic Development prior to action taken by the board on the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1123. Rebate Claim Filing

A. Payroll Rebate

1. A qualified employer must file annually an Affidavit of Annual Certification within 90 days of the completion of employer's fiscal year with the department to claim the payroll rebate.

2. The annual report will provide information on the number of employees at the site, the number of employees statewide, the number of new direct jobs created at the site, the number of hours worked by each employee weekly, the hourly wage paid employees in the new direct jobs, the position title, the employee's address, the hire date, the term date, the insurance acceptability, the percentage of the insurance paid by the employer, and the annual gross wages.

3. The department may request additional information from the employer as may be necessary to determine the eligibility for the annual rebate for that fiscal year or may request the employer revise the annual report.

4. Upon approval the department will advise the Department of Revenue the eligible rebate. The Department of Revenue shall make payment of the rebate after offset, if applicable, under R.S. 47:1622. The rebate shall be considered a refundable overpayment for the purpose of such offset.

5. If the actual verified gross payroll for the employer's third annual fiscal year does not show a minimum of five new direct jobs and does not equal or exceed a total annual payroll of \$500,000 or \$250,000, whichever is applicable, the employer will be determined to be ineligible under this Chapter. The Department of Revenue will be notified and the tax liability for the current tax period in which the failure to meet the requirements occurs shall be increased by the amount of rebates previously allowed.

B. Sales and Use Tax Rebate

1. An annual Employee Certification Report must be filed on all active contracts for the employer to qualify for the sales and use tax rebate under this Chapter.

2. The "beginning number" from which the net new jobs will be determined shall be the number of employees that an employer has on the day before the effective date of the contract.

3. An employee count will be taken from the employer's entire contiguous site for the purposes of calculating the jobs.

4. Monthly totals of permanent full time employees will be averaged over a minimum of six months to determine the number of jobs generated. Part time employees may be counted after completing a minimum of six months of continuous employment comprised of a minimum of 20 hours every week during that continuous period. Only employees reported on the Department of Labor's Unemployment Insurance Report will be used to calculate the average monthly total. In no case shall the new employees exceed the net increase in the total employment.

5. If the Employee Certification Report substantiates that the company has not met the hiring requirements under these rules, the employer will not be eligible for the sales and use tax rebate. The department will notify the Department of Revenue of the ineligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1125. Prohibited Incentives

A. A qualified employer that enters into a contract under this Chapter shall not be eligible to receive the other credits or exemptions provided for in the following provisions of law except as provided for in R.S. 51:2456(B):

1. R. S. 47:34 (tax credit for generation of new jobs in Louisiana);

2. R.S. 47:38 and 287.757 (income tax credit for conversion of vehicles to alternate fuel usage);

3. R.S. 47:4301 through 4306 (Industry Assistance Program - income tax, corporate franchise tax, state sales tax, and excise tax exemptions for manufacturing establishments);

4. R.S. 47:6004 (employer credit for employment of previously unemployed person);

5. R.S. 47:6009 (Louisiana basic skills training tax credit-income tax credit);

6. R.S. 47:6010 (employer income tax credit for employee alcohol and substance abuse treatment programs);

7. R.S. 51:1787 (Enterprise Zone Program - incentives tax exemption from sales and use tax materials to be used in the construction of a building and for machinery and income tax credit for each employee in an enterprise zone);

8. R.S. 47:287.748 (re-entrant jobs credit for formerly incarcerated employees-corporate income tax);

9. R.S. 47:287.749 (corporate income tax credit for new jobs);

10. R.S. 47:287.753 (neighborhood assistance income tax credit).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1127. Penalties

A. Penalties are provided under R.S. 51:2460 for false or fraudulent information in making application, making a claim for rebate, or other instrument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1129. Termination of Program

A. The Board of Commerce and Industry shall approve no new applications for rebates as provided for under this chapter on and after January 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

§1131. Severability

A. If any Section or provision of this Chapter is held invalid, such invalidity shall not affect other provisions of this Chapter. Any provision of this Chapter that is in conflict with R.S. 51:2451-R.S. 51:2462 or any other statute will be invalid and will be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:

Family Impact Statement

The proposed amendments to Rules 13:I. Chapter 11 Quality Jobs Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Daryl Manning through the close of business on January 30, 2001, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802.

Don J. Hutchinson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Quality Jobs Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Estimated implementation costs to state are \$37,051 in FY 2002/03, \$31,745 in FY2003/04 and \$32,845 in FY 2004/05. There is o estimate on local government cost possible.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated additional state revenues are based upon the Fiscal Note's 190 new applications which could generate an additional \$76,000 in fees.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
If the 190 applications come into being, the minimum benefits would be \$125,000 for each contract, over a 10 year period. That yields a total of \$23,750,000 in lost state revenues for the anticipated 190 applications.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Since this incentive is based upon payroll it is impossible to estimate the number of new jobs but the payrolls of the 190 applications at minimum would amount to \$475,000,000 over the 10 year period of each contract. (190 contracts x 10 years x \$250,000 min. payroll to qualify)

Michael Williams
Director
Resource Services
0212#086

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Business Development
Economic Development Corporation**

Economic Development Award Program (EDAP)
(LAC 13:III.Chapter 1)

The Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, pursuant to the authority of R.S. 51:2341(B) and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to amend §§101-117 of the following rules of the Economic Development Award Program, and to adopt Sections §§119, 121, and 123. The purpose of the amended rules is to establish guidelines for both the basic EDAP as well as the Opportunity Fund projects. The inclusion of rules for the Opportunity Fund will allow the state to provide larger EDAP awards in an effort to be more competitive in trying to attract larger economic development projects. Securing such projects will create additional job opportunities and infrastructure for Louisiana citizens and businesses. In addition the amended rules comply with changes to the organizational placement of the EDAP within the Department and changes to the approval procedures provided by Acts 2001, No. 9.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 1. Economic Development Award Program (EDAP)

§ 101. Purpose

A. The purpose of the program is to finance publicly-owned infrastructure for industrial or business development projects that promote cluster economic development and that require state assistance for basic infrastructure development. Additionally, through the Louisiana Opportunity Fund, under circumstances hereinafter set forth, the governor, with the approval of the board of directors of Louisiana Economic Development Corporation, may take necessary steps to successfully secure projects in highly competitive bidding circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), amended LR 25:237 (February 1999), LR 26:236 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§ 103. Definitions

Applicants Cthe company and the public entity, collectively, requesting financial assistance from DED under this program.

Award Cfunding of financial assistance, appropriations, grants or loans approved under this program for eligible applicants.

Award Agreement Cthat agreement or contract hereinafter referred to between the company, the public entity, DED and LEDC through which, by cooperative endeavor or otherwise, the parties set forth the terms, conditions and performance objectives of the award provided pursuant to these rules.

Awardee Can applicant receiving an award under this program.

Basic Infrastructure Project Crefers to those infrastructure projects other than those for which the governor and the LEDC Board have made a determination that the Louisiana Opportunity Fund is applicable.

Company Cthe business enterprise for which the project is being undertaken.

DEDC Cthe Louisiana Department of Economic Development.

Infrastructure Project Crefers to the undertaking for which an award is granted hereunder for the new construction, improvement or expansion of roadways, parking facilities, equipment, bridges, railroad spurs, water works, sewerage, buildings, ports and waterways.

LEDC Cthe Louisiana Economic Development Corporation.

Opportunity Fund Cthe Louisiana Opportunity Fund provides for infrastructure project financial assistance, appropriations, grants or loans in order to attract new in-state business investment or in-state expansion of existing businesses when, in the opinion of the governor of Louisiana, there exists a highly competitive project bidding situation where a company is in the final stages of site

selection and considers Louisiana to be roughly equivalent in terms of factor advantages to one or more other states.

Program—the Economic Development Award Program, including Basic Infrastructure Projects and Opportunity Fund Projects that are undertaken by DED, LEDC, the public entity and the company pursuant to these rules and the bylaws of LEDC.

Project—an expansion, improvement and/or provision of infrastructure for a public entity that promotes economic development, for which DED and LEDC assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, or increase its capital investment in Louisiana.

Public Entity—the public or quasi-public entity responsible for engaging in the award agreement and pursuant thereto, for the performance and oversight of the project and for supervising with DED the company's compliance with the terms, conditions and performance objectives of the award agreement.

Secretary—the Secretary of the Department of Economic Development, who is also the President of LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), amended LR 25:237 (February 1999), LR 26:236 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§105. General Principles

A. The following general principles will direct the administration of the Economic Development Award Program.

1. Awards are not to be construed as an entitlement for companies locating or located in Louisiana.

2. An award must reasonably be expected to be a significant factor in a company's location, investment and/or expansion decisions.

3. Awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities.

4. The retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.

5. The anticipated economic benefits to the state will be considered in making the award.

6. Appropriate cost matching among project beneficiaries is a factor in the consideration of the award.

7. A two year moratorium will be required on additional EDAP awards to the same company at the same location.

8. Award funds shall be utilized for the approved project only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), amended LR 25:238 (February 1999), LR 26:237 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§107. Eligibility

A. An eligible application for the award must meet the general principles set forth above and the criteria set forth below, and the ownership benefits or rights resulting from the infrastructure project must inure to the benefit of one of the following:

1. a public or quasi-public state entity; or
2. a political subdivision of the state.

B. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if company has another contract with DED or LEDC in which the company is in default and/or is not in compliance.

C. Businesses not eligible for awards under this program are:

1. retail business operations;
2. real estate developments;
3. hospitality operations;
4. gaming operations;
5. this ineligibility provision shall not apply to

wholesale, storage warehouse or distribution centers; catalog sales or mail-order centers; home-office headquarters or administrative office buildings; even though such facilities are related to ineligible business enterprises, provided that retail sales, hospitality services and gaming activities are not provided directly and personally to individuals in any such facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), amended LR 25:238 (February 1999), LR 26:237 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§109. Criteria for Basic Infrastructure Projects

A. In addition to the general principles set forth above, Basic Infrastructure Projects must meet the criteria hereinafter set forth for an award under the Program.

1. Job Creation/Retention and Capital Investment

a. Basic Infrastructure Projects must create or retain at least 10 permanent jobs in Louisiana.

b. Consideration will be given for projects having a significant new private capital investment.

c. The number of jobs to be retained and/or created as stated in the application for basic infrastructure projects will be strictly adhered to, and will be made an integral part of the award agreement.

2. Preference will be given to projects for industries identified by DED or LEDC as cluster industries, and to projects located in areas of the state with high unemployment levels.

3. Preference will be given to projects intended to expand, improve or provide basic infrastructure supporting mixed use by the company and the surrounding community.

4. Companies must be in full compliance with all state and federal laws.

5. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the US Census Bureau) within Louisiana, except when the company gives sufficient evidence that it is otherwise likely to relocate outside of Louisiana, or the company is significantly expanding and increasing its number of employees and its capital investment.

6. The minimum award request size shall be \$25,000.

7. Consideration will be given for wages substantially above the prevailing regional wage.

8. If a company does not begin construction of the project, or make substantial progress toward preparation of architectural and engineering plans and specifications and/or permit applications, within 365 calendar days after its application approval, the LEDC Board of Directors, at its discretion, may cancel funding for the project, or require reapplication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), amended LR 25:238 (February 1999), LR 26:237 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§111. Criteria for Louisiana Opportunity Fund Projects

A. The governor shall determine that a project meets the general principles set forth above, and that a company meets the following criteria, it is either:

1. in the final stages of site selection and considers Louisiana to be equivalent in terms of factor advantages to one or more other states for locating here; or

2. the governor determines that a company operating in Louisiana is in the final stages of deciding whether or not to expand, invest new capital and to retain or create jobs in Louisiana, or to do so in another state or states rather than in Louisiana.

B. The governor shall provide notice to the chairman of the board of directors of LEDC and request that a special meeting of the board be called in accordance with the bylaws of LEDC, and a meeting of the LEDC Board of Directors shall be called to consider such financial benefits by way of financial assistance, appropriations, grants or loans as may facilitate and provide for necessary infrastructure improvements so as to induce a company to locate in Louisiana, or to expand and invest additional capital in Louisiana.

C. The governor shall certify to LEDC and provide appropriate information and documentation through which the LEDC Board must determine:

1. the project would, because of competition from other states and other pertinent factors, not happen in Louisiana in the absence of the infrastructure assistance being provided;

2. the project does not require government funding in order to be successful, but stands on its own merits;

3. the project provides an important interconnection between constituent companies of cluster-based economic development, and either provides or fulfills critical mass for targeted cluster-based development;

4. the project will result in fulfilling one or more of the purposes for which the offices of DED are created as defined by R.S. 36:108;

5. if the project is a new one for a company not currently located in Louisiana, or a new facility separate and apart from a company's existing facility in Louisiana;

a. the project will be instrumental in the creation of a \$15 million minimum new private capital investment by the company, with at least a 5 to 1 ratio of new private capital investment to the award under this Program;

b. the project will result in the creation of a minimum of 100 new permanent jobs with salaries at least equal to the respective parish's average weekly wage for the respective industry, or where no industry average is available, at least equal to 10 percent above the parish's per capita average weekly wage, as determined by the Louisiana Department of Labor; and

c. the company must offer health care insurance coverage for the employees;

6. if the project is for an existing business operation in Louisiana, there is evidence:

a. of either:

i. a written commitment from another state of the United States or foreign country setting forth the terms and conditions for relocation of the Louisiana operation outside of this state; or

ii. that the company will pursue a project for expansion of capital facilities and/or additional jobs, either in Louisiana or in a state other than Louisiana; and

b. that the company will substantially modernize and/or increase its capital investment in Louisiana, creating or retaining at least 50 permanent jobs, with a minimum new private capital investment of \$30 million in improvements and/or modernization of Louisiana facilities, with at least a 5 to 1 ratio of new private capital investment to the award under this program.

D. If a company does not begin construction of the project, or make substantial progress toward preparation of architectural and engineering plans and specifications and/or permit applications, within 180 calendar days after its application approval, the LEDC Board of Directors, at its discretion, may cancel funding for the project, or require reapplication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), amended LR 25:238 (February 1999), LR 26:237 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§113. Application Procedure for Basic Infrastructure Projects

A. The applicants must submit an application to DED or LEDC on a form provided by DED or LEDC which shall contain, but not be limited to, the following:

1. a business plan that contains an overview of the company, its history, and the business climate in which it operates, including financial statements and business projections;

2. a description of the project along with the factors creating the need, including construction, operation and

maintenance plans, and a timetable for the project's completion;

3. evidence of the number, types and compensation levels of jobs to be created or retained by the project, and the amount of capital investment for the project; and

4. any additional information that DED or LEDC may require.

B. The applicants and their applications must meet the general principles of §105, the eligibility requirements under §107, and meet the criteria set forth in §109 above, in order to qualify for an award under this Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), amended LR 25:238 (February 1999), LR 26:237 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§115. Application Procedure for Louisiana Opportunity Fund Projects

A. The applicants must submit an application to the Governor on a form provided by DED or LEDC which shall contain, but not be limited to, the following:

1. a business plan that contains an overview of the company, its history, and the business climate in which it operates, including financial statements and business projections;

2. a description of the project along with the factors creating the need, including construction, operation and maintenance plans, and a timetable for the project's completion;

3. evidence of the number, types and compensation levels of jobs to be created or retained by the project, and the amount of capital investment for the project; and

4. any additional information that may be required by DED or LEDC.

B. In order for the application to be considered by the LEDC Board of Directors, the governor must submit it to the board along with his certifications, as required by §111 above.

C. When, in the opinion of the governor, use of the Louisiana Opportunity Fund is warranted under circumstances of highly competitive bidding for a new business or an existing business that meets the general principles of §105, the eligibility requirements under §107, and meets the criteria set forth in §111 above, the governor may request the chairman of the Board of LEDC to call a special meeting of the Board of Directors of LEDC pursuant to the Bylaws of LEDC; and thereafter, a meeting of the Board of Directors of LEDC shall be called in order for the Board to consider the use of funds from the Louisiana Opportunity Fund as may be recommended by the governor. The LEDC Board may take such action as may be necessary promptly and expeditiously because of and consistent with the competition presented by other states, and shall approve or reject the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1640 (December 1997), amended LR 25:239 (February 1999), LR

26:238 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§117. Submission and Review Procedure for Basic Infrastructure Projects

A. Applicants must submit their completed application to DED or to LEDC. Submitted applications will be reviewed and evaluated by DED or LEDC staff. Input may be required from the applicant, other divisions of the Department of Economic Development, LEDC, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;

2. validate the information presented;

3. determine the overall feasibility of the company's plan.

B. An economic cost-benefit analysis of the project, including an analysis of the direct and indirect net economic impact and fiscal benefits to the state and local communities, including an evaluation based on the Regional Input/Output Model System II (RIMS), or its successor, will be prepared by DED or LEDC.

C. Upon determination that an application meets the general principles of §105, the eligibility requirements under §107, and meets the criteria set forth for this program under §109, DED staff will then make a recommendation to the LEDC Board of Directors. The application will then be reviewed and approved or rejected by the LEDC Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:405 (March 1999), amended LR 26:239 (February 2000), amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§119. Submission and Review Procedure for Louisiana Opportunity Fund Projects

A. DED shall provide staff for prompt and timely review of submissions by the governor of projects to be funded by the Louisiana Opportunity Fund. Input may be required from the company, the public entity, other divisions of DED, LEDC, and other state agencies or political subdivisions of the state as needed in order to:

1. evaluate the strategic importance to the state of the project and its importance to the economic well being of the state and its local communities;

2. validate the information presented, and determine whether or not the project meets the general principles of §105, the eligibility requirements of §107, and falls within the criteria for use of the Opportunity Fund as provided in §111 above;

3. determine the feasibility of the company's plan in the context of the criteria for use of the Opportunity Fund as provided in §111 above;

4. prepare a preliminary economic cost-benefit analysis of the project, including a preliminary analysis of the direct and indirect net economic impact and fiscal benefits to the state and local communities, including an evaluation based on the Regional Input/Output Model System II (RIMS), or its successor;

5. make recommendations based upon the foregoing to the Board of Directors of LEDC, and the LEDC Board shall review and approve or reject the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§121. General Award Provisions

A. Except where indicated, these provisions shall be applicable to Basic Infrastructure Awards and to Louisiana Opportunity Fund awards. Agreement resulting from the expedited procedures for the Louisiana Opportunity Fund award shall demonstrate the intent of the company, the public entity, DED, and LEDC to enter into the following.

1. Award Agreement. A contract or Cooperative Endeavor Agreement will be executed between DED, acting through the LEDC, the public entity and the company. The agreement will specify the performance objectives expected of the company(ies) and the public entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for investment and job creation. Under the agreement, the public entity will oversee the progress of the project. DED or LEDC will disburse funds to the public entity in a manner determined by DED or LEDC.

2. Funding

a. Eligible project costs may include, but not be limited to, the following:

- i. engineering and architectural expenses;
- ii. site acquisition;
- iii. site preparation;
- iv. construction expenses;
- v. building materials;
- vi. capital equipment when located on public property and having an Internal Revenue Service (IRS) depreciable life of at least seven years.

b. Project costs ineligible for award funds include, but are not limited to:

- i. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- ii. company moving expenses;
- iii. expenses already approved for funding through the General Appropriations Bill, or for cash approved through the Capital Outlay Bill, or approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- iv. improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;
- v. refinancing of existing debt, public or private;
- vi. furniture, fixtures, computers, consumables, transportation equipment, rolling stock or equipment not located on public property and/or having an IRS depreciable life of less than seven years.

B. Amount of Award. Following the appropriation of funds for each fiscal year, the Board of Directors of LEDC shall allocate the amount of such funds available for Basic Infrastructure Awards and for Louisiana Opportunity Fund Awards.

1. For Basic Infrastructure Awards

a. The portion of the total project costs financed by the award may not exceed:

- i. 90 percent for projects located in parishes with per capita personal income below the median for all parishes; or
- ii. 75 percent for projects in parishes with unemployment rates above the statewide average; or
- iii. 50 percent for all other projects.

b. Other state funds cannot be used as the match for EDAP funds.

c. All monitoring will be done by DED or LEDC. Expenditures for monitoring or fiscal agents may be deducted from awards.

d. The award amount shall not exceed 25 percent of the total funds allocated to the Basic Infrastructure Awards Program during a fiscal year, unless the project creates in excess of 200 jobs, or creates an annual payroll in excess of \$3.1 million.

e. The LEDC Board of Directors, in its discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

2. For Louisiana Opportunity Fund Awards. Resources shall be allocated in accordance with the recommendations of the Governor and as approved by the Board of Directors of LEDC and shall effect the best allocation of resources, based upon the number of projects anticipated to require similar funding and the availability of program funds.

C. Conditions for Disbursement of Funds

1. Award funds will be available to the public entity on a reimbursement basis following submission of required documentation to DED or LEDC from the public entity.

2. Program Funding Source

a. If the program is funded through the state's general appropriations bill, only funds spent on the project after the approval of the LEDC Board of Directors will be considered eligible for reimbursement.

b. If the program is funded through a capital outlay bill, eligible expenses cannot be incurred until a cooperative endeavor agreement (contract) has been agreed upon, signed and executed.

3. Award funds will not be available for disbursement until:

a. DED or LEDC receives signed commitments by the project's other financing sources (public and private);

b. DED or LEDC receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed or obtained;

c. all other closing conditions specified in the award agreement have been satisfied.

4. Awardees will be eligible for reimbursement at 85 percent until all or substantially all of the tasks or work required by the award agreement have been performed or completed. After the awardee has performed or completed or substantially performed or substantially completed the tasks or work required by the award agreement, the final 15 percent of the award amount will be paid after DED or LEDC staff or its designee inspects the project to assure that

all or substantially all of the tasks or work required by the award agreement have been performed or completed. Such tasks or work shall be considered substantially performed or substantially completed when DED or LEDC has determined that the benefits to the state anticipated or expected as a result of the project, tasks or work performed have been achieved, even though 100 percent of all stated objectives of the award agreement may not have been fully achieved.

E. Compliance Requirements

1. Companies and public entities shall be required to submit progress reports, describing the progress towards the performance objectives specified in the award agreement. Progress reports by public entity shall include a review and certification of company's hiring records and the extent of company's compliance with contract employment commitments. Further, public entity shall oversee the timely submission of reporting requirements of the company to DED.

2. In the event a company or public entity fails to meet its performance objectives specified in its agreement with DED and LEDC, DED and LEDC shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or public entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state. Reclamation shall not begin unless DED or LEDC has determined, after an analysis of the benefits of the project to the state and the unmet performance objectives, that the state has not satisfactorily or adequately recouped its costs through the benefits provided by the project.

3. In the event a company or public entity knowingly files a false statement in its application or in a progress report or other filing, the company or public entity and/or their representatives may be guilty of the offense of filing false public records, and may be subject to the penalty provided for in R.S. 14:133.

4. DED and LEDC shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the public entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§123. Conflicts of Interest

A. No member of Louisiana Economic Development Corporation, employee thereof, or employee of the Louisiana Department of Economic Development, nor members of their immediate families, shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with either the corporation or the department for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation or department. If any contract or agreement shall be made in violation of the provisions of this Section, the same shall be null and void, and no action shall be maintained thereon against either the corporation or the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

Family Impact Statement

The proposed amendments to LAC 13:III. Chapter regarding the Economic Development Award Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Daryl Manning through the close of business on January 30, 2003, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802.

Don J. Hutchinson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Economic Development
Award Program (EDAP)**

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

There are no anticipated implementation costs to state or local government as a result of these rule changes.

Act 23 of the 2002 Legislature provides \$8,700,000.00 in funding for the Economic Development Award Program, including the Louisiana Opportunity Fund for Infrastructure Programs and Projects. The new rules establish guidelines for both the basic EDAP as well as the Opportunity Fund projects. These rule changes will not result in additional staff or equipment.

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

No effects on Revenue collections are expected.

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

No costs are anticipated.

The inclusion of rules for the Opportunity Fund will allow the state to provide larger EDAP awards in an effort to be more competitive in trying to induce larger economic development projects. Securing such projects will create additional job opportunities and infrastructure for Louisiana citizens and businesses.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The program's goals include the creation of new jobs, diversifying the economy, and increasing state and local tax collections.

Michael Williams
Director
Resource Services
0212#084

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Business Development Economic Development Corporation

Matching Grants Program
(LAC 19:VII.Chapter 79)

The Department of Economic Development, Office of Business Development, Economic Development Corporation, pursuant to the authority of R.S. 51:2312 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt the following Rules for the Louisiana Matching Grants Program. The purpose of the Rules is to establish a program to leverage state and local funding in order to maximize matching funds from federal and other grants. The program is set up to assist qualified Louisiana businesses, minority-owned businesses, high-growth potential businesses, women-owned businesses, small business enterprises and disabled persons' business enterprises as a result of the grant. LEDC will provide a portion of the match required for these grants. There are federal and private grants available for local governments to access. However, many local governments do not have sufficient funds available to fund the required matches for the grants. In order to give more local governments access to these grants LEDC has proposed the matching grant program to provide some of the match required. This program provides funding that is not available in the private sector or from any other public sector entity.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 11. Louisiana Matching Grants Program

Chapter 79. Matching Grants Program

§7901. Purpose

A. The purpose of this program is to leverage state and local funding in order to maximize matching funds from federal and other grants for the purpose of assisting, whether individually or collectively, qualified Louisiana businesses, minority-owned businesses, high-growth potential businesses, women-owned businesses, small business enterprises and disabled persons' business enterprises as those terms are defined by R.S. 39:2303, in such manner and as may be determined by the board in its discretion, and may also include providing matching funding for federal grants for infrastructure and basic infrastructure projects under the Louisiana Economic Development Award Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Economic Development Corporation, LR 29:

§7903. Definitions

Applicant Cthe public entity requesting matching grant funds under this program. The public entity may be joined in the application by any other entity.

Award Cthe funding of matching grant money under this program for eligible applicants.

Award Agreement Cthe agreement of contract hereinafter referred to between the public entity, DED and LEDC, and

where applicable, any other entity through which the parties by cooperative endeavor or otherwise, set forth the terms, conditions and performance objectives of the award provided pursuant to these rules.

DEDC the Louisiana Department of Economic Development.

Project C a proposal by a public entity that promotes economic development for which matching grant funds are sought under this program. Where matching grant funds are sought for projects that are defined as Basic Infrastructure or Infrastructure under the EDAP Rules, then the Rules pertaining to EDAP, in addition to these Rules, apply to the determination as to the funding of the matching grant funds.

Public Entity C the applying public or quasi-public entity that will be responsible for receiving and administering the performance and oversight of the project and for supervising compliance with the terms, conditions and performance objectives of the award agreement.

Secretary C the Secretary of the Department of Economic Development, who is also the President of LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Economic Development Corporation, LR 29:

§7905. General Principles

A. The following general principles will direct the administration of the Matching Grant Award Program.

1. Awards are not to be construed as an entitlement for companies locating or located in Louisiana.

2. An award must reasonably be expected to be a significant factor in improving or enhancing economic development, whether in a particular circumstance, or overall.

3. Awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities.

4. Awards that promote retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.

5. The anticipated economic benefits to the state will be considered in making the award.

6. Appropriate cost sharing among project beneficiaries is a factor in the consideration of the award.

7. Whether or not an award will be made is entirely at the discretion of the LEDC Board and shall depend upon the facts and circumstances of each case, funds available, funds already allocated, and other such factors as the board may, in its discretion deem to be pertinent. The grant or rejection of an application for an award shall not establish any precedent and shall not bind the board to any future course of action with respect to any application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:

§7907. Eligibility

A. In order to be eligible for a Matching Grant Award pursuant to this program, the applicant must demonstrate the following to the satisfaction of the board.

1. The Award sought must be consistent with the Principles set forth above, the applicant must demonstrate a need for the matching grant funds, the ability to administer the funds in accordance with all applicable laws, rules and regulations governing the receipt of the grant, and that management are, or will be, in place to provide the services the grant is intended to provide. Where it is represented that certain contingent actions will be taken in order to comply with these conditions, then the LEDC may, in its discretion, withhold funding until there is substantial performance of the contingencies.

2. Preference will be given to applicants representing rural communities, or those communities designated as renewal communities.

3. The applicant must demonstrate that the matching funds and resulting grant from available matching funds will serve, individually, or collectively, the purposes of the program as defined in §7901 and the General Principles defined in §7905 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Economic Development Corporation, LR 29:

§7909. Application for Matching Grant

A. The applicant must submit an application to the DED or LEDC on a form provided which shall contain the following information:

1. a copy of the application or a valid description of the grant for which matching funds are sought;

2. a letter of commitment or such other information as will provide the board necessary information to assure that if the funds are made available and other necessary and appropriate steps are taken, the grant will be matched by the granting authority;

3. an explanation for the reason that LEDC provide the match to the grant;

4. a plan which shall include a budget as to how and when the match and the grant are to be spent;

5. résumés or other appropriate information on the grant administrator or grant monitor;

6. a statement that reflects that the value of the matching funds to the project and to the economic development of the state sought through the project will equal or exceed the benefits given to the recipient of the grant funds;

7. how matching the grant funds will serve the best interests of the businesses defined in the purposes set forth in §7901 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Economic Development Corporation, LR 29:

§7911. Matching Grant Funding

A. The award shall not be drawn down before the grant is funded by the federal or other entity that is providing the funds for which the matching grant is being awarded.

B. There shall be a contribution from the applicant that in the opinion of the board constitutes a commitment to the project for which the funds are being sought.

C. The Louisiana Economic Development Corporation may allocate funds to this program on a case by case basis

and may, by vote, determine a maximum amount to be allocated for the fiscal year.

D. This program shall be evaluated by the board in one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Economic Development Corporation, LR 29:

Family Impact Statement

The proposed amendments to Rules 19:VII. Chapter 79 regarding the Economic Development Award Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Daryl Manning through the close of business on January 30, 2001, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802.

Don J. Hutchinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Matching Grants Program

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

There are no anticipated costs in implementing the program.

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

It is anticipated that State and local governments will be able to collect \$3,000,000 in federal or private grants because of this program. The increase comes from the fact that many local governments do not have sufficient funds to match the grants.

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

It is anticipated that State and local governments will be benefited as much as \$3,000,000 in federal or private grants because of this program. The small and medium business will be the direct beneficiary of the grant dollars. This program is intended to be a match for federally funded or privately funded grants and that match is estimated to be no more than one third of the total grant. Since the board of LEDC has earmarked \$1,000,000 for the program then the following formula applies:

+\$4,000,000	Grant with state self generated funds and leveraged federal or private dollars
<u>-\$1,000,000</u>	in self generated state funds
\$3,000,000	Net new dollars

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This program does not provide funding that is available in the private sector or from any other public sector. Therefore, the program will not negatively affect private sector employment or be in direct competition with other government programs. Because economic development is the purpose of the program, net new jobs will be created through the development of new and expanded businesses as a result from federal or foundation grants made possible by this program.

Michael Williams
Director
Resource Services
0212#085

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators (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 741C Louisiana Handbook for School Administrators, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The State Board of Elementary and Secondary Education (SBESE), at the October 2002 meeting, approved a change to policy number 1.025.01 in Bulletin 741C Louisiana Handbook for School Administrators. The Rule change updates the list of state and federal rules, laws and statutes that schools and districts must comply with in regards to data collection and dissemination.

The action is necessary to bring Louisiana's school administrative policy in line with Family Education Rights to Privacy Act (FERPA) guidelines. Specific information regarding FERPA guidelines can be obtained at <http://www.ed.gov/offices/OM/fpco/ferpa/index.html>.

**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

* * *

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 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:

Proposed Policy

1.025.01 The maintenance, use, and dissemination of information included in system records and reports shall be governed by written policies adopted by the local educational governing authority and/or other applicable educational governing authorities. The policies shall conform to the requirements of all applicable state and federal laws, including, but not limited to, the Louisiana

Public Records Act, R.S. 44:1 et seq., the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g and 45 CFR 99.1 et seq., the Individual with Disabilities Education Act, 20 U.S.C 1400 et seq., 17:1941 et seq. and R.S. 17:1237.

2.025.01 The maintenance, use and distribution of information included in school records and reports shall be governed by written policies adopted by the local educational governing authority. The policies shall conform to the requirements of all applicable state and federal laws, including, but not limited to, the Louisiana Public Records Act, R.S. 44:1 et seq., the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g and 45 CFR 99.1 et seq., the Individual with Disabilities Education Act, 20 U.S.C 1400 et seq., 17:1941 et seq. and R.S. 17:1237.

* * *

Interested persons may submit written comments until 4:30 p.m., February 8, 2003, to Nina A. Ford, 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 741C Louisiana Handbook For
School Administrators**

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

There is no additional cost or savings to state or local governmental units as a result of this proposed Rule change. The proposed Rule change updates the list of state and federal rules, laws and statutes that schools and districts must comply with in regards to data collection and dissemination.

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

This proposed Rule change will have no effect on revenue collections of state or local governmental units.

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

The proposed Rule change imposes no direct costs nor provides any direct economic benefits to persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No effect is expected on competition or employment as a result of the proposed Rule change.

Weegie Peabody
Executive Director
0212#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook For School Administrators (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.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975).

At its October 2002 meeting, the State Board of Elementary and Secondary Education revised Standards 2.037.12, 2.037.13, 1.090.03, and 2.090.03 of *Bulletin 741*. These standards relate to the length of the school day and the minimum time requirements for pre-kindergarten classes. This action was necessary to include pre-kindergarten in policy that previously applied to K-12. The revision mandated that 360 minutes shall be the minimum instructional day for a full day pre-kindergarten program, defined instructional time for pre-kindergarten and clarified suggested minimum time requirements for pre-kindergarten.

**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 28:269-271 (February 2002), LR 28:272-273 (February 2002), LR 28:991-993 (May 2002), LR 28:1187 (June 2002), LR 29:

Length of School Day Requirements

2.037.12 The minimum instructional day for a full-day pre-kindergarten and kindergarten program shall be 360 minutes.

2.037.13 For grades pre-kindergarten – 12, the minimum school day shall include 360 minutes of instructional time, exclusive of recess, lunch, and planning periods.

**Elementary Program of Studies/Minimum
Time Requirements**

1.090.03

2.090.03 Schools providing pre-kindergarten programs shall offer a curriculum that is developmentally appropriate and informal in nature.

Suggested Minimum Time Requirements for Pre-Kindergarten:

Teacher directed activities indoor and outdoor whole and small group)	35%
Child initiated activities indoor and outdoor learning centers)	35%
Snack and restroom time	10%
A. Lunch	
Rest Periods	20%

The above suggested minimum time requirements shall be flexibly scheduled to meet the developmental needs of young students.

* * *

Interested persons may submit comments until 4:30 p.m., February 8, 2003, to Nina A. Ford, 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 741C Louisiana Handbook For
School Administrators**

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. The proposed Rule change revises standards that relate to the length of the school day and the minimum time requirements for pre-kindergarten classes.

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 affect on competition and employment.

Weegie Peabody
Executive Director
0212#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook For School
Administrators C Policy for Louisiana's Public
Education Accountability System
(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.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components. The proposed changes integrate subgroup performance into existing policy by creating a means to evaluate subgroup (ethnic, poverty, limited english proficient, and disabled) growth, and establishing incentives for schools to improve subgroup performance.

**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

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 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:

**The Louisiana School And District
Accountability System**

Growth Targets

2.006.05 Each school shall receive a growth target that represents the amount of progress it must make every two years to reach the state's 10-and 20-Year Goals.

In establishing each school's growth target, the SPS inclusive of students with disabilities shall be used as the baseline. (See Standard 2.006.18.) However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT in each school will be a factor in determining the growth target for each school.

Growth Targets [K-12]

During the first ten years, the formula is the following:

$$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))] \text{ or } 5 \text{ points, whichever is greater}$$
 where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. For purposes of this calculation, gifted, talented, and 504 students shall not be counted as special special education students, but shall be included in the calculations as regular education students.

PropRE = 1-PropSE. PropRE is the proportion of students not in special education.

Prop LEP = the number of limited English proficient students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. A limited English proficient student shall be defined as an individual who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or participate fully in our society and who: 1) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or 2) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or 3) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant.

SPS = School Performance Score

N = Number of remaining accountability cycles in the 10-Year Goal period

The maximum amount of growth that a school shall be required to attain is 20 points. The minimum amount of growth required shall be 5 points.

During the second ten years, the formula is the following:

$$[\text{PropRE} * (150 - \text{SPS})/N] + [\text{PropSE} * ((150 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((150 - \text{SPS})/(N+5))] \text{, or } 5 \text{ points, whichever is greater.}$$

For cycle 1 only (2003), the Louisiana Department of Education shall calculate a growth target for 9-12 schools using the following formula

$$.75 * [[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))].$$

For combination schools, the Louisiana Department of Education shall use 2 years of data (2002 and 2003) to determine if a school has met its growth target for cycle 1. Combination schools shall use the following formula to calculate a growth target:

$$[[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))], \text{ or } 5 \text{ points, whichever is greater.}$$

Growth Targets for New or Reconfigured Schools
 Once a baseline for the new or reconfigured school has been established, a growth target shall be set based on the number of cycles remaining until 2009 (K-8) and 2011 (9-12), with a maximum growth target of 20 points. For example, suppose an elementary school enters the Accountability System in 2003 and establishes a baseline SPS of 50 in 2005. Normally, the school's growth target would be $(100 - 50)/2 = 25$. Under this rule, the school's growth target shall be 20, the maximum.

Growth Targets for Reconstituted Schools
 Until 2009 (for K-8 schools) and 2011 (for 9-12 schools), the reconstituted school's growth target shall be equal to 100 minus the SPS divided by 5 minus the number of cycles since reconstitution. For example, suppose a school is reconstituted in 2005 and has a SPS of 50 (based on previous year's data). The school's growth target for the first cycle after reconstitution shall be $10 \text{ points } [(100 - 50)/5]$.

Growth Targets for Subgroups (Subtargets)
 Beginning in 2003, a Subtarget shall be calculated for each subgroup within a school. The Subtarget(s) reflect the amount of growth each subgroup within a school must achieve in order to meet the state's 10-year goal. Subtargets shall be calculated in each school for the following subgroups*:

- American Indian or Alaskan Native
- Asian or Pacific Islander
- Black
- Hispanic
- White
- Economically Disadvantaged
- Special Education
- Limited English Proficient

*Subgroup participation will be determined based on SIS reporting and according to guidelines established by federal law. Subtargets are calculated only when minimum population requirements for subgroups are met.
 The minimum and maximum subtarget values shall be 5.0 and 20.0, respectively.

The Subtargets shall be equal to 100 minus the subgroup's SPS divided by the number of cycles remaining.

Subtarget calculations are demonstrated in the following K-8 example:

Subgroup	2003 Subgroup SPS	Subtarget [(100-SPS) / # cycles remaining]
American Indian/Alaskan Native	53.2	15.6
Asian or Pacific Islander	92.1	2.6
Black	71.4	9.5
Hispanic	62.7	12.4
White	80.9	6.4
Economically Disadvantaged	75.0	8.3
Special Education	44.2	18.6
Limited English Proficient	70.1	10.0

Growth Labels

2.006.06 A school shall receive a label based on its success in attaining its growth target.

2003 Growth Labels

A school exceeding its growth target by five points or more shall receive a label of Exemplary Academic Growth.

A school exceeding or meeting its growth target by fewer than five points shall receive a label of Recognized Academic Growth.

A school improving (at least 0.1 points) but not meeting its growth target, shall receive a label of Minimal Academic Growth.

A school with a change in SPS (0 to -5.0 points), shall receive a label of No Growth.

A school with a declining SPS (more than -5.0 points) shall receive a label of School in Decline.

For the accountability cycle ending in 2005 and for all subsequent cycles, a school shall receive a label based on its success in attaining its school growth target and subgroup subtargets.

2005 Growth Labels

For the accountability cycle ending in 2005 and for all subsequent cycles:

A school meeting or exceeding its growth target with all subgroups meeting or exceeding their respective subtargets shall receive a label of Exemplary Academic Growth.

A school meeting or exceeding its growth target with all subgroups meeting or exceeding the growth target of the school shall receive a label of Recognized Academic Growth.

A school meeting or exceeding its growth target with any subgroup failing to meet at least the growth target of the school shall receive a label of Adequate Academic Growth.

A school improving (at least 0.1 points) but not meeting its growth target, shall receive a label of Minimal Academic Growth.

A school with a change in SPS (0 to -5.0 points), shall receive a label of No Growth.

A school with a declining SPS (more than -5.0 points) shall receive a label of School in Decline.

When a school's SPS is greater than or equal to the state's goal, "Minimal Academic Growth," "No Growth", and "School in Decline" labels shall no longer apply.

Rewards/Recognition

2.006.08 A school shall receive recognition and monetary awards (as appropriated by the Legislature) when it meets or exceeds its growth target and when it shows growth in the performance of subgroups. For 2001 and 2003 only, the SBESE shall determine distribution of rewards based on a school's SPS and on the amount of growth (at least 0.1 points) shown in the performance of students who are classified as high poverty.

For the accountability cycle ending in 2005 and for all subsequent cycles, rewards shall be distributed to schools based on the following criteria:

A school meeting or exceeding its growth target with all subgroups meeting or exceeding their respective subtargets shall be rewarded for *Exemplary Academic Growth*.

A school meeting or exceeding its growth target with all subgroups meeting or exceeding the growth target of the school shall be rewarded for *Recognized Academic Growth*.

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salaries or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its growth target (s).

Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data (See Standard 2.006.04) in the following respects for determining the allocation of rewards:

- If irregularities are resolved and the data is corrected before re-provided, then the rewards will be based upon the corrected data.
- If the irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

* * *

Interested persons may submit written comments until 4:30 p.m., February 8, 2003, to Nina A. Ford, 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 741C Louisiana Handbook For School Administrators C Policy for Louisiana's Public Education Accountability System

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

There are no estimated implementation costs to state governmental units. The proposed changes integrate subgroup performance into existing policy.

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

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

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

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Weegie Peabody
Executive Director
0212#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1943C Policies and Procedures for Louisiana
Teacher Assistance and Assessment
(LAC 28:XXXVII.503, 701, and 901)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 1943C Policies and Procedures for Louisiana Teacher Assistance and Assessment, referenced in LAC 28:I.917.C. The State Board of Elementary and Secondary Education (SBESE) approved the Louisiana Teacher Assistance and Assessment Programs, Bulletin 1943: Policies and Procedures for Louisiana Teacher Assistance and

Assessment, at their September 2002 meeting. Bulletin 1943 is revised to be in conformity with R.S. 17:3881-3884, 17:3891-3896, and 17:3901-3904, Act 838 of the Regular Session of the 1997 Louisiana Legislature. These revisions include the new Louisiana teacher certification and licensure structure and the Teacher Preparation Program Accountability Survey for new teachers. The new Louisiana teacher certification and licensure structure, approved by the State Board of Elementary and Secondary Education, was implemented on July 1, 2002. The *Policies and Procedures for Louisiana Teacher Assistance and Assessment* are the criteria by which new teachers will be assessed under the Louisiana Teacher Assistance and Assessment Program.

Title 28

EDUCATION

Part XXXVII. Bulletin 1943C Policies and Procedures for Louisiana Teacher Assistance and Assessment

Chapter 5. Assessment

§503. Teachers Subject to the Program

A. New teachers subject to this assistance and assessment program, as specified by Act 1 of the 1994 Third Extraordinary Session of the Louisiana Legislature and its 1997 amendments, include general education teachers, vocational education teachers, special education teachers, and "any person employed as a full-time employee of a local board who is engaged to directly and regularly provide instruction to students." Teachers required to participate in this program include those who hold standard certificates (Type C, Level 1), those who hold non-standard certificates (Temporary Authority to Teach, Out-of-Field Authorization to Teach, Practitioner License, or Temporary Employment Permit), teachers moving for the first time from Louisiana nonpublic schools to public schools, and new teachers from out-of-state who do not meet the conditions outlined in Subsection B of this Section.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17: 3871-3873; R.S. 3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:278 (February 2002), LR 29:

Chapter 7. Glossary

§701. Assessment Terminology

Nonstandard Certificate Ca temporary license issued to one who has not yet completed all requirements for Louisiana certification but who is authorized to teach on a provisional basis in Louisiana schools while pursuing completion of all certification requirements.

Standard Certificate Ca license issued to one who has completed a teacher education program and satisfied other requirements for certification in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17: 3871-3873; R.S. 3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:279 (February 2002), LR 29:

Chapter 9. Responsibilities

§901. Duties and Responsibilities of Each Party

A. - A.3.h. ...

4. Responsibilities of Mentor Teachers or Mentor Support Teams. One of the first responsibilities of the Mentor or Mentor Support Team leaders is to remind the assigned new teacher to complete the *Teacher Preparation Program Accountability Survey*. This survey must be completed during the first semester of the assistance period. Additional responsibilities include:

4.a. - 4.c.v. ...

5. Responsibilities of Principals or Principal Designees

a. Introduce the new teacher to school and system policies and procedures, to faculty and staff, to teaching responsibilities, the school improvement plan, the school accountability program, to the *Teacher Preparation Program Accountability Survey*, to the availability of district resources, and the Teacher Assistance and Assessment Program;

5.b. - 6.c. ...

7. Responsibilities of New Teachers

a. Complete the *Teacher Preparation Program Accountability Survey* during the first semester of the assistance period.

b. Perform new teacher responsibilities in accordance with the Code of Ethics for new teachers appearing in the appendices of this bulletin.

c. Meet regularly with his/her mentor at agreed upon times.

d. Take responsibility for his/her own professional growth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17: 3871-3873; R.S. 3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:280 (February 2002), LR 29:

Interested persons may submit comments until 4:30 p.m., February 8, 2003, to Nina A. Ford, 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 1943C Policies and Procedures for Louisiana Teacher Assistance and Assessment

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

The adoption of this policy will cost the Department of Education approximately \$730 (printing and postage) to disseminate this policy. Copies will be mailed to each superintendent, to the Louisiana Teacher Assistance and Assessment Program contact persons, and to all assessor trainers.

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)

Teachers who hold standard certificates (Type C, Level 1), those who hold non-standard certificates (Temporary Authorization to Teach, Practitioner License, or Temporary Employment Permits) are required to participate in the Louisiana Teacher Assistance and Assessment Program. Teachers participating in the program are required to complete a Teacher Preparation Program Accountability Survey.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The printing of the *Bulletin 1943 Policies and Procedures for Louisiana Teacher Assistance and Assessment* has no effect on competition or employment.

Weegie Peabody
Executive Director
0212#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs
(LAC 28:IV.501, 503, and 803)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant Rules (R.S. 17:3021-3026, R.S. 3041.10-15, and R.S. 17:3042.1, R.S. 17:3048.1).

The full text of these proposed Rules may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., February 20, 2002, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs**

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

In addition to the nominal cost of publishing in the Louisiana Register, the agency anticipates no costs to the program as a result of these changes.

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

No impact on revenue collections is anticipated to result from these Rule changes.

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

These changes permit students to file the appropriate year FAFSA to apply for TOPS awards during their first year of first-time/full-time enrollment instead of the year of high

school graduation, and clarify that TOPS Tech applicants need not apply for federal aid if they can demonstrate that they are not eligible for it.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this Rule.

George Badge Eldredge
General Counsel
0212#082

Johnny R. Rombach
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Commercial Laboratories Pending Accreditation
(LAC 33:I.4501 and 4719) (OS039)

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 Office of the Secretary regulations, LAC 33:I.4501 and 4719 (Log #OS039).

As a result of deadlines established in current Louisiana regulations, the Department is prohibited from accepting data from commercial laboratories that have not received departmental accreditation. This rule will allow the Department to accept data from laboratories that have submitted complete applications and supporting documents, have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory, and have paid all appropriate fees. The Department is adding an exemption for personnel monitoring services and those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 Code of Federal Regulations, due to the fact that they are licensed under other department regulations and to prevent an additional economic burden and duplication of effort by the department. The department relies on the analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The basis and rationale for this Rule are to establish regulations to allow the department to have access to accurate, reliable, precise analytical data in order to meet its mandate to protect human health and the environment. This Rule will promulgate the regulation changes in Emergency Rule OS039E3, which was effective on November 11, 2002.

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 3. Laboratory Accreditation

Chapter 45. Policy and Intent

§4501. Description and Intent of Program

A. - D. ...

E. This Subpart shall not apply to the following:

1. laboratory analyses programs accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals; and

2. personnel monitoring services in accordance with LAC 33:XV.430.C and to those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 *Code of Federal Regulations*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000), LR 29:

Chapter 47. Program Requirements

§4719. Implementation

A. - B. ...

C. The department will accept analytical data generated by laboratories that do not comply with the deadlines established in Subsection B of this Section for accreditation if such laboratories:

1. have submitted a complete application form and supporting documents;

2. have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory; and

3. have paid appropriate fees.

D. These regulations shall not apply to field tests as defined in LAC 33:I.4503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:

A public hearing will be held on January 24, 2003, 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 Lynn Wilbanks 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 OS039. Such comments must be received no later than January 31, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to

lynnw@deq.state.la.us. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS039.

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; 1823 Highway 546, West Monroe, LA 71292; 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; 111 New Center Drive, 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: Commercial Laboratories
Pending Accreditation

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

There are no anticipated implementation costs or savings to state or local governmental units.

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

The proposed Rule changes should have no effect on the revenue collections of state or local government.

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

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should have no effect on competition and employment.

James H. Brent, Ph.D.
Assistant Secretary
0212#067

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Fee Increases for FY03 and FY04
(LAC 33:I, III, V, VII, IX, XI, and XV)(OS041)

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, III, V, VII, IX, XI, and XV (Log #OS041).

Act 134 of the 2002 Extraordinary Session of the Louisiana Legislature provided for a 20 percent increase in fees effective for Fiscal Year 2003 and a 10 percent increase in fees above that effective for Fiscal Year 2004. This action is required to fund some portion or all of the 150 positions

that are currently authorized in the FY02 budget, but which are below the line in the FY03 Executive Budget. The basis and rationale for this rule are to provide additional funds for the continued operation of the department.

The department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the Budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the proposed rule. This report is published in the Potpourri Section of the December 20, 2002, issue of the *Louisiana Register*. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 14. Groundwater Fees

§1409. Groundwater Protection Fees

A. Assessment Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or reports that assess groundwater contamination and draw conclusions as to the need for further assessment and/or corrective action.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Hazardous Waste Facilities	\$9,450
Solid Waste Facilities	\$6,300
Nonregulated Facilities	\$3,150

Table 2 (effective July 1, 2003)	
Hazardous Waste Facilities	\$10,395
Solid Waste Facilities	\$6,930
Nonregulated Facilities	\$3,465

B. Corrective Action Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or actions to cleanup groundwater that has been contaminated by a facility.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Hazardous Waste Facilities	\$12,600
Solid Waste Facilities	\$9,450
Nonregulated Facilities	\$3,150

Table 2 (effective July 1, 2003)	
Hazardous Waste Facilities	\$13,860
Solid Waste Facilities	\$10,395
Nonregulated Facilities	\$3,465

C. Annual Report Review Fee. The fee listed below covers the cost of reviewing the groundwater annual report required by both the Hazardous and Solid Waste regulations.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Hazardous Waste Facilities	\$1,260
Solid Waste Facilities	\$314

Table 2 (effective July 1, 2003)	
Hazardous Waste Facilities	\$1,386
Solid Waste Facilities	\$346

D. Groundwater Monitoring Systems Installation. The fee listed below covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Each well	\$600

Table 2 (effective July 1, 2003)	
Each well	\$660

E. Groundwater Monitoring Systems Surveillance Fee (Annual). The fee listed below covers the cost of inspecting monitoring systems to ensure that they are functioning properly and continue to maintain their integrity. The cost also includes other activities, such as the analysis of boring logs and site geology (cross sections, isopachs, etc.). The maximum fee that can be charged for this category is \$6,000, effective July 1, 2002. Effective July 1, 2003, the maximum fee will be \$6,600.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Each well	\$300

Table 2 (effective July 1, 2003)	
Each well	\$330

F. Facility Inspection Fee (Annual). The fee listed below covers the cost of inspecting the various facilities to ensure compliance with the groundwater protection aspects of the facilities' permits.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Hazardous Waste Facilities	\$1,200
With sampling	\$9,000
Solid Waste Facilities	\$600
With sampling	\$1,800

Table 2 (effective July 1, 2003)	
Hazardous Waste Facilities	\$1,320
With sampling	\$9,900
Solid Waste Facilities	\$660
With sampling	\$1,980

G. Oversight of Abandonment Procedures. The fee listed below covers the cost of reviewing plans to plug and abandon all nonpermitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Casing pulled	\$120 each well
Casing reamed out	\$240 each well
Casing left in place	\$600 each well

Table 2 (effective July 1, 2003)	
Casing pulled	\$132 each well
Casing reamed out	\$264 each well
Casing left in place	\$660 each well

H. Maximum Total Fee Per Facility. The maximum fee that can be assessed a facility under these regulations is \$37,800, effective July 1, 2002. Effective July 1, 2003, the maximum fee will be \$41,580.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division in LR 18:729 (July 1992), amended LR 21:797 (August 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

Subpart 3. Laboratory Accreditation

Chapter 47. Program Requirements

§4707. Fees

A. - C. ...

D. The following basic fee structure will be used in determining the initial or annual fees due to the department.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Accreditation application fee payable every three years	\$600
Per major test category payable every year	\$300
Minor conventional category payable every year	\$240

Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation	\$300
Proficiency samples biannually	to be purchased by the laboratory
Bioassay/biomonitoring annually	to be purchased by the laboratory
Third-party audit	to be billed directly to the laboratory

Table 2 (effective July 1, 2003)	
Accreditation application fee payable every three years	\$660
Per major test category payable every year	\$330
Minor conventional category payable every year	\$264
Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation	\$330
Proficiency samples biannually	to be purchased by the laboratory
Bioassay/biomonitoring annually	to be purchased by the laboratory
Third-party audit	to be billed directly to the laboratory

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§223. Fee Schedule Listing

Table 1 (effective July 1, 2002 - June 30, 2003)						
Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0010	Reserved					
0015 *Note 20*	Iron Ore Processing per Million Dollars in Capital Cost	1011	48.00	240.00	144.00	48.00
0020	Bituminous Coal and Lignite Mining	1211	688.00	3,437.00	2,064.00	688.00
0030	Coal Preparation	1211	1,720.00	8,596.00	5,158.00	1,720.00
0040	Crude Oil and Natural Gas Production (Less than 100 T/Yr Source)	1311	82.00	408.00	245.00	82.00
0041	Crude Oil and Natural Gas Production (equal to or greater than 100 T/Yr and less than 250 T/Yr Source)	1311	137.00	688.00	413.00	137.00
0042	Crude Oil and Natural Gas Production 250 T/Yr to 500 T/Yr Source	1311	425.00	2,123.00	1,273.00	425.00
0043	Crude Oil and Natural Gas Production Greater than 500 T/Yr Source	1311	707.00	2,830.00	2,123.00	707.00
0050	Natural Gas Liquids Per Unit	1321	345.00	1,720.00	1,031.00	344.00
0060	Construction Sand and Gravel	1442	137.00	688.00	413.00	137.00
0070	Industrial Sand	1446	137.00	688.00	413.00	137.00

Table 1
(effective July 1, 2002 - June 30, 2003)

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0080	Salt Mining	1476	1,720.00	8,596.00	5,158.00	1,720.00
0090	Sulfur Mining	1477	1,720.00	8,596.00	5,158.00	1,720.00
0100	Commercial Rice Milling	2044	688.00	3,437.00	2,064.00	688.00
0110	Animal Feed Preparation	2048	688.00	3,437.00	2,064.00	688.00
0120	Cane Sugar, Except Refining Only	2061	1,720.00	8,596.00	5,158.00	1,720.00
0130	Cane Sugar Refining per 1,000 Lb/Hr Rated Capacity	2062	13.74 MIN. 1,697.00	68.77 8,491.00	41.26 5,094.00	13.74 1,697.00
0140	Cottonseed Oil Mill	2074	344.00	1,720.00	1,031.00	344.00
0150	Soybean Oil Mill	2075	241.00	1,204.00	722.00	241.00
0160	Animal and Marine Fats and Oil (Rendering) 10,000 or More Ton/Yr	2077	823.00	4,126.00	2,474.00	823.00
0170	Animal and Marine Fats and Oil (Rendering) Less than 10,000 Ton/Yr	2077	413.00	2,064.00	1,238.00	413.00
0180	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils	2079	170.00	860.00	515.00	170.00
0190	Malt Beverages	2082	170.00	860.00	515.00	170.00
0200	Coffee Roasting Per 1,000,000 Lb/Yr Rated Capacity	2095	136.80 MIN. 326.00 MAX. 8,632.00	687.60 1,632.00 43,164.00	411.60 979.00 25,898.00	136.80 326.00 8,632.00
0210 *Note 9*	Sawmill and/or Planing Less than 25,000 Bd Ft/Shift	2421	345.00	1,720.00	1,031.00	344.00
0220 *Note 9*	Sawmill and/or Planing More than 25,000 Bd Ft/Shift	2421	1,031.00	5,158.00	3,095.00	1,031.00
0230 *Note 9*	Hardwood Mill	2426	618.00	3,095.00	1,856.00	618.00
0240 *Note 9*	Special Product Sawmill N.E.C.	2429	618.00	3,095.00	1,856.00	618.00
0250	Millwork with 10 Employees or More	2431	618.00	3,095.00	1,856.00	618.00
0260	Hardwood Veneer and Plywood	2435	1,375.00	6,876.00	4,126.00	1,375.00
0270	Softwood Veneer and Plywood	2436	1,375.00	6,876.00	4,126.00	1,375.00
0280	Wood Preserving	2491	345.00	1,720.00	1,031.00	344.00
0290	Particleboard/Waferboard Manufacture (O.S.B.)	2492	1,375.00	6,876.00	4,126.00	1,375.00
0300	Hardboard Manufacture	2499	1,031.00	5,158.00	3,095.00	1,031.00
0310	Furniture and Fixtures - A) 100 or More Employees	2511	435.00	2,177.00	1,306.00	434.00
0320	Furniture and Fixtures - B) More than 10 and Less than 100 Employees	2511	206.00	1,031.00	618.00	206.00
0330	Pulp Mills Per Ton Daily Rated Capacity	2611	5.14 MIN. 3,538.00	25.78 17,690.00	15.48 10,614.00	5.14 3,538.00
0340 *Note 1*	Paper Mill Per Ton Daily Rated Capacity	2621	5.14 MIN. 3,538.00	25.78 17,690.00	15.48 10,614.00	5.14 3,538.00
0350	Paperboard Mills Per Ton Daily Rated Capacity	2631	5.14 MIN. 3,538.00	25.78 17,690.00	15.48 10,614.00	5.14 3,538.00
0360	Paper Coating	2641	206.00	1,031.00	618.00	206.00
0365	Paper Bag Manufacture	2643	262.00	1,306.00	784.00	262.00
0370	Insulation Manufacture	2649	345.00	1,720.00	1,031.00	344.00
0375	Folding Paper Board Boxes Per Packaging Press Line	2651	345.00 MIN. 1,697.00	1,720.00 8,491.00	1,031.00 5,094.00	344.00 1,697.00
0380	Corrugated Boxes - Converters (with Boilers)	2653	515.00	2,578.00	1,548.00	515.00
0381	Corrugated Boxes - Sheet Plant	2653	217.00	1,088.00	653.00	217.00
0390	Building Board and Tile	2661	1,720.00	8,596.00	5,158.00	1,720.00
0400	Commercial Printing - Black and White Per Press	2752	205.00 MIN. 990.00	1,031.00 4,952.00	618.00 2,971.00	205.00 990.00
0410	Commercial Printing - Color Per Press	2752	343.00 MIN. 1,697.00	1,718.00 8,491.00	1,032.00 5,094.00	343.00 1,697.00
0420 *Note 2*	Caustic/Chlorine Per 1,000,000 Lb/Yr Rated Cap Posed on Chlorine	2812	3.44 MIN. 1,697.00	17.20 8,491.00	10.31 5,094.00	3.44 1,697.00
0440	Industrial Gases	2813	688.00	3,437.00	2,064.00	688.00
0450	Inorganic Pigments	2816	688.00	3,437.00	2,064.00	688.00
0460	Aluminum Sulfate Production Per 100 Ton/Yr Rated Capacity	2819	1.70 MIN. 1,415.00	8.60 7,075.00	5.14 4,246.00	1.70 1,415.00
0470	Alumina Per 1,000,000 Lb/Yr Rated Capacity	2819	6.85 MIN. 1,415.00	34.37 7,075.00	20.62 4,246.00	6.85 1,415.00
0480	Catalyst Mfg. and Cat. Regeneration Per Line	2819	1,720.00	8,596.00	5,158.00	1,720.00
0490	Fluosilicates	2819	1,031.00	5,158.00	3,095.00	1,031.00
0500	Industrial Inorganic Chemicals Mfg. N.E.C. Per 1,000,000 Lb/Yr	2819	1.70 MIN. 990.00	8.60 4,952.00	5.14 2,971.00	1.70 990.00

Table 1
(effective July 1, 2002 - June 30, 2003)

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0510	Industrial Inorganic Acids N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	17.20 1,697.00	85.96 8,491.00	51.58 5,094.00	17.20 1,697.00
0520	Nitric Acid Manufacture Per 1,000 Ton/Yr Rated Capacity	2819 MIN.	6.85 1,697.00	34.37 8,491.00	20.62 5,094.00	6.85 1,697.00
0530	Phosphoric Acid Mfg. Per Ton Daily Rated Cap	2819 MIN.	1.70 1,415.00	8.60 7,075.00	5.14 4,246.00	1.70 1,415.00
0540	Sulphuric Acid Manufacture Per Ton Daily Rated Capacity	2819 MIN.	1.70 1,415.00	8.60 7,075.00	5.14 4,246.00	1.70 1,415.00
0550	Polyethylene/Polypropolene Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	13.74 1,697.00	68.77 8,491.00	41.26 5,094.00	13.74 1,697.00
0560	PVC Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	17.20 1,697.00	85.96 8,491.00	51.58 5,094.00	17.20 1,697.00
0570	Synthetic Resins Manufacture N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	17.20 1,697.00	85.96 8,491.00	51.58 5,094.00	17.20 1,697.00
0580	Rubber Mfg. Per 1,000,000 Lb/Yr Rated Capacity	2822 MIN.	17.20 1,697.00	85.96 8,491.00	51.58 5,094.00	17.20 1,697.00
0585	Paint Manufacturing and Blending	2851	640.00	3,198.00	1,919.00	640.00
0590	Charcoal Per Oven	2861	344.00	1,720.00	1,031.00	344.00
0600	Gum and Wood Chemicals Per Unit	2861	1,031.00	5,158.00	3,095.00	1,031.00
0610	Styrene Monomer Per 1,000,000 Lb/Yr Rated Capacity	2865 MIN.	6.85 1,697.00	34.37 8,491.00	20.62 5,094.00	6.85 1,697.00
0620	Halo genated Hydrocarbons Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	10.31 1,697.00	51.58 8,491.00	30.95 5,094.00	10.31 1,697.00
0630	Organic Oxides, Alcohols, Glycols Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	6.85 1,697.00	34.37 8,491.00	20.62 5,094.00	6.85 1,697.00
0635	Olefins and Aromatics N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	6.85 1,697.00	34.37 8,491.00	20.62 5,094.00	6.85 1,697.00
0640	Ammonia Manufacture Per Ton Daily Rated Capacity	2873 MIN.	3.43 1,697.00	17.20 8,491.00	10.31 5,094.00	3.43 1,697.00
0650	Fertilizer Manufacture Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	1.70 990.00	8.60 4,952.00	5.14 2,971.00	1.70 990.00
0660	Urea and Ureaform Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	3.43 990.00	17.20 4,952.00	10.31 2,971.00	3.43 990.00
0670	Pesticides Mfg. Per Train	2879	1,375.00	6,876.00	4,126.00	1,375.00
0680	Carbon Black Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2895 MIN.	20.62 1,697.00	103.13 8,491.00	61.90 5,094.00	20.62 1,697.00
0690	Chemical and Chemical Prep. N.E.C. Per 1,000,000 Lb/Yr	2899 MIN.	17.20 1,415.00	85.96 7,075.00	51.58 4,246.00	17.20 1,415.00
0695	Chemical and Chemical Prep. N.E.C. with Output Less than 1,000,000 Lb/Yr	2899	979.00	4,898.00	2,939.00	979.00
0700	Drilling Mud-Storage and Distribution	2899	344.00	1,720.00	1,031.00	344.00
0710	Drilling Mud-Grinding	2899	1,375.00	6,876.00	4,126.00	1,375.00
0715	Salt Processing and Packaging Per 1,000,000 Lb/Yr	2899 MIN.	0.28 425.00	1.40 2,123.00	0.84 1,273.00	0.28 425.00
0720 *Note 3*	Petroleum Refining Per 1,000 BBL/Day Rated Capacity Crude Thruput	2911 MIN.	85.96 1,697.00	429.79 8,491.00	258.00 5,094.00	85.96 1,697.00
0730 *Note 4*	Asphaltic Concrete Paving Plants Per Ton/Hr Rated Capacity	2951 MIN.	2.59 707.00	12.92 3,538.00	7.75 2,123.00	2.59 707.00
0740	Asphalt Blowing Plant (Not to be Charged Separately if in Refinery)	2951	1,031.00	5,158.00	3,095.00	1,031.00
0760 *Note 5*	Blending, Compounding, or Refining of Lubricants Per Unit	2992	1,031.00	5,158.00	3,095.00	1,031.00
0770	Petroleum Coke Calcining Per 1,000 Ton/Yr Rated Capacity	2999 MIN.	13.74 1,697.00	68.77 8,491.00	41.26 5,094.00	13.74 1,697.00
0773	Fiberglass Swimming Pools	N/A	242.00	1,204.00	722.00	241.00
0775	Plastics Injection Moulding and Extrusion Per Line	3079	344.00	1,720.00	1,031.00	344.00
0780	Glass and Glass Container Mfg. Natural Gas Fuel Per Line	3229	515.00	2,578.00	1,548.00	515.00
0790	Cement Manufacture Per 1,000 Ton/Yr Rated Capacity	3241 MIN.	10.31 1,415.00	51.58 7,075.00	30.95 4,246.00	10.31 1,415.00
0800	Glass and Glass Container Mfg. Fuel Oil Per Line	3241	1,031.00	5,158.00	3,095.00	1,031.00
0810	Brick Manufacture Per 1,000 Ton/Yr Rated Capacity	3251 MIN.	5.14 707.00	25.78 3,538.00	15.48 2,123.00	5.14 707.00
0815	Concrete Products	3272	348.00	1,741.00	1,044.00	348.00
0820 *Note 12*	Ready-Mix Concrete	3273	860.00	2,612.00	1,720.00	860.00

Table 1
(effective July 1, 2002 - June 30, 2003)

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0830	Lime Manufacture Per 1,000 Ton/Yr Rated Capacity	3274 MIN.	10.31 990.00	51.58 4,952.00	30.95 2,971.00	10.31 990.00
0840	Gypsum Manufacture Per 1,000 Ton/Yr Rated Capacity	3275 MIN.	10.31 990.00	51.58 4,952.00	30.95 2,971.00	10.31 990.00
0850	Asbestos Products Per Site or Per Production Unit	3292	2,064.00	10,315.00	6,190.00	2,064.00
0860	Clay Kiln	3295	413.00	2,064.00	1,238.00	413.00
0870	Rock Crusher	3295	378.00	1,891.00	1,135.00	378.00
0880	Gray Iron and Steel Foundries A) 3,500 or More Ton/Yr Production	3321	551.00	2,749.00	1,650.00	551.00
0890	Gray Iron and Steel Foundries B) Less than 3,500 Ton/Yr Production	3321	274.00	1,375.00	824.00	274.00
0900	Malleable Iron Foundries A) 3,500 or More Ton/Yr Production	3322	551.00	2,749.00	1,650.00	551.00
0910	Malleable Iron Foundries B) Less than 3,500 Ton/Yr Production	3322	274.00	1,375.00	823.00	274.00
0920	Steel Investment Foundries A) 3,500 or More Ton/Yr Production	3324	551.00	2,749.00	1,650.00	551.00
0930	Steel Investment Foundries B) Less than 3,500 Ton/Yr Production	3324	274.00	1,375.00	823.00	274.00
0940	Steel Foundries Not Elsewhere Classified A) 3,500 or More Ton/Yr Production	3325	551.00	2,749.00	1,650.00	551.00
0950	Steel Foundries Not Elsewhere Classified B) Less than 3,500 Ton/Yr Production	3325	274.00	1,375.00	823.00	274.00
0960	Primary Smelting and Refining of Copper Per 100,000 Lb/Yr Rated Capacity	3331 MIN.	6.85 1,697.00	34.37 8,491.00	20.62 5,094.00	6.85 1,697.00
0970	Aluminum Production Per Pot	3334 MIN.	34.37 1,697.00	171.92 8,491.00	103.00 5,094.00	34.37 1,697.00
0980	Refining of Non-Ferrous Metals N.E.C. Per 1,000 Lb/Yr Rated Capacity	3339 MIN.	0.04 1,697.00	0.32 8,491.00	0.19 5,094.00	0.04 1,697.00
0990	Secondary Smelting of Non-Ferrous Metals Per Furnace	3341 MIN.	1,031.00 2,123.00	5,158.00 10,614.00	3,095.00 6,368.00	1,031.00 2,123.00
1000	Wire Manufacture	3357	688.00	3,437.00	2,064.00	688.00
1010	Aluminum Foundries (Castings) Per Unit	3361	274.00	1,375.00	823.00	274.00
1020	Brass/Bronze/Copper-Based Alloy Foundry Per Furnace	3362	344.00	1,720.00	1,031.00	344.00
1030	Metal Heat Treating Including Shotpeening	3398	206.00	1,031.00	618.00	206.00
1040	Metal Can Manufacture	3411	688.00	3,437.00	2,064.00	688.00
1050	Drum Manufacturing and/or Reconditioning	3412	1,031.00	5,158.00	3,095.00	1,031.00
1059	Fabricated Structural Steel with 5 or More Welders	3441	688.00	3,437.00	2,064.00	688.00
1060	Fabricated Plate Work with 5 or More Welders	3443	870.00	4,354.00	2,612.00	870.00
1070	Electroplating, Polishing and Anodizing with 5 or More Employees	3471	206.00	1,031.00	618.00	207.00
1080	Sandblasting or Chemical Cleaning of Metal: A) 10 or More Employees	3471	1,031.00	5,158.00	3,095.00	1,031.00
1090	Sandblasting or Chemical Cleaning of Metal: B) Less than 10 Employees	3471	515.00	2,578.00	1,548.00	515.00
1100	Coating, Engraving, and Allied Services: A) 10 or More Employees	3479	378.00	1,891.00	1,135.00	378.00
1110	Coating, Engraving, and Allied Services: B) Less than 10 Employees	3479	206.00	1,031.00	618.00	206.00
1120	Galvanizing and Pipe Coating Excluding All Other Activities	3479	413.00	2,064.00	1,238.00	413.00
1130	Painting Topcoat Per Line	3479	344.00	1,720.00	1,031.00	344.00
1140	Potting Per Line	3479	206.00	1,031.00	618.00	206.00
1150	Soldering Per Line	3479	206.00	1,031.00	618.00	206.00
1160	Wire Coating Per Line	3479	688.00	3,437.00	2,064.00	688.00
1170	Oil Field Machinery and Equipment	3533	344.00	1,720.00	1,031.00	344.00
1180	Power Chain Saw Manufacture Per Line	3546	515.00	2,578.00	1,548.00	515.00
1190	Commercial Grain Dryer	3559	413.00	2,064.00	1,238.00	413.00
1193	Commercial Laundry, Dry Cleaning, and Pressing Machines	3582	515.00	2,578.00	1,548.00	515.00
1195	Electric Transformers Per 1,000 Units/Year	3612 MIN.	159.92 434.00	799.60 2,177.00	479.76 1,306.00	159.92 434.00
1200	Electrode Manufacture Per Line	3624	481.00	2,405.00	1,444.00	481.00
1210	Telephone Manufacture Per Line	3661	1,204.00	6,017.00	3,610.00	1,204.00
1220	Electrical Connector Manufacture Per Line	3678	618.00	3,095.00	1,856.00	618.00

Table 1
(effective July 1, 2002 - June 30, 2003)

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1230	Battery Manufacture Per Line	3691	688.00	3,437.00	2,064.00	688.00
1240	Electrical Equipment Per Line	3694	413.00	2,064.00	1,238.00	413.00
1245	Automobile, Truck, and Van Assembly Per 1,000 Vehicles Per Year Capacity	3711 MIN. MAX.	171.92 1,088.00 34,390.00	859.55 5,443.00 171,950.00	515.72 3,265.00 103,170.00	171.92 1,088.00 34,390.00
1250	Ship and Boat Building: A) 5001 or More Employees	3732	5,158.00	25,787.00	15,473.00	5,158.00
1260	Ship and Boat Building: B) 2501 to 5000 Employees	3732	3,437.00	17,192.00	10,315.00	3,437.00
1270	Ship and Boat Building: C) 1001 to 2500 Employees	3732	1,720.00	8,596.00	5,158.00	1,720.00
1280	Ship and Boat Building: D) 201 to 1000 Employees	3732	1,031.00	5,158.00	3,095.00	1,031.00
1290	Ship and Boat Building: E) 200 or Less Employees	3732	344.00	1,720.00	1,031.00	345.00
1300	Playground Equipment Manufacture Per Line	3949	515.00	2,578.00	1,548.00	515.00
1310	Grain Elevators: A) 20,000 or More Ton/Yr	4221	1,098.00	5,500.00	3,300.00	1,098.00
1320	Grain Elevators: B) Less than 20,000 Ton/Yr	4221	551.00	2,749.00	1,650.00	551.00
1330 *Note 6*	A) Petroleum, Chemical Bulk Storage and Terminal (over 3,000,000 BBL Capacity)	4226	10,315.00	51,575.00	30,946.00	10,315.00
1340 *Note 6*	B) Petroleum, Chemical Bulk Storage and Terminal (1,000,000 - 3,000,000 BBL Capacity)	4226	6,876.00	34,382.00	20,629.00	6,876.00
1350 *Note 6*	C) Petroleum, Chemical Bulk Storage and Terminal (500,001 - 1,000,000 BBL Capacity)	4226	3,437.00	17,192.00	10,315.00	3,437.00
1360 *Note 6*	D) Petroleum, Chemical Bulk Storage and Terminal (500,000 BBL Capacity or Less)	4226	1,720.00	8,596.00	5,158.00	1,720.00
1361 *Note 8*	Wholesale Distribution of Coke and Other Bulk Goods Per 1,000 Ton/Yr Capacity	4463 MIN.	0.70 1,696.00	3.44 8,491.00	2.04 5,094.00	0.70 1,697.00
1362	Crude Oil Pipeline - Facility with Less than 100,000 BBLs Storage Capacity	4612	762.00	3,810.00	2,286.00	762.00
1363	Crude Oil Pipeline - Facility with 100,000 to 500,000 BBLs Storage Capacity	4612	1,088.00	5,443.00	3,265.00	1,088.00
1364	Crude Oil Pipeline - Facility with Over 500,000 BBLs Storage Capacity	4612	1,524.00	7,620.00	4,572.00	1,524.00
1366	Refined Oil Pipeline - Facility with Less than 100,000 BBLs Storage Capacity	4613	653.00	3,265.00	1,958.00	653.00
1367	Refined Oil Pipeline - Facility with 100,000 to 500,000 BBLs Storage Capacity	4613	870.00	4,354.00	2,612.00	870.00
1368	Refined Oil Pipeline - Facility with Over 500,000 BBLs Storage Capacity	4613	1,306.00	6,532.00	3,918.00	1,306.00
1370	Railcar/Barge/Tank Truck Cleaning Heavy Fuels Only	4742	344.00	1,720.00	1,031.00	344.00
1380	Railcar and Barge Cleaning Other Than Heavy Fuels	4742	1,720.00	8,596.00	5,158.00	1,720.00
1390	Tank Truck Cleaning Other Than Heavy Fuels	4742	1,031.00	5,158.00	3,095.00	1,031.00
1400	A) Electric Power Gen. Per MW (Over 0.7 percent S in Fuel)	4911 MIN.	15.97 3,254.00	79.94 16,274.00	47.96 9,764.00	15.97 3,254.00
1410 *Note 7*	B) Electric Power Gen. Per MW (0.7 percent S or Less in Fuel)	4911 MIN.	9.58 1,556.00	47.96 7,783.00	28.78 4,670.00	9.58 1,556.00
1420	C) Electric Power Gen. Per MW (Natural Gas Fired)	4911 MIN.	4.81 1,132.00	23.99 5,660.00	14.39 3,396.00	4.81 1,132.00
1430 *Note 11*	Natural Gas Comp Per 100 H.P. (Turbines)	4922	6.85	34.37	20.62	6.85
1440 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: A) 50,000 H.P.	4922	30.96	154.74	92.83	30.96
1450 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: B) 20,000 to 50,000 H.P.	4922	34.37	171.92	103.13	34.37
1460 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: C) 5,000 to 20,000 H.P.	4922	41.26	206.29	123.74	41.26
1470 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: D) 2,500 to 5,000 H.P.	4922	48.14	240.65	144.40	48.14
1480 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: E) 1,000 to 2,500 H.P.	4922	51.58	257.87	154.74	51.58
1490 *Note 11*	Recip. Nat Gas Comp: F) less than 1,000 H.P.	4922	688.00	1,720.00	688.00	688.00

Table 1
(effective July 1, 2002 - June 30, 2003)

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1500 *Note 10*	Coal Gassification Per \$100,000 Capital Cost	4925 MIN. MAX.	6.85 1,088.00 55,052.00	34.37 5,443.00 275,262.00	20.62 3,265.00 165,156.00	6.85 1,088.00 55,052.00
1510 *Note 10*	Co-Generation Per \$100,000 Capital Cost	4939 MIN. MAX.	6.85 1,088.00 34,390.00	34.37 5,443.00 171,950.00	20.62 3,265.00 103,170.00	6.85 1,088.00 34,390.00
1520	Incinerators: A) 1,000 Lb/Hr and Greater Capacity	4953	434.00	2,177.00	1,306.00	434.00
1521	Incinerators: B) Less than 1,000 Lb/Hr Capacity	4953	140.00	707.00	425.00	140.00
1525	Sanitary Landfill per Million Mg of Planned Capacity	4953 MIN.	120.00 240.00	600.00 1,200.00	360.00 720.00	120.00 240.00
1530	Municipal Incinerators	4953	3,437.00	17,192.00	10,316.00	3,437.00
1532	Commercial Hazardous Waste Incinerator Per 1,000,000 BTU Per Hour Thermal Capacity	4953 MIN.	198.13 4,354.00	990.66 21,773.00	594.40 13,063.00	198.13 4,354.00
1533	Non Commercial Hazardous Waste Incinerator (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN.	99.06 2,830.00	496.01 14,152.00	297.19 8,491.00	99.06 2,830.00
1534	Commercial Hazardous Waste Disp. Facility N.E.C.	4953	28,304.00	141,523.00	84,913.00	28,304.00
1535	Commercial Hazardous Waste Underground Injection (Surface Facilities) Per Location	4953	5,660.00	28,304.00	16,982.00	5,660.00
1536	Recoverable/Re-usable Materials Proc. Facility (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN. MAX.	99.06 2,830.00 14,152.00	495.32 14,152.00 70,762.00	297.19 8,491.00 42,456.00	99.06 2,830.00 14,152.00
1540	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Natural Gas or Comb Non-Fossil Fuels	4961 MIN.	1.70 282.00	8.60 1,415.00	5.14 848.00	1.70 282.00
1550	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Fuels with 0.7 percent S or Less	4961 MIN.	3.44 707.00	17.20 3,538.00	10.31 2,123.00	3.44 707.00
1560	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Fuels with More than 0.7 percent S	4961 MIN.	5.14 990.00	25.78 4,952.00	15.48 2,971.00	5.14 990.00
1570	Cement (Bulk Distribution)	5052	1,375.00	6,876.00	4,126.00	1,375.00
1580	Wholesale Distribution of Coal Per 1,000 Ton/Yr Throughput	5052 MIN.	0.32 990.00	1.70 4,952.00	1.01 2,971.00	0.32 990.00
1590	Automobile Recycling Scrap Per 1000 Ton/Yr	5093 MIN. MAX.	14.15 707.00 34,390.00	70.75 3,538.00 171,950.00	42.46 2,123.00 103,170.00	14.15 707.00 34,390.00
1600	Bulk Loader: Over 100,000 Ton/Yr Throughput	5153	3,437.00	17,192.00	10,315.00	3,437.00
1610 *Note 14a*	Bulk Loader: Less than or equal to 100,000 and more than 25,000 Ton/Yr Throughput	5153	1,720.00	8,596.00	5,158.00	1,720.00
1611 *Note 14a*	Bulk Loader: 25,000 Ton/Yr or Less Throughput	5153	979.00	4,898.00	2,939.00	979.00
1612 *Note 14a*	Bulk Loader – No Grain or Dusty Materials Transfer	5153	653.00	3,265.00	1,958.00	653.00
1620	Grain Elevators-Terminal Per 10,000 Bu/Yr Throughput	5153 MIN.	0.32 1,556.00	1.70 7,783.00	1.01 4,670.00	0.32 1,556.00
1630	Wholesale Distribution of Chemicals and Allied Products Per Facility	5161	860.00	3,437.00	2,578.00	860.00
1640	Petroleum Bulk Plants	5171	70.00	344.00	206.00	70.00
1650	Petroleum Bulk Terminal	5171	688.00	3,437.00	2,064.00	688.00
1660	Petroleum Bulk Station	5171	70.00	344.00	206.00	70.00
1670	Storage Tank	5171	0.00	688.00	344.00	344.00
1680	Crude Oil Distribution	5172	1,031.00	5,158.00	3,095.00	1,031.00
1690	Tire Recapping Plant	7534	140.00	707.00	425.00	140.00
1700	Chemical Waste Disposal Facility for Non Hazardous Waste	9998	3,198.00	15,992.00	9,595.00	3,198.00
1710	Negotiated Fee	9999	0.00	0.00	0.00	0.00
1711	Research Fee for Alternate Disposal of Hazardous Waste	9999	0.00	0.00	0.00	0.00
1720 *Note 15*	Small Business Sources	N/A	130.00	648.00	389.00	130.00
1722	Small Source Permit	N/A	130.00	648.00	389.00	130.00

**Table 2
(effective July 1, 2002 - June 30, 2003)**

Additional Fees		
Fee Number	Fee Description	Amount
2000	Company Ownership/Operator Change or Name Change Transfer of an Existing Permit	136.00
2010	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions	271.00
2015 *Note 15*	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions for Small Business Sources	130.00
2020	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (at least 10 working days notification given)	60.00
2030	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (less than 10 working days notification given)	90.00
2040	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	240.00
2050	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	360.00
2060	Worker Accreditation for Asbestos-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	60.00
2070	Worker Accreditation for Asbestos-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	90.00
2080	Duplicate Certificate	30.00
2090	Training Organization Recognition Plus Trainer Recognition Per Trainer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	360.00
2100	Training Organization Recognition Plus Trainer Recognition Per Trainer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	540.00
2200 *Note 13*	Air Toxics Annual Fee Per Ton Emitted on an Annual Basis:	
	Class I Pollutants	129.60
	Class II Pollutants	64.80
	Class III Pollutants	32.40
2300 *Note 14*	Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis: Nitrogen oxides (NOx) Sulfur dioxide (SO2) Non-toxic organic (VOC) Particulate (PM10)	11.66/ton
2400	An application approval fee for Stage II Vapor Recovery	120.00
	An annual facility inspection fee for Stage II Vapor Recovery	180.00
2600 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 1	240.00
2620 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 2	480.00
2630 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 3	3,000.00
2800	An application fee for mobile sources emissions banking (auto scrappage)	60.00
2810	An application fee for point source emissions banking (not applicable when filing application with a new permit or permit modification)	60.00
	* * *	
	[See Prior Text in 2900-2914]	

**Table 3
(effective July 1, 2003)**

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0010	Reserved					
0015 *Note 20*	Iron Ore Processing per Million Dollars in Capital Cost	1011	52.80	264.00	158.00	52.00
0020	Bituminous Coal and Lignite Mining	1211	756.00	3,780.00	2,270.00	756.00
0030	Coal Preparation	1211	1,892.00	9,455.00	5,673.00	1,892.00
0040	Crude Oil and Natural Gas Production (Less than 100 T/Yr Source)	1311	90.00	449.00	269.00	90.00
0041	Crude Oil and Natural Gas Production (equal to or greater than 100 T/Yr and less than 250 T/Yr Source)	1311	150.00	756.00	454.00	151.00
0042	Crude Oil and Natural Gas Production 250 T/Yr to 500 T/Yr Source	1311	467.00	2,335.00	1,400.00	467.00
0043	Crude Oil and Natural Gas Production Greater than 500 T/Yr Source	1311	777.00	3,113.00	2,335.00	777.00
0050	Natural Gas Liquids Per Unit	1321	379.00	1,892.00	1,134.00	379.00
0060	Construction Sand and Gravel	1442	150.00	756.00	454.00	151.00
0070	Industrial Sand	1446	150.00	756.00	454.00	151.00
0080	Salt Mining	1476	1,892.00	9,455.00	5,673.00	1,892.00

**Table 3
(effective July 1, 2003)**

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0090	Sulfur Mining	1477	1,892.00	9,455.00	5,673.00	1,892.00
0100	Commercial Rice Milling	2044	756.00	3,780.00	2,270.00	756.00
0110	Animal Feed Preparation	2048	756.00	3,780.00	2,270.00	756.00
0120	Cane Sugar, Except Refining Only	2061	1,892.00	9,455.00	5,673.00	1,892.00
0130	Cane Sugar Refining per 1,000 Lb/Hr Rated Capacity	2062 MIN.	15.11 1,866.00	75.65 9,340.00	45.38 5,603.00	15.11 1,866.00
0140	Cottonseed Oil Mill	2074	379.00	1,892.00	1,134.00	379.00
0150	Soybean Oil Mill	2075	265.00	1,324.00	795.00	265.00
0160	Animal and Marine Fats and Oil (Rendering) 10,000 or More Ton/Yr	2077	906.00	4,538.00	2,722.00	906.00
0170	Animal and Marine Fats and Oil (Rendering) Less than 10,000 Ton/Yr	2077	454.00	2,270.00	1,362.00	454.00
0180	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils	2079	187.00	946.00	566.00	187.00
0190	Malt Beverages	2082	187.00	946.00	566.00	187.00
0200	Coffee Roasting Per 1,000,000 Lb/Yr Rated Capacity	2095 MIN. MAX.	150.48 359.00 9,495.00	756.36 1,795.00 47,480.00	452.76 1,077.00 28,488.00	150.48 359.00 9,495.00
0210 *Note 9*	Sawmill and/or Planing Less than 25,000 Bd Ft/Shift	2421	379.00	1,892.00	1,134.00	379.00
0220 *Note 9*	Sawmill and/or Planing More than 25,000 Bd Ft/Shift	2421	1,134.00	5,673.00	3,404.00	1,134.00
0230 *Note 9*	Hardwood Mill	2426	680.00	3,404.00	2,042.00	680.00
0240 *Note 9*	Special Product Sawmill N.E.C.	2429	680.00	3,404.00	2,042.00	680.00
0250	Millwork with 10 Employees or More	2431	680.00	3,404.00	2,042.00	680.00
0260	Hardwood Veneer and Plywood	2435	1,513.00	7,564.00	4,538.00	1,513.00
0270	Softwood Veneer and Plywood	2436	1,513.00	7,564.00	4,538.00	1,513.00
0280	Wood Preserving	2491	379.00	1,892.00	1,134.00	379.00
0290	Particleboard/Waferboard Manufacture (O.S.B.)	2492	1,513.00	7,564.00	4,538.00	1,513.00
0300	Hardboard Manufacture	2499	1,134.00	5,673.00	3,404.00	1,134.00
0310	Furniture and Fixtures - A) 100 or More Employees	2511	478.00	2,394.00	1,436.00	478.00
0320	Furniture and Fixtures - B) More than 10 and Less than 100 Employees	2511	227.00	1,134.00	680.00	227.00
0330	Pulp Mills Per Ton Daily Rated Capacity	2611 MIN.	5.65 3,892.00	28.35 19,459.00	17.03 11,675.00	5.65 3,891.00
0340 *Note 1*	Paper Mill Per Ton Daily Rated Capacity	2621 MIN.	5.65 3,892.00	28.35 19,459.00	17.03 11,675.00	5.65 3,891.00
0350	Paperboard Mills Per Ton Daily Rated Capacity	2631 MIN.	5.65 3,892.00	28.35 19,459.00	17.03 11,675.00	5.65 3,891.00
0360	Paper Coating	2641	227.00	1,134.00	680.00	227.00
0365	Paper Bag Manufacture	2643	288.00	1,436.00	862.00	288.00
0370	Insulation Manufacture	2649	379.00	1,892.00	1,134.00	379.00
0375	Folding Paper Board Boxes Per Packaging Press Line	2651 MIN.	379.00 1,866.00	1,892.00 9,340.00	1,134.00 5,603.00	379.00 1,866.00
0380	Corrugated Boxes - Converters (with Boilers)	2653	566.00	2,835.00	1,703.00	566.00
0381	Corrugated Boxes - Sheet Plant	2653	239.00	1,197.00	718.00	239.00
0390	Building Board and Tile	2661	1,892.00	9,455.00	5,673.00	1,892.00
0400	Commercial Printing - Black and White Per Press	2752 MIN.	226.00 1,089.00	1,134.00 5,448.00	680.00 3,268.00	226.00 1,089.00
0410	Commercial Printing - Color Per Press	2752 MIN.	378.00 1,866.00	1,890.00 9,340.00	1,135.00 5,603.00	378.00 1,866.00
0420 *Note 2*	Caustic/Chlorine Per 1,000,000 Lb/Yr Rated Cap Posed on Chlorine	2812 MIN.	3.79 1,866.00	18.92 9,340.00	11.34 5,603.00	3.79 1,866.00
0440	Industrial Gases	2813	756.00	3,780.00	2,270.00	756.00
0450	Inorganic Pigments	2816	756.00	3,780.00	2,270.00	756.00
0460	Aluminum Sulfate Production Per 100 Ton/Yr Rated Capacity	2819 MIN.	1.87 1,556.00	9.46 7,783.00	5.65 4,670.00	1.87 1,556.00
0470	Alumina Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	7.54 1,556.00	37.80 7,783.00	22.68 4,670.00	7.54 1,556.00
0480	Catalyst Mfg. and Cat. Regeneration Per Line	2819	1,892.00	9,455.00	5,673.00	1,892.00
0490	Fluosilicates	2819	1,134.00	5,673.00	3,404.00	1,134.00
0500	Industrial Inorganic Chemicals Mfg. N.E.C. Per 1,000,000 Lb/Yr	2819 MIN.	1.87 1,089.00	9.46 5,448.00	5.65 3,268.00	1.87 1,089.00

**Table 3
(effective July 1, 2003)**

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0510	Industrial Inorganic Acids N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0520	Nitric Acid Manufacture Per 1,000 Ton/Yr Rated Capacity	2819 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0530	Phosphoric Acid Mfg. Per Ton Daily Rated Cap	2819 MIN.	1.87 1,556.00	9.46 7,783.00	5.65 4,670.00	1.87 1,556.00
0540	Sulphuric Acid Manufacture Per Ton Daily Rated Capacity	2819 MIN.	1.87 1,556.00	9.46 7,783.00	5.65 4,670.00	1.87 1,556.00
0550	Polyethylene/Polypropolene Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	15.11 1,866.00	75.65 9,340.00	45.38 5,603.00	15.11 1,866.00
0560	PVC Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0570	Synthetic Resins Manufacture N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0580	Rubber Mfg. Per 1,000,000 Lb/Yr Rated Capacity	2822 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0585	Paint Manufacturing and Blending	2851	704.00	3,518.00	2,111.00	704.00
0590	Charcoal Per Oven	2861	379.00	1,892.00	1,134.00	379.00
0600	Gum and Wood Chemicals Per Unit	2861	1,134.00	5,673.00	3,404.00	1,134.00
0610	Styrene Monomer Per 1,000,000 Lb/Yr Rated Capacity	2865 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0620	Halogenated Hydrocarbons Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	11.34 1,866.00	56.73 9,340.00	34.04 5,603.00	11.34 1,866.00
0630	Organic Oxides, Alcohols, Glycols Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0635	Olefins and Aromatics N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0640	Ammonia Manufacture Per Ton Daily Rated Capacity	2873 MIN.	3.78 1,866.00	18.92 9,340.00	11.34 5,603.00	3.78 1,866.00
0650	Fertilizer Manufacture Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	1.87 1,089.00	9.46 5,448.00	5.65 3,268.00	1.87 1,089.00
0660	Urea and Ureaform Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	3.78 1,089.00	18.92 5,448.00	11.34 3,268.00	3.78 1,089.00
0670	Pesticides Mfg. Per Train	2879	1,513.00	7,564.00	4,538.00	1,513.00
0680	Carbon Black Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2895 MIN.	22.68 1,866.00	113.44 9,340.00	68.09 5,603.00	22.68 1,866.00
0690	Chemical and Chemical Prep. N.E.C. Per 1,000,000 Lb/Yr	2899 MIN.	18.92 1,556.00	94.55 7,783.00	56.73 4,670.00	18.92 1,556.00
0695	Chemical and Chemical Prep. N.E.C. with Output Less than 1,000,000 Lb/Yr	2899	1,077.00	5,388.00	3,233.00	1,077.00
0700	Drilling Mud-Storage and Distribution	2899	379.00	1,892.00	1,134.00	379.00
0710	Drilling Mud-Grinding	2899	1,513.00	7,564.00	4,538.00	1,513.00
0715	Salt Processing and Packaging Per 1,000,000 Lb/Yr	2899 MIN.	0.30 467.00	1.54 2,335.00	0.92 1,400.00	0.30 467.00
Note 3	Petroleum Refining Per 1,000 BBL/Day Rated Capacity Crude Thruptut	2911 MIN.	94.55 1,866.00	472.77 9,340.00	284.00 5,603.00	95.55 1,866.00
Note 4	Asphaltic Concrete Paving Plants Per Ton/Hr Rated Capacity	2951 MIN.	2.85 777.00	14.22 3,891.00	8.53 2,335.00	2.85 777.00
0740	Asphalt Blowing Plant (Not to be Charged Separately if in Refinery)	2951	1,134.00	5,673.00	3,404.00	1,134.00
Note 5	Blending, Compounding, or Refining of Lubricants Per Unit	2992	1,134.00	5,673.00	3,404.00	1,134.00
0770	Petroleum Coke Calcining Per 1,000 Ton/Yr Rated Capacity	2999 MIN.	15.11 1,866.00	75.65 9,340.00	45.38 5,603.00	15.11 1,866.00
0773	Fiberglass Swimming Pools	N/A	265.00	1,324.00	795.00	265.00
0775	Plastics Injection Moulding and Extrusion Per Line	3079	379.00	1,892.00	1,134.00	379.00
0780	Glass and Glass Container Mfg. Natural Gas Fuel Per Line	3229	566.00	2,835.00	1,703.00	566.00
0790	Cement Manufacture Per 1,000 Ton/Yr Rated Capacity	3241 MIN.	11.34 1,556.00	56.73 7,783.00	34.04 4,670.00	11.34 1,556.00
0800	Glass and Glass Container Mfg. Fuel Oil Per Line	3241	1,134.00	5,673.00	3,404.00	1,134.00
0810	Brick Manufacture Per 1,000 Ton/Yr Rated Capacity	3251 MIN.	5.65 777.00	28.35 3,891.00	17.03 2,335.00	5.65 777.00
0815	Concrete Products	3272	383.00	1,915.00	1,148.00	383.00
Note 12	Ready-Mix Concrete	3273	946.00	2,874.00	1,892.00	946.00

**Table 3
(effective July 1, 2003)**

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0830	Lime Manufacture Per 1,000 Ton/Yr Rated Capacity	3274 MIN.	11.34 1,089.00	56.73 5,448.00	34.04 3,268.00	11.34 1,089.00
0840	Gypsum Manufacture Per 1,000 Ton/Yr Rated Capacity	3275 MIN.	11.34 1,089.00	56.73 5,448.00	34.04 3,268.00	11.34 1,089.00
0850	Asbestos Products Per Site or Per Production Unit	3292	2,270.00	11,347.00	6,809.00	2,270.00
0860	Clay Kiln	3295	454.00	2,271.00	1,362.00	454.00
0870	Rock Crusher	3295	416.00	2,080.00	1,249.00	416.00
0880	Gray Iron and Steel Foundries A) 3,500 or More Ton/Yr Production	3321	606.00	3,024.00	1,815.00	606.00
0890	Gray Iron and Steel Foundries B) Less than 3,500 Ton/Yr Production	3321	301.00	1,513.00	906.00	301.00
0900	Malleable Iron Foundries A) 3,500 or More Ton/Yr Production	3322	606.00	3,024.00	1,815.00	606.00
0910	Malleable Iron Foundries B) Less than 3,500 Ton/Yr Production	3322	301.00	1,513.00	906.00	301.00
0920	Steel Investment Foundries A) 3,500 or More Ton/Yr Production	3324	606.00	3,024.00	1,815.00	606.00
0930	Steel Investment Foundries B) Less than 3,500 Ton/Yr Production	3324	301.00	1,513.00	906.00	301.00
0940	Steel Foundries Not Elsewhere Classified A) 3,500 or More Ton/Yr Production	3325	606.00	3,024.00	1,815.00	606.00
0950	Steel Foundries Not Elsewhere Classified B) Less than 3,500 Ton/Yr Production	3325	301.00	1,513.00	906.00	301.00
0960	Primary Smelting and Refining of Copper Per 100,000 Lb/Yr Rated Capacity	3331 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0970	Aluminum Production Per Pot	3334 MIN.	37.80 1,866.00	189.12 9,340.00	113.00 5,603.00	37.80 1,866.00
0980	Refining of Non-Ferrous Metals N.E.C. Per 1,000 Lb/Yr Rated Capacity	3339 MIN.	0.04 1,866.00	0.36 9,340.00	0.21 5,603.00	0.04 1,866.00
0990	Secondary Smelting of Non-Ferrous Metals Per Furnace	3341 MIN.	1,134.00 2,335.00	5,673.00 11,675.00	3,404.00 7,005.00	1,134.00 2,335.00
1000	Wire Manufacture	3357	756.00	3,780.00	2,270.00	756.00
1010	Aluminum Foundries (Castings) Per Unit	3361	301.00	1,513.00	906.00	301.00
1020	Brass/Bronze/Copper-Based Alloy Foundry Per Furnace	3362	379.00	1,892.00	1,134.00	379.00
1030	Metal Heat Treating Including Shotpeening	3398	227.00	1,134.00	680.00	227.00
1040	Metal Can Manufacture	3411	757.00	3,780.00	2,270.00	756.00
1050	Drum Manufacturing and/or Reconditioning	3412	1,134.00	5,673.00	3,404.00	1,134.00
1059	Fabricated Structural Steel with 5 or More Welders	3441	756.00	3,780.00	2,270.00	756.00
1060	Fabricated Plate Work with 5 or More Welders	3443	957.00	4,789.00	2,874.00	957.00
1070	Electroplating, Polishing and Anodizing with 5 or More Employees	3471	227.00	1,134.00	680.00	227.00
1080	Sandblasting or Chemical Cleaning of Metal: A) 10 or More Employees	3471	1,134.00	5,673.00	3,404.00	1,134.00
1090	Sandblasting or Chemical Cleaning of Metal: B) Less than 10 Employees	3471	566.00	2,835.00	1,703.00	566.00
1100	Coating, Engraving, and Allied Services: A) 10 or More Employees	3479	416.00	2,080.00	1,249.00	416.00
1110	Coating, Engraving, and Allied Services: B) Less than 10 Employees	3479	227.00	1,134.00	680.00	227.00
1120	Galvanizing and Pipe Coating Excluding All Other Activities	3479	454.00	2,270.00	1,362.00	454.00
1130	Painting Topcoat Per Line	3479	379.00	1,892.00	1,134.00	379.00
1140	Potting Per Line	3479	227.00	1,134.00	680.00	227.00
1150	Soldering Per Line	3479	227.00	1,134.00	680.00	227.00
1160	Wire Coating Per Line	3479	756.00	3,780.00	2,270.00	756.00
1170	Oil Field Machinery and Equipment	3533	379.00	1,892.00	1,134.00	379.00
1180	Power Chain Saw Manufacture Per Line	3546	566.00	2,835.00	1,703.00	566.00
1190	Commercial Grain Dryer	3559	454.00	2,270.00	1,362.00	454.00
1193	Commercial Laundry, Dry Cleaning, and Pressing Machines	3582	566.00	2,835.00	1,703.00	566.00
1195	Electric Transformers Per 1,000 Units/Year	3612 MIN.	175.92 478.00	879.56 2,394.00	527.74 1,436.00	175.92 478.00
1200	Electrode Manufacture Per Line	3624	529.00	2,645.00	1,588.00	529.00
1210	Telephone Manufacture Per Line	3661	1,324.00	6,618.00	3,971.00	1,324.00
1220	Electrical Connector Manufacture Per Line	3678	680.00	3,404.00	2,042.00	680.00

**Table 3
(effective July 1, 2003)**

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1230	Battery Manufacture Per Line	3691	756.00	3,780.00	2,270.00	756.00
1240	Electrical Equipment Per Line	3694	454.00	2,270.00	1,362.00	454.00
1245	Automobile, Truck, and Van Assembly Per 1,000 Vehicles Per Year Capacity	3711 MIN. MAX.	189.12 1,197.00 37,829.00	945.50 5,998.00 189,145.00	567.30 3,592.00 113,487.00	189.12 1,197.00 37,829.00
1250	Ship and Boat Building: A) 5001 or More Employees	3732	5,673.00	28,365.00	17,020.00	5,673.00
1260	Ship and Boat Building: B) 2501 to 5000 Employees	3732	3,780.00	18,912.00	11,347.00	3,780.00
1270	Ship and Boat Building: C) 1001 to 2500 Employees	3732	1,892.00	9,455.00	5,673.00	1,892.00
1280	Ship and Boat Building: D) 201 to 1000 Employees	3732	1,134.00	5,673.00	3,404.00	1,134.00
1290	Ship and Boat Building: E) 200 or Less Employees	3732	379.00	1,892.00	1,134.00	379.00
1300	Playground Equipment Manufacture Per Line	3949	566.00	2,835.00	1,703.00	566.00
1310	Grain Elevators: A) 20,000 or More Ton/Yr	4221	1,208.00	6,050.00	3,630.00	1,208.00
1320	Grain Elevators: B) Less than 20,000 Ton/Yr	4221	606.00	3,025.00	1,815.00	606.00
1330 *Note 6*	A) Petroleum, Chemical Bulk Storage and Terminal (over 3,000,000 BBL Capacity)	4226	11,347.00	56,732.00	34,040.00	11,347.00
1340 *Note 6*	B) Petroleum, Chemical Bulk Storage and Terminal (1,000,000 - 3,000,000 BBL Capacity)	4226	7,564.00	37,821.00	22,692.00	7,564.00
1350 *Note 6*	C) Petroleum, Chemical Bulk Storage and Terminal (500,001 - 1,000,000 BBL Capacity)	4226	3,780.00	18,912.00	11,347.00	3,780.00
1360 *Note 6*	D) Petroleum, Chemical Bulk Storage and Terminal (500,000 BBL Capacity or Less)	4226	1,892.00	9,455.00	5,673.00	1,892.00
1361 *Note 8*	Wholesale Distribution of Coke and Other Bulk Goods Per 1,000 Ton/Yr Capacity	4463 MIN.	0.77 1,866.00	3.79 9,340.00	2.24 5,603.00	0.77 1,866.00
1362	Crude Oil Pipeline - Facility with Less than 100,000 BBLs Storage Capacity	4612	838.00	4,191.00	2,515.00	838.00
1363	Crude Oil Pipeline - Facility with 100,000 to 500,000 BBLs Storage Capacity	4612	1,197.00	5,988.00	3,592.00	1,197.00
1364	Crude Oil Pipeline - Facility with Over 500,000 BBLs Storage Capacity	4612	1,676.00	8,382.00	5,029.00	1,676.00
1366	Refined Oil Pipeline - Facility with Less than 100,000 BBLs Storage Capacity	4613	718.00	3,592.00	2,154.00	718.00
1367	Refined Oil Pipeline - Facility with 100,000 to 500,000 BBLs Storage Capacity	4613	957.00	4,789.00	2,874.00	957.00
1368	Refined Oil Pipeline - Facility with Over 500,000 BBLs Storage Capacity	4613	1,436.00	7,185.00	4,310.00	1,436.00
1370	Railcar/Barge/Tank Truck Cleaning Heavy Fuels Only	4742	379.00	1,892.00	1,134.00	379.00
1380	Railcar and Barge Cleaning Other Than Heavy Fuels	4742	1,892.00	9,455.00	5,673.00	1,892.00
1390	Tank Truck Cleaning Other Than Heavy Fuels	4742	1,134.00	5,673.00	3,404.00	1,134.00
1400	A) Electric Power Gen. Per MW (Over 0.7 percent S in Fuel)	4911 MIN.	17.57 3,580.00	87.94 17,902.00	52.76 10,741.00	17.57 3,580.00
1410 *Note 7*	B) Electric Power Gen. Per MW (0.7 percent S or Less in Fuel)	4911 MIN.	10.53 1,712.00	52.76 8,562.00	31.65 5,137.00	10.53 1,712.00
1420	C) Electric Power Gen. Per MW (Natural Gas Fired)	4911 MIN.	5.29 1,245.00	26.39 6,226.00	15.83 3,736.00	5.29 1,245.00
1430 *Note 11*	Natural Gas Comp Per 100 H.P. (Turbines)	4922	7.54	37.80	22.68	7.54
1440 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: A) 50,000 H.P.	4922	34.06	170.21	102.12	34.06
1450 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: B) 20,000 to 50,000 H.P.	4922	37.80	189.12	113.44	37.80
1460 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: C) 5,000 to 20,000 H.P.	4922	45.38	226.92	136.12	45.38
1470 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: D) 2,500 to 5,000 H.P.	4922	52.96	264.71	158.84	52.96
1480 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: E) 1,000 to 2,500 H.P.	4922	56.73	283.65	170.21	56.73
1490 *Note 11*	Recip. Nat Gas Comp: F) less than 1,000 H.P.	4922	756.00	1,892.00	756.00	756.00

**Table 3
(effective July 1, 2003)**

Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1500 *Note 10*	Coal Gassification Per \$100,000 Capital Cost	4925 MIN. MAX.	7.54 1,197.00 60,558.00	37.80 5,988.00 302,788.00	22.68 3,592.00 181,672.00	7.54 1,197.00 60,558.00
1510 *Note 10*	Co-Generation Per \$100,000 Capital Cost	4939 MIN. MAX.	7.54 1,197.00 37,829.00	37.80 5,988.00 189,145.00	22.68 3,592.00 113,487.00	7.54 1,197.00 37,829.00
1520	Incinerators: A) 1,000 Lb/Hr and Greater Capacity	4953	478.00	2,394.00	1,436.00	478.00
1521	Incinerators: B) Less than 1,000 Lb/Hr Capacity	4953	154.00	777.00	467.00	154.00
1525	Sanitary Landfill per Million Mg of Planned Capacity	4953 MIN.	132.00 264.00	660.00 1,320.00	396.00 792.00	132.00 264.00
1530	Municipal Incinerators	4953	3,780.00	18,912.00	11,347.00	3,780.00
1532	Commercial Hazardous Waste Incinerator Per 1,000,000 BTU Per Hour Thermal Capacity	4953 MIN.	217.95 4,789.00	1,089.73 23,950.00	653.84 14,370.00	217.95 4,789.00
1533	Non Commercial Hazardous Waste Incinerator (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN.	108.97 3,113.00	545.61 15,567.00	326.91 9,340.00	108.97 3,113.00
1534	Commercial Hazardous Waste Disp. Facility N.E.C.	4953	31,135.00	155,676.00	93,405.00	31,135.00
1535	Commercial Hazardous Waste Underground Injection (Surface Facilities) Per Location	4953	6,226.00	31,135.00	18,681.00	6,226.00
1536	Recoverable/Re-usable Materials Proc. Facility (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN. MAX.	108.97 3,113.00 15,567.00	544.86 15,567.00 77,838.00	326.91 9,340.00 46,702.00	108.97 3,113.00 15,567.00
1540	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Natural Gas or Comb Non-Fossil Fuels	4961 MIN.	1.87 310.00	9.46 1,556.00	5.65 933.00	1.87 310.00
1550	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Fuels with 0.7 percent S or Less	4961 MIN.	3.79 777.00	18.92 3,891.00	11.34 2,335.00	3.79 777.00
1560	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Fuels with More than 0.7 percent S	4961 MIN.	5.65 1,089.00	28.35 5,448.00	17.03 3,268.00	5.65 1,089.00
1570	Cement (Bulk Distribution)	5052	1,513.00	7,564.00	4,538.00	1,513.00
1580	Wholesale Distribution of Coal Per 1,000 Ton/Yr Throughput	5052 MIN.	0.36 1,089.00	1.87 5,448.00	1.11 3,268.00	0.36 1,089.00
1590	Automobile Recycling Scrap Per 1000 Ton/Yr	5093 MIN. MAX.	15.56 777.00 37,829.00	77.83 3,891.00 189,145.00	46.70 2,335.00 113,487.00	15.56 777.00 37,829.00
1600	Bulk Loader: Over 100,000 Ton/Yr Throughput	5153	3,780.00	18,912.00	11,347.00	3,780.00
1610 *Note 14a*	Bulk Loader: Less than or equal to 100,000 and more than 25,000 Ton/Yr Throughput	5153	1,892.00	9,455.00	5,673.00	1,829.00
1611 *Note 14a*	Bulk Loader: 25,000 Ton/Yr or Less Throughput	5153	1,077.00	5,388.00	3,233.00	1,077.00
1612 *Note 14a*	Bulk Loader – No Grain or Dusty Materials Transfer	5153	718.00	3,592.00	2,154.00	718.00
1620	Grain Elevators-Terminal Per 10,000 Bu/Yr Throughput	5153 MIN.	0.36 1,712.00	1.87 8,562.00	1.11 5,137.00	0.36 1,712.00
1630	Wholesale Distribution of Chemicals and Allied Products Per Facility	5161	946.00	3,780.00	2,835.00	946.00
1640	Petroleum Bulk Plants	5171	77.00	379.00	227.00	77.00
1650	Petroleum Bulk Terminal	5171	756.00	3,780.00	2,270.00	756.00
1660	Petroleum Bulk Station	5171	77.00	379.00	227.00	77.00
1670	Storage Tank	5171	0.00	756.00	379.00	379.00
1680	Crude Oil Distribution	5172	1,134.00	5,673.00	3,404.00	1,134.00
1690	Tire Recapping Plant	7534	154.00	777.00	467.00	154.00
1700	Chemical Waste Disposal Facility for Non Hazardous Waste	9998	3,518.00	17,592.00	10,555.00	3,518.00
1710	Negotiated Fee	9999	0.00	0.00	0.00	0.00
1711	Research Fee for Alternate Disposal of Hazardous Waste	9999	0.00	0.00	0.00	0.00
1720 *Note 15*	Small Business Sources	N/A	143.00	713.00	428.00	143.00
1722	Small Source Permit	N/A	143.00	713.00	428.00	143.00

**Table 4
(effective July 1, 2003)**

Additional Fees		
Fee Number	Fee Description	Amount
2000	Company Ownership/Operator Change or Name Change Transfer of an Existing Permit	150.00
2010	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions	300.00
2015 *Note 15*	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions for Small Business Sources	143.00
2020	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (at least 10 working days notification given)	66.00
2030	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (less than 10 working days notification given)	99.00
2040	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	264.00
2050	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	396.00
2060	Worker Accreditation for Asbestos-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	66.00
2070	Worker Accreditation for Asbestos-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	99.00
2080	Duplicate Certificate	33.00
2090	Training Organization Recognition Plus Trainer Recognition Per Trainer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	396.00
2100	Training Organization Recognition Plus Trainer Recognition Per Trainer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	594.00
2200 *Note 13*	Air Toxics Annual Fee Per Ton Emitted on an Annual Basis:	
	Class I Pollutants	142.56
	Class II Pollutants	71.28
	Class III Pollutants	35.64
2300 *Note 14*	Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis: Nitrogen oxides (NOx) Sulfur dioxide (SO2) Non-toxic organic (VOC) Particulate (PM10)	12.83/ton
2400	An application approval fee for Stage II Vapor Recovery	132.00
	An annual facility inspection fee for Stage II Vapor Recovery	198.00
2600 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 1	264.00
2620 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 2	528.00
2630 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 3	3,300.00
2800	An application fee for mobile sources emissions banking (auto scrappage)	66.00
2810	An application fee for point source emissions banking (not applicable when filing application with a new permit or permit modification)	66.00
	* * *	
	[See Prior Text in 2900-2914]	

Explanatory Notes for Fee Schedule

Notes 1. – 10. ...

Note 11. The maximum annual maintenance fee for categories 1430 - 1490 is not to exceed \$34,390 total, effective July 1, 2002, for any one gas transmission company. Effective July 1, 2003, the maximum fee is not to exceed \$37,829.

Note 12. The maximum annual maintenance fee for one location with two or more plants shall be \$1,556, effective July 1, 2002. Effective July 1, 2003, the maximum fee shall be \$1,711.

Note 13. Fees will be determined by aggregating actual annual emissions of each class of toxic air pollutants (as delineated in LAC 33:III.Chapter 51.Table 51.1) for a facility and applying the appropriate fee schedule for that class. Fees shall not be assessed for emissions of a single toxic air pollutant over and above 4,000 tons per year from a facility. The minimum fee for this category shall be \$120, effective July 1, 2002. Effective July 1, 2003, the minimum fee shall be \$132.

Note 14. Fees will not be assessed for emissions of a single criteria pollutant over and above 4,000 tons per year from a facility. Criteria fees will be assessed on actual annual emissions that occurred during the previous calendar year. The minimum fee for this category shall be \$120, effective July 1, 2002. Effective July 1, 2003, the minimum fee shall be \$132.

Notes 14a. – 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 30:2341, and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496 (November 1997), LR 23:1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:

**Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—
Hazardous Waste**

Chapter 51. Fee Schedules

§5111. Calculation of Application Fees

- A. ...
- B. Application Fee Schedule

Table 1 (effective July 1, 2002 - June 30, 2003)	
Item	Fee
Site analysis—per acre site size	\$3001
Process and plan analysis	\$1,200
Facility analysis—per facility ²	\$600
Management/financial analysis	\$1,200

Table 2 (effective July 1, 2003)	
Item	Fee
Site analysis—per acre site size	\$3301
Process and plan analysis	\$1,320
Facility analysis—per facility ²	\$660
Management/financial analysis	\$1,320

[Note: Fee equals total of the four items.]
¹ Up to 100 acres, no additional fee thereafter.
² Incinerator, land farm, treatment pond, etc. each counted as a facility.

C. - E. ...
 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:724 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:287 (March 2001), LR 29:

§5119. Calculation of Annual Maintenance Fees

- A. Fee per Site

Table 1 (effective July 1, 2002 - June 30, 2003)	
Off-Site Disposer (Commercial)	\$95,760
Reclaimer (compensated for waste removed)	\$42,000
Reclaimer (uncompensated for waste removed or pays for waste removed)	\$30,000
Off-Site Disposer (Noncommercial)	\$24,000
On-Site Disposer	\$12,000

Table 2 (effective July 1, 2003)	
Off-Site Disposer (Commercial)	\$105,336
Reclaimer (compensated for waste removed)	\$46,200
Reclaimer (uncompensated for waste removed or pays for waste removed)	\$33,000
Off-Site Disposer (Noncommercial)	\$26,400
On-Site Disposer	\$13,200

[NOTE: The higher fee for off-site disposal is due to the cost of the manifest system and emergency response to transport spills (neither cost is applicable to on-site disposers).]

- B. Fee per Hazardous Waste Facility Type

Table 1 (effective July 1, 2002 - June 30, 2003)	
Unit Type	Fee
Storage:	
Container/Tank/Waste Pile/etc.	\$3,928

Treatment:	
Incinerator/Boiler/Industrial Furnace/Filtration Unit/etc.	\$6,324
Disposal:	
Landfill/Miscellaneous Unit/etc.	\$9,924

Table 2 (effective July 1, 2003)	
Unit Type	Fee
Storage:	
Container/Tank/Waste Pile/etc.	\$4,320
Treatment:	
Incinerator/Boiler/Industrial Furnace/Filtration Unit/etc.	\$6,956
Disposal:	
Landfill/Miscellaneous Unit/etc.	\$10,916

- C. Fee Based on Volume

Table 1 (effective July 1, 2002 - June 30, 2003)	
Less than 1,000 tons	\$2,342
Less than 10,000 tons	\$5,885
Less than 100,000 tons	\$9,427
Less than 1,000,000 tons	\$12,970
More than 1,000,000 tons	\$16,512

Table 2 (effective July 1, 2003)	
Less than 1,000 tons	\$2,577
Less than 10,000 tons	\$6,473
Less than 100,000 tons	\$10,370
Less than 1,000,000 tons	\$14,267
More than 1,000,000 tons	\$18,163

- D. - E. ...
- F. Land Disposal Prohibitions Fee. Treatment, processing (including use, reuse, recycling), and/or disposal facility annual fee (not on storage facilities). This fee applies to facilities handling wastes subject to the land disposal prohibitions in LAC 33:V.Chapter 22.

Table 1 (effective July 1, 2002 - June 30, 2003)	
On-Site	\$1,200
Off-Site Noncommercial	\$2,400
Reclaimer	\$3,000
Off-Site Commercial	\$6,000

Table 2 (effective July 1, 2003)	
On-Site	\$1,320
Off-Site Noncommercial	\$2,640
Reclaimer	\$3,300
Off-Site Commercial	\$6,600

- G. - J. ...
- K. Formula to Apportion Fees

Annual maintenance fee = Fee per site + Fee per facility + Fee based on volume + Annual research and development fee + Administrative cost fee + Land disposal prohibitions fee + Groundwater protection annual fee + Incineration inspection and monitoring fee + Boiler/industrial furnace inspection and monitoring fee + Annual landfill inspection and monitoring fee + Annual land treatment unsaturated zone monitoring inspection fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:684 (August 1990), LR 16:1057 (December 1990), LR 18:723 (July 1992), LR 18:1375 (December 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5120. Land Disposal Prohibition Petition Fees

A. Petitions submitted in accordance with R.S. 30:2193.E.(2) and/or LAC 33:V.Chapter 22 are subject to additional fees as noted below for each petition submitted. These fees must be submitted at the time a petition is submitted.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Variance	\$12,000
Exemption	\$54,000
Extension	\$6,000
No-Alternatives Determinations:	
Original Petition	\$12,000
Renewal Petition/Request	\$12,000
Request for determination for addition of a hazardous waste(s) not covered by existing determination	\$1,200

Table 2 (effective July 1, 2003)	
Variance	\$13,200
Exemption	\$59,400
Extension	\$6,600
No-Alternatives Determinations:	
Original Petition	\$13,200
Renewal Petition/Request	\$13,200
Request for determination for addition of a hazardous waste(s) not covered by existing determination	\$1,320

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), LR 29:

§5123. Registration Fees, HW-1

A. An initial registration fee is charged for each generator, transporter, or TSD facility obtaining an EPA Identification Number from the department. There is no fee for modifying an existing registration based on any change of information submitted on Notification Form HW-1.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Initial Fee	\$11.35

Table 2 (effective July 1, 2003)	
Initial Fee	\$12.50

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:319 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 14:622 (September 1988), LR 18:725 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5125. Annual Monitoring and Maintenance Fee

A. Fee will annually be \$340, plus the prohibited waste fee, effective July 1, 2002. Effective July 1, 2003, this fee will be \$375.

B. Annual prohibited waste fee is \$120, effective July 1, 2002, for each generator who generates for land disposal as provided in LAC 33:V.Chapter 22. Effective July 1, 2003, this fee will be \$132. The generator will be subject to this fee if any waste generated is prohibited from disposal at any time during the year for which the fee is assessed.

C. All annual fees provided by this Chapter shall be paid by the due date indicated on the invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:321 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 17:658 (July 1991), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5135. Transporter Fee

A. All transporters of hazardous waste with a facility in Louisiana shall pay a fee of \$240 per year to the department, effective July 1, 2002. Effective July 1, 2003, this fee will be \$264. There will be only one fee regardless of the number of vehicles in the service of the transporter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5137. Conditionally Exempt Small Quantity Generator Fee

A. Conditionally exempt small quantity generators (see LAC 33:V.108) shall pay a fee of \$60 per year to the department, effective July 1, 2002. Effective July 1, 2003, this fee will be \$66.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:716 (May 2001), LR 29:

§5139. Groundwater Protection Permit Review Fee

A. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and groundwater protection aspects.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Hazardous Waste Facilities (1 time)	\$6,000 each
Permit Modifications:	
Class 1 and 2	\$240 each
Class 3	\$900 each
Solid Waste Facilities (1 time)	\$6,000 each
Permit Modifications:	
Major	\$600 each
Minor	\$240 each

Table 2 (effective July 1, 2003)	
Hazardous Waste Facilities (1 time)	\$6,600 each
Permit Modifications:	
Class 1 and 2	\$264 each
Class 3	\$990 each
Solid Waste Facilities (1 time)	\$6,600 each
Permit Modifications:	
Major	\$660 each
Minor	\$264 each

B. Oversight of Abandonment Procedures. This fee covers the cost of reviewing plans to plug and abandon all permitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Casing pulled	\$120 each
Casing reamed out	\$240 each
Casing left in place	\$600 each

Table 2 (effective July 1, 2003)	
Casing pulled	\$132 each
Casing reamed out	\$264 each
Casing left in place	\$660 each

C. Groundwater Monitoring Systems Installation Permit. This fee covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications for units subject to permitting under these regulations.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Each Well	\$600

Table 2 (effective July 1, 2003)	
Each Well	\$660

D. Groundwater Monitoring Systems Inspection Fee (Annual). This fee covers the cost of inspecting monitoring systems for units subject to permitting under these regulations, to ensure that they are functioning properly and continue to maintain their integrity.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Each Well	\$300

Table 2 (effective July 1, 2003)	
Each Well	\$330

AUTHORITY NOTE: Promulgated in accordance with 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Groundwater Division, LR 14:621 (September 1988), amended LR 16:685 (August 1990), amended by the Hazardous Waste Division, LR 18:725 (July 1992), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5141. Incinerator and Boiler/Industrial Furnace Inspection and Monitoring Fee

A. Trial Burn or Test Burn Observer Fee. This is a special fee charged at a daily rate to cover the cost to the department of providing and placing on site a regulatory observer team during incinerator trial burns, boiler/industrial furnace trial burns, or other types of test burns required by regulations or the administrative authority when an observer team is required by regulations, specified by permit conditions, or considered necessary to ensure that human health and the environment are adequately protected.

1. This fee will be \$600, effective July 1, 2002, for each day of the test burn or trial burn. Effective July 1, 2003, this fee will be \$660.

2. This fee will be billed following completion of the trial burn or test burn and must be paid by the due date indicated on the invoice.

B. Annual Monitoring and Maintenance Fee for Incinerators, Boilers, Industrial Furnaces, and Commercial Recycling Furnaces. This is an annual fee applied to defray the cost of annually inspecting the required continuous monitors and recording devices for each incinerator, boiler, or industrial furnace to determine whether they are being properly maintained and calibrated. This fee will annually be a flat \$1,200, effective July 1, 2002. Effective July 1, 2003, this fee will be \$1,320.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:1375 (December 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2510 (November 2000), LR 29:

§5143. Annual Landfill Inspection and Monitoring Fee

A. An annual fee shall be charged for the inspection of the regulatory requirement for leak detection and leachate collection systems associated with hazardous waste landfills to determine operational status and degree of proper maintenance. For each landfill unit or cell with a separate leak detection and leachate collection system, the annual fee will be \$120, effective July 1, 2002. Effective July 1, 2003, this fee will be \$132.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:725 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5145. Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee

A. Semiannual Zone of Incorporation (ZOI) Inspection Fee. This fee covers the cost of inspection and random sampling and laboratory analysis of the zone of incorporation.

Table 1 (effective July 1, 2002 - June 30, 2003)	
ZOI soil samples	\$1,200 each acre
Soil-pore liquid monitors (Lysimeters)	\$3,000 each monitor

Table 2 (effective July 1, 2003)	
ZOI soil samples	\$1,320 each acre
Soil-pore liquid monitors (Lysimeters)	\$3,300 each monitor

B. Annual Land Treatment Unit Report Review Fee. This fee covers the cost of reviewing the report required by final permits for land treatment. Included in the annual land treatment unit report are the results of the unsaturated zone monitoring. Included are the semiannual soil core sample analyses and the quarterly soil-pore liquid quality analyses from below the treatment zone. Also included are soil moisture tensiometer readings of the ZOI.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Hazardous Waste Facilities	\$1,200 each report
Table 2 (effective July 1, 2003)	
Hazardous Waste Facilities	\$1,320 each report

C. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and hydrological separation requirements of these regulations.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Initial Permit	\$6,000 each
Permit Modifications:	
Class 1	\$240 each
Class 2 or 3	\$900 each
Table 2 (effective July 1, 2003)	
Initial Permit	\$6,600 each
Permit Modifications:	
Class 1	\$264 each
Class 2 or 3	\$990 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter D. Solid Waste Fees

§525. Standard Permit Application Review Fee

A. Applicants for Type I, I-A, II, and II-A standard permits shall pay a \$3,000 permit application review fee for each facility, effective July 1, 2002, and the fee shall accompany each permit application submitted. Effective July 1, 2003, this fee will be \$3,300.

B. Applicants for Type III standard permits or beneficial-use permits shall pay a permit application review fee of \$600 for each facility, effective July 1, 2002, and the fee shall accompany each permit application submitted. Effective July 1, 2003, this fee will be \$660.

C. Permit holders providing permit modifications for Type I, I-A, II, and II-A facilities shall pay a \$1,200 permit-modification review fee, effective July 1, 2002, and the fee shall accompany each modification submitted. Effective July 1, 2003, the permit-modification fee will be \$1,320. Permit holders providing mandatory modifications in response to these regulations shall pay a \$600 permit-modification fee, effective July 1, 2002, and the fee shall accompany each mandatory modification submitted. Effective July 1, 2003, the permit-modification fee for mandatory modifications will be \$660. Permit modifications required by LAC 33:VII.709.E.1 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 \$300 permit-modification review fee, effective July 1, 2002, and the fee shall accompany each modification submitted. Effective July 1, 2003, this fee will be \$330.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§527. Closure Plan Review Fee

A. Applicants for Type I, I-A, II, and II-A closures shall pay a \$1,200 closure-plan review fee, effective July 1, 2002, and the fee shall accompany each closure plan submitted. Effective July 1, 2003, this fee will be \$1,320.

B. Applicants for Type III or beneficial-use facilities closures shall pay a \$300 closure-plan review fee, effective July 1, 2002, and the fee shall accompany each closure plan submitted. Effective July 1, 2003, this fee will be \$330.

C. Permit holders providing closure-plan modifications for Type I, IA, II, and II-A facilities shall pay a \$600 closure-plan modification review fee, effective July 1, 2002, and the fee shall accompany each modification submitted. Effective July 1, 2003, this fee will be \$660.

D. Permit holders providing closure-plan modifications for Type III or beneficial-use facilities shall pay a \$150 closure-plan modification review fee, effective July 1, 2002, and the fee shall accompany each modification submitted. Effective July 1, 2003, this fee will be \$165.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§529. Annual Monitoring and Maintenance Fee

A. An initial fee is charged for the processing of transporter notifications.

1. The fee shall be calculated by the following formula:

Initial fee per notification + Fee based on each vehicle owned by the transporter = Notification fee

2. No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Initial fee	\$120
Fee Per Vehicle	\$30

Table 2 (effective July 1, 2003)	
Initial fee	\$132
Fee Per Vehicle	\$33

B. All holders of permits for solid waste processing and/or disposal facilities that have not completed closure, including post-closure activities, in accordance with an approved plan, shall be charged an annual monitoring and maintenance fee for each permit. This annual monitoring and maintenance fee shall be calculated by the following formula:

Base fee per permit + Fee based on tonnage = Annual monitoring and maintenance fee

1. Base fees are as follows:

a. \$7,200, effective July 1, 2002, for Type I facilities (including facilities that handle both industrial and nonindustrial waste). Effective July 1, 2003, this fee will be \$7,920;

b. \$1,800, effective July 1, 2002, for Type II facilities. Effective July 1, 2003, this fee will be \$1,980; and

c. \$600, effective July 1, 2002, for Type IA, II-A, III, and beneficial-use facilities. Effective July 1, 2003, this fee will be \$660.

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), \$0.72/ton, effective July 1, 2002. Effective July 1, 2003, this fee will be \$0.79/ton;

b. for nonindustrial wastes (Type II facilities, except surface impoundments), \$0.18/ton, effective July 1, 2002, for amounts exceeding 75,000 tons. Effective July 1, 2003, this fee will be \$0.20/ton;

2.c. - e. ...

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 \$96,000, effective July 1, 2002. Effective July 1, 2003, this fee will be \$105,600. The maximum fee per facility for Type II facilities is \$24,000, effective July 1, 2002. Effective July

1, 2003, this fee will be \$26,400. Surface impoundments, as noted above, are assessed only the base fee.

C. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

Part IX. Water Quality

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1309. Fee System

A. - B.3.a.i. ...

ii. \$104.81 per rating point from July 1, 1998, through June 30, 1999;

iii. \$112.12 per rating point as of July 1, 1999;

iv. \$134.54 per rating point as of July 1, 2002; and

v. \$148.00 per rating point as of July 1, 2003; and

b. for all other facilities:

i. \$179.16 per rating point through June 30, 1998;

ii. \$192.60 per rating point from July 1, 1998, through June 30, 1999;

iii. \$206.03 per rating point as of July 1, 1999;

iv. \$247.24 per rating point as of July 1, 2002; and

v. \$271.96 per rating point as of July 1, 2003.

B.4. - E.1.a. ...

b. \$244.56 from July 1, 1998, through June 30, 1999;

c. \$261.63 as of July 1, 1999;

d. \$314.00 as of July 1, 2002; and

e. \$345.00 as of July 1, 2003.

E.2. - 2.a. ...

b. \$101,587.50 from July 1, 1998, through June 30, 1999;

c. \$108,675 as of July 1, 1999;

d. \$130,410 as of July 1, 2002; and

e. \$143,451 as of July 1, 2003.

F. - M. ...

N. Other Fees

Table 1 (effective July 1, 2002 - June 30, 2003)	
Permit Type	Amount
Gen-LAG11-Concrete/Asphalt	\$293
Gen-LAG33-Coastal	\$2,400
Gen-LAG47-Auto Repair/Dealers	\$240
Gen-LAG119-Concrete/Asphalt (SW)	\$352
Gen-LAG78-C&D Landfills	\$600
Gen-LAG89-Type D Truck Maintenance	\$600
Gen-LAG75-Exterior Vehicle Wash	\$240
Gen-LAG-Animal Waste	\$273
Gen-LAR-Baseline	\$90
Gen-LAG87-Bulk Terminals	\$293
Gen-LAR10-Construction	\$240
Gen-LAG67-Hydrostatic Test	\$273
Gen-LAG48-Light Commercial	\$314
Gen-LAR05-Multi-Sector	\$90
Gen-LAG38-Potable Water	\$314
Gen-LAG949-GW Remediation (SW)	\$900
Gen-LAG49-Sand and Gravel	\$600

Table 1 (effective July 1, 2002 - June 30, 2003)	
Permit Type	Amount
Gen-LAG26-Territorial Seas	\$2,400
Gen-LAG30-UST Dewatering	\$90
Gen-LAG94-GW Remediation	\$900
Gen-LAG679-Hydrostatic Test (SW)	\$720
Gen-LAG759-Mobile Vehicle/Equipment Wash	\$288
Gen-LAG83- Petroleum UST Remediation	\$900
Gen-LAG839-Petroleum UST (SW)	\$2,400
Gen-LAG14-RR Classified Yards	\$293
Gen-LAG53-Sanitary Class I	\$90
Gen-LAG54-Sanitary Class II	\$240
Gen-LAG56-Sanitary Class III	\$450
Gen-LAG57-Sanitary Class IV	\$540
Gen-LAG309-UST Dewatering (SW)	\$774
Gen-LAG98-Vermilion Basin Sanitary	\$294

Table 2 (effective July 1, 2003)	
Permit Type	Amount
Gen-LAG11-Concrete/Asphalt	\$322
Gen-LAG33-Coastal	\$2,640
Gen-LAG47-Auto Repair/Dealers	\$264
Gen-LAG119-Concrete/Asphalt (SW)	\$387
Gen-LAG78-C&D Landfills	\$660
Gen-LAG89-Type D Truck Maintenance	\$660
Gen-LAG75-Exterior Vehicle Wash	\$264
Gen-LAG-Animal Waste	\$300
Gen-LAR-Baseline	\$99
Gen-LAG87-Bulk Terminals	\$322
Gen-LAR10-Construction	\$264
Gen-LAG67-Hydrostatic Test	\$300
Gen-LAG48-Light Commercial	\$345
Gen-LAR05-Multi-Sector	\$99
Gen-LAG38-Potable Water	\$345
Gen-LAG949-GW Remediation (SW)	\$990
Gen-LAG49-Sand and Gravel	\$660
Gen-LAG26-Territorial Seas	\$2,640
Gen-LAG30-UST Dewatering	\$99
Gen-LAG94-GW Remediation	\$990
Gen-LAG679-Hydrostatic Test (SW)	\$792
Gen-LAG759-Mobile Vehicle/Equipment Wash	\$317
Gen-LAG83- Petroleum UST Remediation	\$990
Gen-LAG839-Petroleum UST (SW)	\$2,640
Gen-LAG14-RR Classified Yards	\$322
Gen-LAG53-Sanitary Class I	\$99
Gen-LAG54-Sanitary Class II	\$264
Gen-LAG56-Sanitary Class III	\$495
Gen-LAG57-Sanitary Class IV	\$594
Gen-LAG309-UST Dewatering (SW)	\$851
Gen-LAG98-Vermilion Basin Sanitary	\$323

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§1507. Procedures For Issuance Of Water Quality Certification

A. - A.1.n.iv. ...

2. Processing Fee

a. A one-time processing fee will be assessed all applicants to help defray the costs of this expanded program. The fee schedule will be as follows.

Table 1 (effective July 1, 2002 - June 30, 2003)	
Noncommercial Activities	\$30/application
Commercial Activities	\$318/application

Table 2 (effective July 1, 2003)	
Noncommercial Activities	\$33/application
Commercial Activities	\$350/application

b. Payment shall accompany the application for certification. The department shall consider the application incomplete and initiation of the application review process will not begin until payment of the processing fee is received. Payment shall be by check or money order to Department of Environmental Quality, Office of Management and Finance, Financial Services Division and shall be nonrefundable.

A.3. - H.2 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:

Part XI. Underground Storage Tanks Chapter 3. Registration Requirements, Standards, and Fee Schedule

§307. Fee Schedule

A. - B. ...

1. Fees are assessed according to the following schedule.

Table 1 (effective July 1, 2002 - June 30, 2003)		
Fee Number	Annual Registration Fee	Amount
001	All registered UST systems	\$54
Annual Maintenance and Monitoring Fees		
002	UST systems containing any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1)	\$600
003	UST systems at federal facilities (all categories except USTs defined in Fee Number 002, which shall be assessed the higher fee)	\$144
004	UST systems containing petroleum products not meeting the definition of motor fuels	\$144
005	UST systems containing new or used motor oil (except USTs identified in LAC 33:XI.1101.C and D)	\$275

Fee Number	Annual Registration Fee	Amount
001	All registered UST systems	\$54
Annual Maintenance and Monitoring Fees		
002	UST systems containing any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1)	\$660
003	UST systems at federal facilities (all categories except USTs defined in Fee Number 002, which shall be assessed the higher fee)	\$158
004	UST systems containing petroleum products not meeting the definition of motor fuels	\$158
005	UST systems containing new or used motor oil (except USTs identified in LAC 33:XL1101.C and D)	\$275

B.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, and 2195.3 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 29:

§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates

A. - C. ...

D. Fees. The following fees are hereby established for certification and renewal:

1. examination fee for individual certification, \$120, effective July 1, 2002. Effective July 1, 2003, this fee will be \$132; and

2. certification renewal fee, \$120, effective July 1, 2002. Effective July 1, 2003, this fee will be \$132.

E. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), LR 29:

Part XV. Radiation Protection

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§579. Identification Cards

A. - A.3. ...

4. Any individual who wishes to replace his/her I.D. card shall submit to the Office of Environmental Services, Permits Division a written request for a replacement I.D. card, stating the reason a replacement I.D. card is needed. A non-refundable fee of \$24, effective July 1, 2002, shall be paid to the department for each replacement of an I.D. card. Effective July 1, 2003, this fee will be \$26. The prescribed fee shall be submitted with the written request for a replacement I.D. card. The individual shall maintain a copy of the request in his/her possession while performing industrial radiographic operations until a replacement I.D. card is received from the department.

B. - D.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 29:

Chapter 25. Fee Schedule
Appendix A

Appendix A			
Radiation Protection Program Fee Schedule			
		Application Fee	Annual Maintenance Fee
I.	Radioactive Material Licensing		
A.	Medical licenses:		
1.	Therapy:		
a.	Teletherapy	666	666
b.	Brachytherapy	666	666
2.	Nuclear medicine diagnostic only	822	822
3.	Nuclear medicine diagnostic/therapy	882	882
4.	Nuclear pacemaker implantation	330	330
5.	Eye applicators	330	330
6.	In-vitro studies or radioimmunoassays or calibration sources	330	330
7.	Processing or manufacturing and distribution of radiopharmaceuticals	1,296	1,104
8.	Mobile nuclear medicine services	1,296	1,104
9.	"Broad scope" medical licenses	1,296	1,104
10.	Manufacturing of medical devices/sources	1,512	1,260

Table 1
(effective July 1, 2002 - June 30, 2003)

Appendix A
Radiation Protection Program Fee Schedule

		Application Fee	Annual Maintenance Fee
11.	Distribution of medical devices/sources	1,134	942
12.	All other medical licenses	366	366
B. Source material licenses:			
1.	For mining, milling, or processing activities, or utilization which results in concentration or redistribution of naturally occurring radioactive material	6,552	6,552
2.	For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powdered solid)	3,276	3,276
3.	For the concentration of uranium from or in phosphoric acid	1,638	1,638
4.	All other specific "source material" licenses	330	330
C. Special nuclear material (SNM) licenses:			
1.	For use of SNM in sealed sources contained in devices used in measuring systems	504	504
2.	SNM used as calibration or reference sources	330	330
3.	All other licenses or use of SNM in quantities not sufficient to form a critical mass, except as in I.A.4, I.C.1, and 2	330	330
D. Industrial radioactive material licenses:			
1.	For processing or manufacturing for commercial distribution	6,480	4,878
2.	For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license	1,104	870
3.	For industrial radiography operations performed at temporary jobsite(s) of the licensee	3,252	2,448
4.	For possession and use of radioactive materials in sealed sources for irradiation of materials where the source is not removed from the shield and is less than 10,000 Curies	1,638	822
5.	For possession and use of radioactive materials in sealed sources for irradiation of materials when the source is not removed from the shield and is greater than 10,000 Curies, or where the source is removed from the shield	3,252	1,626
6.	For distribution of items containing radioactive material	1,638	1,638
7. Well-logging and subsurface tracer studies:			
a.	Collar markers, nails, etc. for orientation	330	330
b.	Sealed sources less than 10 Curies and/or tracers less than or equal to 500 mCi	978	978
c.	Sealed sources of 10 Curies or greater and/or tracers greater than 500 mCi but less than 5 Curies	1,638	1,638
d.	Field flood studies and/or tracers equal to or greater than 5 Curies	2,460	2,460
8.	Operation of a nuclear laundry	6,492	3,252
9.	Industrial research and development of radioactive materials or products containing radioactive materials	822	822
10.	Academic research and/or instruction	666	666
11. Licenses of broad scope:			
a.	Academic, industrial, research and development, total activity equal to or greater than 1 Curie	1,638	1,638
b.	Academic, industrial, research and development, total activity less than 1 Curie	978	978
12.	Gas chromatographs, sulfur analyzers, lead analyzers, or similar laboratory devices	330	330
13.	Calibration sources equal to or less than 1 Curie per source	330	330
14.	Level or density gauges	504	504
15.	Pipe wall thickness gauges	666	666
16.	Soil moisture and density gauges	504	504
17. NORM decontamination/maintenance:			
a.	at permanently designated areas at the location(s) listed in the license	3,780	3,150
b.	at temporary jobsite(s) of the licensee	3,780	3,780
18.	Commercial NORM storage	3,150	3,150
19.	All other specific industrial licenses except as otherwise noted	666	666
20.	Commercial NORM treatment	15,120	12,600
E. Radioactive waste disposal licenses:			
1.	Commercial waste disposal involving burial	850,500	850,500
2.	Commercial waste disposal involving incineration of vials containing liquid scintillation fluids	6,480	3,252
3.	All other commercial waste disposal involving storage, packaging and/or transfer	3,252	3,252
F.	Civil defense licenses	396	330
G.	Teletherapy service company license	1,638	1,638
H. Consultant licenses:			
1.	No calibration sources	162	94
2.	Possession of calibration sources equal to or less than 500 mCi each	240	162

Table 1
(effective July 1, 2002 - June 30, 2003)

Appendix A
Radiation Protection Program Fee Schedule

		Application Fee	Annual Maintenance Fee
3.	Possession of calibration sources greater than 500 mCi	330	240
4.	Installation and/or servicing of medical afterloaders	438	378
II. Electronic Product Registration			
1.	Medical diagnostic X-ray (per registration)	107	107
2.	Medical therapeutic X-ray (per registration):		
a.	below 500 kVp	252	252
b.	500 kVp to 1 MeV (including accelerator and Van deGraaf)	504	504
c.	1 MeV to 10 MeV	756	756
d.	10 MeV or greater	1,008	1,008
3.	Dental X-ray (per registration)	95	88
4.	Veterinary X-ray (per registration)	95	95
5.	Educational institution X-ray (teaching unit, per registration)	156	95
6.	Industrial accelerator (includes Van de Graaf machines and neutron generators)	504	504
7.	Industrial radiography (per registration)	252	252
8.	All other X-ray (per registration) except as otherwise noted	114	114
III. General Licenses			
A.	NORM (Wellhead fee per field shall not exceed \$1,890 per operator. Operators reporting contamination by field will be invoiced for all wellheads in the field. Operators reporting contamination by wellhead will be invoiced only for contaminated units.)		
1.	1-5 contaminated wellheads	126	126
2.	6-20 contaminated wellheads	630	630
3.	>20 contaminated wellheads	1,890	1,890
4.	Stripper wells-contaminated (\$630 maximum for strippers per field):	126	126
a.	1 to 5 contaminated stripper wells	126	126
b.	> 5 contaminated stripper wells	630	630
5.	NORM locations (other than fields):		
a.	gas plants, pipeyards, chemical plant, refinery	378	378
b.	warehouses, pipeline, manufacturing plant, NORM equipment storage site, etc.	378	378
6.	Interim container storage per NORM Waste Management Plan of an approved location		1,260
7.	NORM location as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404, not included in III.A.1-6 of this Appendix	126	126
B.	Tritium sign	90	0
C.	All other general licenses which require registration	126	126
IV. Reciprocal Recognition			
The fee for reciprocal recognition of a license or registration from another state or the NRC is the annual fee of the applicable category. The fee covers activities in the state of Louisiana for one year from the date of receipt.			
V. Shielding Evaluation (per room)			
A.	Diagnostic	126	*
B.	Therapeutic (below 500 kVp)	190	*
C.	Therapeutic (500 kVp to 1 MeV)	312	*
D.	Therapeutic (1 MeV to 10 MeV)	438	*
E.	Therapeutic (10 MeV or greater)	948	*
F.	Industrial and industrial radiography	438	*
VI. Device, Product, or Sealed Source Evaluation			
A.	Device evaluation (each)	882	*
B.	Sealed source design evaluation (each)	570	*
C.	Update sheet	190	*
VII. Testing			
Testing to determine qualifications of employees, per test administered		162	*
VIII. Nuclear Electric Generating Station			
Located in Louisiana			357,600
Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone - includes area in Louisiana)			259,200
Uranium Enrichment Facility			63,000
IX. La. Radiation Protection Program Laboratory Analysis Fees			
Sample Type		Analysis	Unit Price
A.	Air filters:		
1.	Particulate	Gross beta	70
2.	Charcoal cartridge	Gamma	198
		Gamma/I-131	198
B.	Milk	Gamma	210

Table 1 (effective July 1, 2002 - June 30, 2003)		
Appendix A Radiation Protection Program Fee Schedule		
	Application Fee	Annual Maintenance Fee
	I-131	228
C. Water	Gamma	228
	I-131	228
	H-3	84
D. Sediment	Gamma	240
E. Vegetation	Gamma	228
F. Fish	Gamma	240
G. Leak test	Gamma	198
	H-3	84
H. NORM sample:		
1. Soil	Gamma	210
2. Produced water	Gamma	228
* Fees are charged one time		

Table 2 (effective July 1, 2003)		
Appendix A Radiation Protection Program Fee Schedule		
	Application Fee	Annual Maintenance Fee
I. Radioactive Material Licensing		
A. Medical licenses:		
1. Therapy:		
a. Teletherapy	733	733
b. Brachytherapy	733	733
2. Nuclear medicine diagnostic only	904	904
3. Nuclear medicine diagnostic/therapy	970	970
4. Nuclear pacemaker implantation	363	363
5. Eye applicators	363	363
6. In-vitro studies or radioimmunoassays or calibration sources	363	363
7. Processing or manufacturing and distribution of radiopharmaceuticals	1,426	1,214
8. Mobile nuclear medicine services	1,426	1,214
9. "Broad scope" medical licenses	1,426	1,214
10. Manufacturing of medical devices/sources	1,663	1,386
11. Distribution of medical devices/sources	1,247	1,036
12. All other medical licenses	403	403
B. Source material licenses:		
1. For mining, milling, or processing activities, or utilization which results in concentration or redistribution of naturally occurring radioactive material	7,207	7,207
2. For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powdered solid)	3,604	3,604
3. For the concentration of uranium from or in phosphoric acid	1,802	1,802
4. All other specific "source material" licenses	363	363
C. Special nuclear material (SNM) licenses:		
1. For use of SNM in sealed sources contained in devices used in measuring systems	554	554
2. SNM used as calibration or reference sources	363	363
3. All other licenses or use of SNM in quantities not sufficient to form a critical mass, except as in I.A.4, I.C.1, and 2	363	363
D. Industrial radioactive material licenses:		
1. For processing or manufacturing for commercial distribution	7,128	5,366
2. For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license	1,214	957
3. For industrial radiography operations performed at temporary jobsite(s) of the licensee	3,577	2,693
4. For possession and use of radioactive materials in sealed sources for irradiation of materials where the source is not removed from the shield and is less than 10,000 Curies	1,802	904
5. For possession and use of radioactive materials in sealed sources for irradiation of materials when the source is not removed from the shield and is greater than 10,000 Curies, or where the source is removed from the shield	3,577	1,789
6. For distribution of items containing radioactive material	1,802	1,802
7. Well-logging and subsurface tracer studies:		
a. Collar markers, nails, etc. for orientation	363	363
b. Sealed sources less than 10 Curies and/or tracers less than or equal to 500 mCi	1,076	1,076
c. Sealed sources of 10 Curies or greater and/or tracers greater than 500 mCi but less than 5 Curies	1,802	1,802

**Table 2
(effective July 1, 2003)**

**Appendix A
Radiation Protection Program Fee Schedule**

		Application Fee	Annual Maintenance Fee
d.	Field flood studies and/or tracers equal to or greater than 5 Curies	2,706	2,706
8.	Operation of a nuclear laundry	7,141	3,577
9.	Industrial research and development of radioactive materials or products containing radioactive materials	904	904
10.	Academic research and/or instruction	733	733
11.	Licenses of broad scope:		
a.	Academic, industrial, research and development, total activity equal to or greater than 1 Curie	1,802	1,802
b.	Academic, industrial, research and development, total activity less than 1 Curie	1,076	1,076
12.	Gas chromatographs, sulfur analyzers, lead analyzers, or similar laboratory devices	363	363
13.	Calibration sources equal to or less than 1 Curie per source	363	363
14.	Level or density gauges	554	554
15.	Pipe wall thickness gauges	733	733
16.	Soil moisture and density gauges	554	554
17.	NORM decontamination/maintenance:		
a.	at permanently designated areas at the location(s) listed in the license	4,158	3,465
b.	at temporary jobsite(s) of the licensee	4,158	4,158
18.	Commercial NORM storage	3,465	3,465
19.	All other specific industrial licenses except as otherwise noted	733	733
20.	Commercial NORM treatment	16,632	13,860
E.	Radioactive waste disposal licenses:		
1.	Commercial waste disposal involving burial	935,550	935,550
2.	Commercial waste disposal involving incineration of vials containing liquid scintillation fluids	7,128	3,577
3.	All other commercial waste disposal involving storage, packaging and/or transfer	3,577	3,577
F.	Civil defense licenses	436	363
G.	Teletherapy service company license	1,802	1,802
H.	Consultant licenses:		
1.	No calibration sources	178	103
2.	Possession of calibration sources equal to or less than 500 mCi each	264	178
3.	Possession of calibration sources greater than 500 mCi	363	264
4.	Installation and/or servicing of medical afterloaders	482	416
II.	Electronic Product Registration		
1.	Medical diagnostic X-ray (per registration)	117	117
2.	Medical therapeutic X-ray (per registration):		
a.	below 500 kVp	277	277
b.	500 kVp to 1 MeV (including accelerator and Van deGraaf)	554	554
c.	1 MeV to 10 MeV	832	832
d.	10 MeV or greater	1,109	1,109
3.	Dental X-ray (per registration)	104	96
4.	Veterinary X-ray (per registration)	104	104
5.	Educational institution X-ray (teaching unit, per registration)	172	104
6.	Industrial accelerator (includes Van de Graaf machines and neutron generators)	554	554
7.	Industrial radiography (per registration)	277	277
8.	All other X-ray (per registration) except as otherwise noted	125	125
III.	General Licenses		
A.	NORM (Wellhead fee per field shall not exceed \$2,079 per operator. Operators reporting contamination by field will be invoiced for all wellheads in the field. Operators reporting contamination by wellhead will be invoiced only for contaminated units.)		
1.	1-5 contaminated wellheads	139	139
2.	6-20 contaminated wellheads	693	693
3.	>20 contaminated wellheads	2,079	2,079
4.	Stripper wells-contaminated (\$693 maximum for strippers per field):	139	139
a.	1 to 5 contaminated stripper wells	139	139
b.	> 5 contaminated stripper wells	693	693
5.	NORM locations (other than fields):		
a.	gas plants, pipeyards, chemical plant, refinery	416	416
b.	warehouses, pipeline, manufacturing plant, NORM equipment storage site, etc.	416	416
6.	Interim container storage per NORM Waste Management Plan of an approved location		1,386
7.	NORM location as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404, not included in III.A.1-6 of this Appendix	139	139

**Table 2
(effective July 1, 2003)**

**Appendix A
Radiation Protection Program Fee Schedule**

	Application Fee	Annual Maintenance Fee
B. Tritium sign	99	0
C. All other general licenses which require registration	139	139
IV. Reciprocal Recognition		
The fee for reciprocal recognition of a license or registration from another state or the NRC is the annual fee of the applicable category. The fee covers activities in the state of Louisiana for one year from the date of receipt.		
V. Shielding Evaluation (per room)		
A. Diagnostic	139	*
B. Therapeutic (below 500 kVp)	209	*
C. Therapeutic (500 kVp to 1 MeV)	343	*
D. Therapeutic (1 MeV to 10 MeV)	482	*
E. Therapeutic (10 MeV or greater)	1,043	*
F. Industrial and industrial radiography	482	*
VI. Device, Product, or Sealed Source Evaluation		
A. Device evaluation (each)	970	*
B. Sealed source design evaluation (each)	627	*
C. Update sheet	209	*
VII. Testing		
Testing to determine qualifications of employees, per test administered	178	*
VIII. Nuclear Electric Generating Station		
Located in Louisiana		393,360
Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone - includes area in Louisiana)		285,120
Uranium Enrichment Facility		69,300
IX. La. Radiation Protection Program Laboratory Analysis Fees		
Sample Type	Analysis	Unit Price
A. Air filters:		
1. Particulate	Gross beta	77
2. Charcoal cartridge	Gamma	218
	Gamma/I-131	218
B. Milk	Gamma	231
	I-131	250
C. Water	Gamma	250
	I-131	250
	H-3	92
D. Sediment	Gamma	264
E. Vegetation	Gamma	250
F. Fish	Gamma	264
G. Leak test	Gamma	218
	H-3	92
H. NORM sample:		
1. Soil	Gamma	231
2. Produced water	Gamma	250
* Fees are charged one time		

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), repromulgated LR 18:956 (September 1992), amended LR 19:624 (May 1993), LR 21:792 (August 1995), repromulgated LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000), LR 29:

A public hearing will be held on January 24, 2003, 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 Lynn Wilbanks 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 OS041. Such comments must be received no later than January 31, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884 or to fax (225) 765-0389 or by e-mail to lynnw@deq.state.la.us. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS041.

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; 1823 Highway 546, West Monroe, LA 71292; 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; 111 New Center Drive, 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: Fee Increases for FY03 and FY04**

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

There will be no implementation costs or savings to state governmental units. Local governmental units that hold valid operating permits will see a 20 percent increase in fees for FY03 and an additional 10 percent for FY04.

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

There will be an estimated \$7,200,000 increase in revenue collections for the Department in FY 02-03 and an estimated \$11,520,000 increase in revenue collections each fiscal year thereafter.

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

The estimated costs enumerated in Section II above will be borne by the regulated community.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James H. Brent, Ph.D.
Assistant Secretary
0212#066

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Risk Evaluation/Corrective Action Program (RECAP)
(LAC 33:I.1305 and 1307) (OS044)

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 Office of the Secretary regulations, LAC 33:I.1305 and 1307 and the RECAP document (Log #OS044).

The proposed Rule will adopt by reference the Risk Evaluation/Corrective Action Program (RECAP) regulations that are being revised as part of this rulemaking package. The revisions will provide clarification, reorganization, and corrections to text, tables, figures, and appendices of the RECAP regulations that were promulgated in December 1998 and revised in June 2000. Clarifications of text enhance the reader's understanding of the content of the regulations. Correction to errors in the regulations and reorganization of text will improve the RECAP regulations

and help the regulated community in understanding of the regulations. Some of these changes include: text omission due to redundancy and text rearranged or added for clarification purposes; soil intervals redefined; conveyance notification requirements clarified; additional guidance on Area of Investigation (AOI) identification and estimation of the AOI constituent concentration; additional guidance on identification of groundwater Point of Compliance (POC) and Point of Exposure (POE); change in procedures for establishing a site-specific background concentration; new section on identification of toxicity values and demonstrating compliance with Screening Standards (SS) and RECAP Standards (RS); added land owner notification requirements; added air RS under Management Option 2 (MO-2) and Management Option 3 (MO-3) for comparison to air data; revision of SS and MO-1 RS based on updated toxicity values and default exposure parameters; added Table 4 containing default RS for Groundwater-enclosed space (GWes), Soil-enclosed space (Soiles), Groundwater-air (GWair) and Air; revised figures to be consistent with text; added guidance on indoor air sampling; additional guidance on groundwater monitoring requirements; addition of Texas Natural Resource Conservation Commission (TNRCC) Method 1005 for Total Petroleum Hydrocarbon-Gasoline Range Organics (TPH-GRO), Total Petroleum Hydrocarbon-Diesel Range Organics (TPH-DRO), and Total Petroleum Hydrocarbon-Oil Range Organics (TPH-ORO); addition of TNRCC Method 1006 for TPH fractions; additional guidance on additivity for TPH; added list of target organs for TPH; added table of critical effects/target organs for the Constituent-of-Concern (COC) listed in Tables 1-3; added Management Option 1 (MO-1), Management Option 2 (MO-2), and Management Option 3 (MO-3) guidance on development and application of RS; and added guidance for development of RS for air, sediment, surface water, and biota. The RECAP revisions will help ensure that a consistent method based on sound scientific principles is used for addressing site contamination and will continue to serve as a standard tool to assess impacts to soil, ground water, surface water, and air. The basis and rationale for this rule are to clarify, reorganize, and correct the current RECAP regulations. The RECAP revisions will serve to establish uniformity for submitters in the program to minimize the time and money necessary to identify corrective action levels for constituents of concern at a contaminated site. This should encourage voluntary and expeditious remediation.

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

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

**Subpart 1. Departmental Administrative Procedures
Chapter 13. Risk Evaluation/Corrective Action Program
§1305. Applicability**

A. - B. ...

C. This Chapter shall not apply to unauthorized discharges that:

1. do not require notification under LAC 33:I.Chapter 39;

2. are remediated within 30 days after the discharger becomes aware of the discharge; and

3. are remediated in a manner that will ensure protection of human health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 29:

§1307. Adoption by Reference

A. The document entitled, "Louisiana Department of Environmental Quality Risk Evaluation/Corrective Action Program (RECAP)," dated [Final Promulgation Date to be entered], is hereby adopted and incorporated herein in its entirety. The RECAP document is available for purchase or inspection from 8 a.m. until 4:30 p.m., Monday through Friday, from the department's Office of Environmental Assessment, Environmental Planning Division. For RECAP document availability at other locations, contact the department's Environmental Planning Division. The RECAP document may also be reviewed on the Internet at www.deq.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assistance, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2441 (November 2000), LR 29:

A public hearing will be held on January 24, 2003, 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 Lynn Wilbanks 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 OS044. Such comments must be received no later than February 20, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to lynnw@deq.state.la.us. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS044.

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; 1823 Highway 546, West Monroe, LA 71292; 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; 111 New Center Drive, 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: Risk Evaluation/Corrective Action Program (RECAP)

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

Existing staff and facilities will be used in the implementation of the Risk Evaluation/Corrective Action Program (RECAP) Revision Package rule. No significant costs or savings are anticipated with the promulgation of the RECAP revisions.

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

No net increase or decrease in revenues is expected with the promulgation of this Rule.

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

Implementation of the proposed Risk Evaluation/Corrective Action Program (RECAP) revisions would result in some reduction in the costs of remediating contaminated sites to a protective level when compared to the present RECAP regulation. Clarifications, additional guidance, and corrections to text, figures, tables, and appendices to the document will benefit the environmental service providers in reducing overall review time and preparation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is expected that no significant increase in needed environmental services will correspond with the revisions in this rule. Since RECAP is an established rule, competition in the environmental service sectors is positive and energetic because all parties are pursuing remedial actions under the same set of standards. Amendments to RECAP should not impact present competition and employment.

James H. Brent, Ph.D.
Assistant Secretary
0212#065

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Public Comment at Meetings of the Board
(LAC 46:XLVII.3308)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to adopt Rules amending the Professional and Occupational Standards pertaining to public comment at meetings of the board. The proposed amendments of the Rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

§3308. Public Comment at Meetings of the Board

A. At every open meeting of the board or its committees, members of the public shall be afforded an opportunity to make public comment addressing any matters set by agenda for discussion at that meeting.

1. Concerns and public comments shall be limited to five minutes per individual unless the time limitation is waived by a majority of the board members present.

2. Anyone wishing to speak on a specific item must present the request prior to the convening of the meeting. Cards shall be available to place the request for public comment, along with the requestor's name and for whom the requestor is appearing.

3. The board president or committee chair may defer public comment on a specific agenda item until that item is brought up for discussion. However, the five-minute limitation for public comment shall remain in effect unless waived by a majority of the board members present.

4. In addition, the board president or committee chair may recognize individuals at a public meeting at his or her discretion.

5. Unless otherwise provided by law, public comment is not part of the evidentiary record of a hearing or case unless sworn, subject to cross-examination, offered by a party as relevant testimony, and received in accordance with under the Louisiana Administrative Procedure Act, R.S. 49:950, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:5.D and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 29:

Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed Rule related to the board's appointing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S.49:972.

Interested persons may submit written comments on the proposed rules to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA 70002. The deadline for receipt of all written comments is 4:30 p.m. on January 10, 2003.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Public Comment at
Meetings of the Board**

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

Only implementation cost is for the publication of the Rule change in the *Louisiana Register* estimated to be \$45. The public comment cards will be produced in-house at an estimate

cost of \$1 per meeting times 12 meetings for a total \$12 per year.

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

There is no estimated effect on revenue collections.

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

There is no estimated cost or economic benefit to affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Barbara L. Morvant
Executive Director
0212#019

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Crime Victims Reparations Board**

Compensation to Victims
(LAC 22:XIII.503)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board hereby gives notice of its intent to promulgate rules and regulations regarding the awarding of compensation to applicants. There will be no impact on family earnings or the family budget as set forth in R.S. 49:972.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XIII. Crime Victims Reparations Board

Chapter 5. Awards

§503. Limits on Awards

A. - L.3. ...

M. Crime Scene Evidence

1. Expenses associated with the collection and securing of crime scene evidence are limited to: reasonable replacement costs for clothing, bedding, or property seized as evidence or rendered unusable as a result of a criminal investigation or lab test.

2. A forensic medical examination for a victim of sexual assault is considered an expense associated with the collection and securing of crime scene evidence. Payment for this examination by the parish governing authority is mandated by state law. All other expenses related to these crimes are eligible for reimbursement by the board at 100 percent, subject to the provisions of the Crime Victims Reparations Act and its administrative rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:26 (January 1999), LR 29:

Interested persons may submit written comments on this proposed Rule no later than February 5, 2003, at 5 p.m. to the attention of Bob Wertz, CVR Program Manager,

Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Lamarr Davis
Chairman

All interested persons are invited to submit written comments on the proposed Rule to Diana Williamson, P.O. Box 94095, Baton Rouge, LA 70804-9095. All comments are to be received by Wednesday, January 8, 2002.

Mark C. Drennen
Commissioner of Administration

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Compensation to Victims**

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

It is estimated that implementation of the proposed Rule will not cause an increase in state expenditures. Sufficient funds are available in the Crime Victims Reparations fund to cover any possible expenditure at the state level. However, clarification was needed to prevent a shift of expenses from the local to the state level. IT could result in an insignificant increase at the local level to pay these expenses, and any increase would have a corresponding decrease at an insignificant amount at the state level.

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

It is estimated that implementation of the proposed Rule will not increase revenue collections of state or local governmental units.

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

It is estimated that implementation of the proposed Rule will have little or no effect on directly affected persons or non-governmental groups. The adoption of the rule seeks to clarify the situations in which reimbursement for expenses associated with crime scene evidence will be made.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Michael A. Ranatza
Executive Director
0212#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of the Commissioner**

Educational Leave for Unclassified Employees
(LAC 4:I.901, 903, and 905)

In accordance with the Administrative Procedure Act, R.S., 49:953.B and Executive Order MJF 98-23, the Office of the Governor, Division of Administration proposes to adopt the following Rule governing the granting of educational leave to unclassified employees.

This Rule is necessary to allow the Division of Administration to effectively administer Executive Order MJF 98-23, Section 18(D), Education Leave. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Educational Leave for
Unclassified Employees**

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

Educational leave and/or reimbursement is granted by the appointing authority in each agency. Appointing authorities may approve reimbursement for education to employees under various conditions. The appointing authority may grant unpaid educational leave, paid educational leave, and/or an educational stipend. These conditions will vary in each department and with each situation. Due to these factors, the costs for implementation of this rule cannot be estimated.

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

There is 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)

The employees who further their education through this policy may benefit in the future economically. By obtaining education, they will become more employable in the workforce.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

A positive effect on the competition and employment is expected within state agencies.

Whitman J. Kling
Deputy Undersecretary
0212#109

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

CAPCODefinitions (LAC 10:XV.303)

In accordance with Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Office of Financial Institutions hereby proposes to amend §303, Definitions Provided by Rule of the Capital Companies Tax Credit Program.

**Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC
Part XV. Other Regulated Entities
Chapter 3. Capital Companies Tax Credit Program
§303. Definitions Provided by Rule**

*Capitalize a Business*C for purposes of LAC 10:XV.303. Investment (b).(iv)C common stock, preferred stock, or an equivalent ownership interest. This also includes subordinated debt, whose proceeds will be used to refinance

a senior lender, thereby allowing a qualified Louisiana business to expand.

* * *

InvestmentC

a. - b.iv. ...

v. to increase or preserve working capital and/or cash flows for Louisiana operations of the business. However, except as allowed in Clause iv of this Section, this does not include those investments whereby the proceeds of the investment will be utilized to refinance existing debt of the business;

vi. - ix. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-2933.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1128 (September 1997), LR 25:1216 (July 1999), amended by the Office of the Governor, Office of Financial Institutions, LR 29:

Family Impact Statement

The proposed Rule will have no adverse fiscal or economic impact, nor will it adversely impact family formation, stability, or autonomy.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than January 21, 2003, at 4:30 p.m., to Gary L. Newport, General Counsel, Office of Financial Institutions, P.O. Box 94095, Baton Rouge, LA 70804-9095, or by delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

John D. Travis
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: CAPCOC Definitions**

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

There will be no additional costs associated with the implementation of this Rule. The Rule provides clarification to the certified Louisiana capital companies as to whether investments whose proceeds are used to refinance existing debt are deemed to further economic development within Louisiana.

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

We expect that there will be no effect on revenue collections of either the state or local governmental units. This Rule only clarifies certain language contained in the existing certified Louisiana capital company program Rule. However, because the change in the definition of what types of investments will be considered qualified investments, certain investments which had been eligible for treatment as a qualified investment will no longer qualify. The type of investment that is being eliminated has not been an extensive problem and has only shown up in a few investments that we have reviewed.

Therefore, because of the investment benchmarks which must be met pursuant to R.S 51:1926, the CAPCOs will have to find other companies to invest in which meet the revised definition. While we consider this an extremely remote possibility because of the financial consequences of not meeting the benchmarks, it is possible that the elimination of this type of investment could cause a CAPCO not to meet the investment benchmarks and thereby have the pool of certified capital involuntarily decertified. The consequence of the decertification would be the possible recapture or forfeiture of tax credits associated with the pool, thereby increasing revenue to the state. However, because of the aforementioned reason as well as the numerous investment deals that are reviewed by each CAPCO, we are absolutely certain that all applicable benchmarks will be attained.

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 nongovernmental groups. Again, this only provides a clarification of what types of investments are eligible to be determined to further economic development within Louisiana in order to meet certain investment benchmarks required for continued certification as a certified Louisiana capital company.

However, as mentioned in Item II above, the elimination of this type of investment as a qualified investment will decrease the universe of potential deals, thereby theoretically raising the possibility that applicable investment benchmarks would not be met and tax credits associated with the certified capital being recaptured or forfeited. The consequence of this would be an increase in revenue to the state. Again, we consider this to be inconceivable because the consequences associated with not meeting the benchmarks are so great.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not anticipated to have any effect on competition or employment in Louisiana.

John D. Travis
Commissioner, Financial Institutions
0212#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Real Estate Commission**

Agency Disclosure
(LAC 46:LXVII.3703 and 3705)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Chapter 37, §§3703 and 3705. The amendments provide for an agency disclosure form that may be used in lieu of the agency disclosure pamphlet at the discretion of the licensee. Language regulating the timeframe in which signatures are obtained on the dual agency disclosure form or the agency disclosure form will be amended to coincide with the governing statute, R.S. 9:3897.C.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXVII. Real Estate
Subpart 1. Real Estate

Chapter 37. Agency Disclosure

§3703. Agency Disclosure Informational Pamphlet

A. Licensees shall provide the agency disclosure informational pamphlet or the agency disclosure form to all parties to a real estate transaction involving the sale or lease of real property.

B. The agency disclosure informational pamphlet and the agency disclosure form may be obtained from the commission in a form suitable for use by licensees in reproducing them locally. Licensees are responsible for ensuring that the pamphlets and forms are the most current version prescribed by the commission and that reproductions of the pamphlet and form contain the identical language prescribed by the commission.

C. Licensees will provide the agency disclosure informational pamphlet or the agency disclosure form to prospective sellers/lessors and buyers/lessees at the time of the first face-to-face contact with the sellers/lessors or buyers/lessees when performing any real estate related activity involving the sale or lease of real property, other than a ministerial act as defined in R.S. 9:3891(12).

D. Licensees providing agency disclosure informational pamphlets or agency disclosure forms to prospective sellers/lessors and buyers/lessees shall insure that the recipient of the pamphlet or form signs and dates the pamphlet or form. The licensee providing the pamphlet or form shall sign as a witness to the signature of the recipient, and the licensee will retain the signed pamphlet or form for a period of five years.

E. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the receipt included in the agency disclosure informational pamphlet or the agency disclosure form, the licensee shall prepare written documentation to include the nature of the proposed real estate transaction, the time and date the pamphlet or form was provided to the seller/lessor or buyer/lessee, and the reasons given by the seller/lessor or buyer/lessee for not signing the pamphlet or form. This documentation will be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended LR 29:

§3705. Dual Agency Disclosure

A. The dual agency disclosure form or the second page of the agency disclosure form will be used by licensees acting as a dual agent under R.S. 9:3897.

B. The dual agency disclosure form or agency disclosure form shall be obtained from the commission in a form suitable for use by licensees in reproducing the forms locally. Licensees are responsible for ensuring that the forms are the most current version prescribed by the commission and that reproductions of the forms contain the identical language prescribed by the commission.

C. Licensees shall ensure that the dual agency disclosure form or the second page of the agency disclosure form is signed by all clients at the time the brokerage agreement is

entered into or at any time before the licensee acts as a dual agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended LR 29:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the December 20, 2002 *Louisiana Register*.

The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested parties are invited to submit written comments on the proposed regulations through January 10, 2003 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA, 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA, 70809.

Julius C. Willie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Agency Disclosure

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

There is no estimated costs or savings to state or local governmental units.

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)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment.

Julius C. Willie
Executive Director
0212#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Disposal of Exploration and Production Waste
(LAC 43:XVII.Chapter 31 and XIX.Chapter 5)

The Louisiana Office of Conservation hereby proposes to promulgate the following new salt cavern exploration and production (E&P) waste disposal regulations at LAC 43:XVII.3101 et seq. and to amend the existing commercial facility regulations in LAC 43:XIX.501, 503.F.3, 505.B, 507.A.1, 507.A.6, 511.E.2, 519.C.4.d and 7, 523.D, 525.D, 535.E, 547.A.6, 555 and 565.G in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and pursuant to the power delegated under the laws

of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, R.S. 4.C(1), (2), (3), (6), (8), (9), (10), (14), (16) and I. The proposed new and amended regulations included herewith will provide for the disposal of E&P waste into salt caverns and clarify certain areas of existing commercial facility regulations in LAC 43:XIX.501 et seq. The proposed Rule will have no impact on family formation, stability, and autonomy as prescribed in R.S. 49:927.

Title 43
NATURAL RESOURCES

PART XVII. Office of Conservation - Injection and Mining

Subpart 4. Statewide Order No. 29-M-2

Chapter 31. Disposal of Exploration and Production Waste in Solution-Mined Salt Caverns

§3101. Definitions

Application Cthe filing on the appropriate Office of Conservation form(s), including any additions, revisions, modifications, or required attachments to the form(s), for a permit to operate a salt cavern waste disposal facility or parts thereof.

Aquifer Ca geologic formation, groups of formations, or part of a formation that is capable of yielding a significant of water to a well or spring.

Blanket Material Csometimes referred to as a "pad". The blanket material is a fluid placed within a salt cavern that is lighter than the water in the cavern and will not dissolve the salt or any mineral impurities that may be contained within the salt. The function of the blanket is to prevent unwanted leaching of the salt cavern roof, prevent leaching of salt from around the cemented casing, and to protect the cemented casing from internal corrosion. Blanket material typically consists of crude oil, diesel, mineral oil, or some fluid possessing similar noncorrosive, nonsoluble, low density properties. The blanket material is placed between the salt cavern's outermost hanging string and innermost cemented casing.

Brine Cwater within a salt cavern that is completely or partially saturated with salt.

Cap Rock Cthe porous and permeable strata immediately overlying all or part of the salt stock of some salt structures typically composed of anhydrite, gypsum, limestone, an occasionally sulfur.

Casing Cmetallic pipe placed and cemented in the wellbore for the purpose of supporting the sides of the wellbore and to act as a barrier preventing subsurface migration of fluids out of or into the wellbore.

Catastrophic Collapse Cthe sudden or utter failure of the overlying strata caused by the removal or otherwise weakening of underlying sediments.

Cementing Cthe operation (either primary, secondary, or squeeze) whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.

Circulate to the Surface Cthe observing of actual cement returns to the surface during the primary cementing operation.

Commercial Salt Cavern Facility Ca legally permitted salt cavern waste disposal facility that disposes of exploration and production waste off the site where produced by others for a fee or other consideration.

Commissioner Cthe Commissioner of Conservation for the State of Louisiana.

Contamination Cthe introduction of substances or contaminants into a groundwater aquifer, a USDW or soil in such quantities as to render them unusable of their intended purposes.

Discharge Cthe placing, releasing, spilling, percolating, draining, pumping, leaking, mixing, migrating, seeping, emitting, disposing, by-passing, or other escaping of pollutants on or into the air, ground, or waters of the state. A discharge shall not include that which is allowed through a federal or state permit.

E&P Waste Cexploration and production waste

Effective Date Cthe date of final promulgation of these rules and regulations.

Emergency Shutdown Valve Ca valve that automatically closes to isolate a salt cavern well from surface piping in the event of a specified condition that, if uncontrolled, may cause an emergency.

Exempted Aquifer Can aquifer or its portion that meets the criteria of the definition of underground source of drinking water but which has been exempted according to the procedures set forth in §3103.E.2.

Existing Salt Cavern Ca salt cavern originally permitted by the Office of Conservation for use other than E&P waste disposal.

Existing Well Ca wellbore originally permitted by the Office of Conservation for use other than to facilitate E&P waste disposal into a salt cavern.

Exploration and Production Waste (E&P Waste) Cdrilling wastes, salt water, and other wastes associated with the exploration, development, or production of crude oil or natural gas wells and which is not regulated by the provisions of, and, therefore, exempt from the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act, as amended. E&P Wastes include, but are not limited to, those wastes listed in the definition for E&P Waste located in LAC 43:XIX.501 (Definitions).

Fluid Cany material or substance which flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

Generator Ca person or corporate entity who creates or causes to be created any E&P waste.

Ground Subsidence Cthe downward settling of the Earth's surface with little or no horizontal motion in response to natural or manmade subsurface actions.

Groundwater Aquifer Cwater in the saturated zone beneath the land surface that contains less than 10,000 mg/l total dissolved solids.

Groundwater Contamination Cthe degradation of naturally occurring groundwater quality either directly or indirectly as a result of human activities.

Hanging String Ccasing whose weight is supported at the wellhead and hangs vertically in a larger cemented casing or another larger hanging string.

Injection and Mining Division Cthe Injection and Mining Division of the Louisiana Office of Conservation within the Department of Natural Resources.

Leaching Cthe process whereby an undersaturated fluid is introduced into a salt cavern thereby dissolving additional salt and increasing the volume of the salt cavern.

Migrating Cavity movement by leaching, spilling, discharging, or any other uncontained or uncontrolled manner, except as allowed by law, regulation, or permit.

New Well Cavity wellbore permitted by the Office of Conservation after the effective date of these rules and regulations to be completed into an existing salt cavern to facilitate E&P waste disposal.

Non-Commercial Salt Cavern Facility Cavity a legally permitted salt cavern waste disposal facility that disposes of only E&P waste generated by the owner of the facility during oil and gas exploration and production activities.

Office of Conservation Cavity the Louisiana Office of Conservation within the Department of Natural Resources.

Oil-Based Drilling Mud Cavity any oil-based drilling fluid composed of a water in oil emulsion, organophilic clays, drilled solids and additives for down-hole rheology and stability such as fluid loss control materials, thinners, weighting agents, etc.

Operator Cavity the person recognized by the Office of Conservation as being responsible for the physical operation of the facility or activity subject to regulatory authority under these rules and regulations.

Owner Cavity the person recognized by the Office of Conservation as owning the facility or activity subject to regulatory authority under these rules and regulations.

Person Cavity an individual, association, partnership, public or private corporation, firm, municipality, state or federal agency and any agent or employee thereof, or any other juridical person.

Produced Water Cavity liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of from underground geologic formations, with underground storage of hydrocarbons, or with solution mining for brine.

Public Water System Cavity means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. Such term includes:

1. any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and
2. any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

Release Cavity the accidental or intentional spilling, pumping, leaking, pouring, emitting, leaching, escaping, or dumping of pollutants into or on any air, land, groundwater, or waters of the state. A release shall not include that which is allowed through a federal or state permit.

Salt Cavern Cavity see Solution-Mined Salt Cavern

Salt Cavern Roof Cavity the uppermost part of a salt cavern being just below the neck of the wellbore. The shape of the salt cavern roof may be flat or domed.

Salt Cavern Waste Disposal Facility Cavity any public, private, or commercial property, including surface and subsurface lands and appurtenances thereto, used for receiving, storing, and/or processing E&P waste for disposal into a solution-mined salt cavern.

Salt Cavern Well Cavity a well extending into the salt stock to facilitate the disposal of waste or other fluids into a salt cavern.

Salt Dome Cavity a diapiric, typically circular structure that penetrates, uplifts, and deforms overlying sediments as a result of the upward movement of a salt stock in the subsurface. Collectively, the salt dome includes the salt stock and any overlying uplifted sediments.

Salt Stock Cavity typically cylindrical formation composed chiefly of an evaporite mineral that forms the core of a salt dome. The most common form of the evaporite mineral is halite known chemically as sodium chloride (NaCl). Cap rock shall not be considered a part of the salt stock.

Solution-Mined Salt Cavern Cavity a cavity created within the salt stock by dissolution with water.

State Cavity the State of Louisiana.

Subsidence Cavity See Ground Subsidence.

Surface Casing Cavity the first string of casing installed in a well, excluding conductor casing.

Transport Vehicle Cavity a motor vehicle, rail freight car, freight container, cargo tank, portable tank, or vessel used for the transportation of E&P wastes or other materials for use or disposal at a salt cavern waste disposal facility.

Transportation Cavity the movement of wastes or other materials from the point of generation or storage to the salt cavern waste disposal facility by means of commercial or private transport vehicle.

Unauthorized Discharge Cavity a continuous, intermittent, or one-time discharge, whether intentional or unintentional, anticipated or unanticipated, from any permitted or unpermitted source which is in contravention of any provision of the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exception of the commissioner of Conservation.

Underground Source of Drinking Water Cavity an aquifer or its portion:

1. which supplies any public water system; or
2. which contains a sufficient quantity of groundwater to supply a public water system; and
 - a. currently supplies drinking water for human consumption; or
 - b. contains fewer than 10,000 mg/1 total dissolved solids; and which is not an exempted aquifer.

Waters of the State Cavity both surface and underground waters within the State of Louisiana including all rivers, streams, lakes, groundwaters, and all other water courses and waters within the confines of the state, and all bordering waters, and the Gulf of Mexico.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3103. General Provisions

A. Applicability

1. These rules and regulations shall apply to all applicants, owners and/or operators of non-commercial salt cavern waste disposal facilities for disposal or proposed for disposal of E&P waste. However, where indicated, certain criteria found herein will also apply to commercial facility operators, in addition to the requirements of LAC 43:XIX.501 et seq.

2. These rules and regulations do not address creation of a salt cavern, rather, only the disposal of E&P waste into a salt cavern. Rules governing the permitting, drilling, constructing, operating, and maintaining of a Class III brine solution mining well and cavern are codified in applicable sections of Statewide Order No. 29-N-1 (LAC 43:XVII, Subpart 1) or successor documents.

3. An applicant, owner and/or operator of a salt cavern being solution-mined for conversion to E&P waste disposal should become familiar with these rules and regulations to assure that the well and salt cavern shall comply with these rules and regulations.

B. Prohibition of Unauthorized Disposal of Exploration and Production Waste

1. Construction, conversion and/or operation of a salt cavern for disposal of E&P waste without obtaining a permit from the Office of Conservation is a violation of these rules and regulations and applicable laws of the State of Louisiana.

2. Any salt cavern well or salt cavern existing before the effective date of these rules must comply with the requirements of these rules and regulations before converting the existing well and salt cavern to E&P waste disposal.

C. Prohibition on Movement of Fluids into Underground Sources of Drinking Water

1. No authorization by permit shall allow the movement of injected or disposed fluids into underground sources of drinking water or outside the salt stock. The owner or operator of the salt cavern waste disposal facility shall have the burden of showing that this requirement is met.

2. The Office of Conservation may take emergency action upon receiving information that injected or disposed fluid is present in or likely to enter an underground source of drinking water or may present an imminent and substantial endangerment to the environment, or the health, safety and welfare of the public.

D. Prohibition of Surface Discharges. The intentional, accidental, or otherwise unauthorized discharge of fluids, wastes, or process materials into manmade or natural drainage systems or directly into waters of the State is strictly prohibited.

E. Identification of Underground Sources of Drinking Water and Exempted Aquifers

1. The Office of Conservation may identify (by narrative description, illustrations, maps, or other means) and shall protect as an underground source of drinking water, except where exempted under §3103.E.2 all aquifers or parts of aquifers that meet the definition of an underground source of drinking water. Even if an aquifer has not been specifically identified by the Office of Conservation, it is an underground source of drinking water if it meets the definition.

2. After notice and opportunity for a public hearing, the Office of Conservation may identify (by narrative description, illustrations, maps, or other means) and describe in geographic and/or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, all aquifers or parts thereof that the Office of Conservation proposes to denote as exempted aquifers if they meet the following criteria:

a. the aquifer does not currently serve as a source of drinking water; and

b. the aquifer cannot now and shall not in the future serve as a source of drinking water because:

i. it is mineral, hydrocarbon, or geothermal energy producing or can be demonstrated to contain minerals or hydrocarbons that when considering their quantity and location are expected to be commercially producible;

ii. it is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical;

iii. it is so contaminated that it would be economically or technologically impractical to render said water fit for human consumption; or

iv. it is located in an area subject to severe subsidence or catastrophic collapse; or

c. the total dissolved solids content of the groundwater is more than 3,000 mg/l and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.

F. Exceptions/Variations

1. Except where noted in specific provisions of these rules and regulations, the Office of Conservation may allow, on a case-by-case basis, exceptions or variations to these rules and regulations. It shall be the obligation of the applicant, owner, or operator to show that the requested exception or variance shall not create an increased endangerment to the environment, or the health, safety and welfare of the public. The applicant, owner, or operator shall submit a written request to the Office of Conservation detailing the reason for the requested exception or variance. No deviation from the requirements of these rules or regulations shall be undertaken by the applicant, owner, or operator without prior written authorization from the Office of Conservation.

2. Granting of exceptions or variations to these rules and regulations shall only be considered upon proper showing by the applicant, owner, or operator at a public hearing that such exception or variance is reasonable, justified by the particular circumstances, and consistent with the intent of these rules and regulations regarding physical and environmental safety and the prevention of waste. The requester of the exception or variance shall be responsible for all costs associated with a public hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3105. Permit Requirements

A. Applicability. No person shall convert or operate a non-commercial salt cavern waste disposal facility without first obtaining written authorization (permit) from the Office of Conservation.

B. Application Required. Applicants for a non-commercial salt cavern waste disposal facility, permittees with expiring permits, or any person required to have a permit shall complete, sign, and submit one original application form with required attachments and documentation and two copies of the same to the Office of Conservation. The complete application shall contain all information necessary to show compliance with applicable State laws and these regulations.

C. Who Applies. It is the duty of the owner or proposed owner of a facility or activity to submit a permit application and obtain a permit. When a facility or activity is owned by one person and operated by another, it is the duty of the operator to file and obtain a permit.

D. Signature Requirements. All permit applications shall be signed as follows.

1. Corporations. By a principle executive officer of at least the level of vice-president, or duly authorized representative of that person if the representative performs similar policy making functions for the corporation. A person is a duly authorized representative only if:

a. the authorization is made in writing by a principle executive officer of at least the level of vice-president;

b. the authorization specifies either an individual or position having responsibility for the overall operation of the salt cavern waste disposal facility, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. the written authorization is submitted to the Office of Conservation.

2. Partnership or Sole Proprietorship. By a general partner or proprietor, respectively; or

3. Public Agency. By either a principle executive officer or a ranking elected official of a municipality, state, federal, or other public agency.

E. Signature Reauthorization. If an authorization under §3105.D is no longer accurate because a different individual or position has responsibility for the overall operation of the salt cavern waste disposal facility, a new authorization satisfying the signature requirements must be submitted to the Office of Conservation before or concurrent with any reports, information, or applications required to be signed by an authorized representative.

F. Certification. Any person signing a document under §3105.D shall make the following certification on the application:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and/or imprisonment."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3107. Application Content

A. The following minimum information required in §3107 shall be submitted in a permit application for a non-commercial salt cavern E&P waste disposal facility. The applicant shall also refer to the appropriate application form for any additional information that may be required.

B. Administrative Information:

1. all required state application form(s);
2. the nonrefundable application fee(s) and public hearing fee;

3. the name, mailing address, and physical address of the salt cavern waste disposal facility;

4. the operator's name, address and telephone number;

5. ownership status as federal, state, private, public, or other entity;

6. a brief description of the nature of the business associated with the activity;

7. list of all permits or construction approvals that the applicant has received or applied for and which specifically affect the legal or technical ability of the applicant to undertake the activity or activities to be conducted by the applicant under the permit being sought;

8. a copy of the title to the property for the salt cavern waste disposal facility. If a lease, option to lease, or other agreement is in effect on the property, a copy of this instrument shall be included with the application;

9. acknowledgment as to whether the facility is located on Indian lands or other lands under the jurisdiction or protection of the federal government, or whether the facility is located on state water bottoms or other lands owned by or under the jurisdiction or protection of the State of Louisiana;

10. documentation of financial responsibility and insurance or documentation of the method by which proof of financial responsibility and insurance will be provided as required in §3109.B. Where applicable, include copies of a draft letter of credit, bond, or any other evidence of financial responsibility acceptable to the Office of Conservation. Before making a final permit decision, final (official) documentation of financial responsibility and insurance must be submitted to and approved by the Office of Conservation;

11. names and addresses of all property owners within a one-half mile radius of the property boundary of the salt cavern waste disposal facility.

C. Maps and Related Information

1. a location plat of the salt cavern well prepared and certified by a registered civil engineer or registered land surveyor. The location plat shall be prepared according to standards of the Office of Conservation.

2. a topographic or other map extending at least one mile beyond the property boundaries of the salt cavern waste disposal facility depicting the facility and each well where fluids are injected underground; and those wells, springs, or surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area;

3. the section, township and range of the area in which the salt cavern waste disposal facility is located and any parish, city or municipality boundary lines within one mile of the facility location;

4. a map showing the salt cavern well for which the permit is sought, the property boundaries of the salt cavern waste disposal facility, and the area of review. Within the area of review, the map shall show the number, name, and location of all existing producing wells, injection wells, abandoned wells and dry holes, public water systems and water wells. The map shall also show surface bodies of water, mines (surface and subsurface), quarries, and other pertinent surface features including residences and roads, and faults if known or projected.

5. maps and cross sections indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the disposal formation, and the direction of water movement, where known, in every underground source of drinking water which may be affected by the proposed project;

6. generalized maps and cross sections illustrating the regional geologic setting;

7. structure contour mapping of the top-of-salt on a scale no smaller than one inch to five hundred feet;

8. vertical cross sections detailing the geologic structure of the local area. The cross sections shall be structural (as opposed to stratigraphic cross sections), be referenced to sea level, show the salt cavern well and the salt cavern being permitted, all surrounding salt caverns regardless of use and current status, conventional (room and pillar) mines, and all other bore holes and wells that penetrate the salt stock. Cross sections should be oriented to indicate the closest approach to surrounding salt caverns, bore holes, wells, etc., and shall extend at least one-mile beyond the edge of the salt stock. Any faulting in the area shall be illustrated on the cross sections such that the displacement of subsurface formations is accurately depicted; and

9. any other information required by the Office of Conservation to evaluate the salt cavern well, salt cavern, and related surface facility.

D. Area of Review Information. Refer to §3115.E for area of review boundaries and exceptions. Only information of public record need be researched or submitted with the application, however, a diligent effort must be made to identify all wells and other manmade structures in response to the area of review requirements. The applicant shall provide the following information on all wells or structures within the defined area of review.

1. A discussion of the protocol used by the applicant to identify wells and manmade structures in the defined area of review.

2. A tabular listing of all known water wells in the area of review to include the name of the operator, well location, well depth, well use (domestic, irrigation, public, etc), and current well status (active, abandoned, etc.).

3. A tabular listing of all known wells (excluding water wells) in the area of review with penetrations into the cap rock or salt stock to include at a minimum:

a. operator name, well name and number, state serial number (if assigned), and well location;

b. well type and current well status (producing, disposal, storage, solution mining, shut-in, plugged and abandoned), date the well was drilled, and the date the current well status was assigned;

c. well depth, construction, completion (including completion depths), plug and abandonment data.

4. The following information shall be provided on manmade structures within the salt stock regardless of use, depth of penetration, or distance to the salt cavern well or salt cavern being the subject of the application:

a. a tabular listing of all salt caverns to include:

i. operator name, well name and number, state serial number, and well location;

ii. current or previous use of the salt cavern (waste disposal, hydrocarbon storage, solution mining),

current status of the salt cavern (active, shut-in, plugged and abandoned), date the salt cavern well was drilled, and the date the current salt cavern status was assigned;

iii. salt cavern depth, construction, completion (including completion depths), plug and abandonment data.

b. a tabular listing of all conventional (dry or room and pillar) mining activities, whether active or abandoned. The listing shall include the following minimum items:

i. owner or operator name and address;

ii. current mine status (active, abandoned);

iii. depth and boundaries of mined levels;

iv. the closest distance of the mine in any direction to the salt cavern well and salt cavern.

E. Technical Information. The applicant shall submit, as an attachment to the application form, the following minimum information in technical report format:

1. results of a current salt cavern sonar survey and mechanical integrity pressure and leak tests;

2. corrective action plan required by §3115.F for wells or other manmade structures within the area of review that penetrate the salt stock but are not properly constructed, completed or plugged and abandoned;

3. plans for performing the geological and hydrogeological studies of §3115.B, C, and D. If such studies have already been done, submit the results obtained along with an interpretation of the results;

4. properly labeled schematic of the surface construction details of the salt cavern well to include the wellhead, gauges, flowlines, and any other pertinent details;

5. properly labeled schematic of the subsurface construction and completion details of the salt cavern well and salt cavern to include borehole diameters (bit size or calipered); all cemented casings with cement specifications, casing specifications (size, depths, etc.); all hanging strings showing sizes and depths set; total depth of well; top, bottom, and diameter of cavern; and any other pertinent details;

6. surface site diagram(s) drawn to scale to include details and locations of the entire salt cavern waste disposal facility layout (surface pumps, piping and instrumentation, controlled access roads, fenced boundaries, waste offloading, storage, treatment and processing areas, field office, monitoring and safety equipment and location of such equipment, required curbed or other retaining wall heights, etc.);

7. detailed plans and procedures to operate the salt cavern well, salt cavern, and related surface facilities in accordance with the following requirements:

a. the cavern and surface facility design requirements of §3117, including, but not limited to cavern spacing requirements and cavern coalescence;

b. the well construction and completion requirements of §3119, including, but not limited to open borehole surveys, casing and cementing, casing and casing seat tests, cased borehole surveys, hanging strings, and wellhead components and related connections;

c. the operating requirements of §3121, including, but not limited to cavern roof restrictions, blanket material, remedial work, well recompletion, multiple well caverns, cavern allowable operating pressure and rates, cavern displacement fluid management, and E&P waste storage;

d. the safety requirements of §3123, including, but not limited to an emergency action plan, controlled site access, facility identification, personnel, wellhead protection and identification, valves and flowlines, alarm systems, emergency shutdown valves, vapor monitoring and leak detection, gaseous vapor control, fire detection and suppression, systems test and inspections, and surface facility retaining walls and spill containment, as well as contingency plans to cope with all shut-ins or well failures to prevent the migration of contaminating fluids into underground sources of drinking water;

e. the monitoring requirements of §3125, including, but not limited to equipment requirements such as pressure gauges, pressure sensors and flow sensors, continuous recording instruments, vapor monitoring and leak detection, subsidence monitoring, and weather conditions (wind sock), as well as a description of methods that will be undertaken to monitor salt cavern growth due to undersaturated fluid injection. The plan shall incorporate method(s) for monitoring the salinity of all wastes disposed and the carrier fluid used in aiding the disposal of wastes;

f. the pre-operating requirements of §3127, specifically the submission of a completion report, and the information required therein, prior to accepting, storing, treating, processing or otherwise initiating waste disposal activities;

g. the mechanical integrity pressure and leak test requirements of §3129, including, but not limited to frequency of tests, test methods, submission of pressure and leak test results, notification of test failures and prohibition of waste acceptance during mechanical integrity failure;

h. the cavern configuration and capacity measurement procedures of §3131, including, but not limited to sonar caliper surveys, frequency of surveys, and submission of survey results;

i. the cavern waste disposal capacity exceedance requirements of §3133;

j. the requirements for inactive caverns in §3135;

k. the reporting requirements of §3137, including, but not limited to the information required in monthly waste receipts and operation reports;

l. the record retention requirements of §3139;

m. the closure and post-closure requirements of §3141, including, but not limited to closure plan requirements, notice of intent to close, standards for closure, and post-closure requirements; and

n. any other information pertinent to operation of the salt cavern E&P waste disposal facility, including, but not limited to procedures for waste characterization and testing, waste acceptance, waste storage, waste processing, waste disposal, any waiver for surface siting, monitoring equipment and safety procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3109. Legal Permit Conditions

A. Signatories. All reports required by permit or regulation and other information requested by the Office of Conservation shall be signed as in applications by a person described in §3105.D or §3105.E.

B. Financial Responsibility

1. Closure and Post-Closure. The owner or operator of a non-commercial salt cavern E&P waste disposal facility shall maintain financial responsibility and the resources to close, plug and abandon and, where necessary, for post-closure care of the salt cavern well, salt cavern, and related facility as prescribed by the Office of Conservation. Evidence of financial responsibility shall be by submission of a surety bond, a letter of credit, certificate of deposit, or other instruments acceptable to the Office of Conservation. The amount of funds available shall be no less than the amount identified in the cost estimate of the closure plan of §3141.A and, if required, post-closure plan of §3141.B. Any financial instrument filed in satisfaction of these financial responsibility requirements shall be issued by and drawn on a bank or other financial institution authorized under state or federal law to operate in the State of Louisiana.

2. Insurance. All owners or operators of a salt cavern waste disposal facility shall provide evidence of sudden and accidental pollution liability insurance coverage for damages that may be caused to any property and party by the escape or discharge of any material or waste from the facility. Such evidence shall be provided to the Office of Conservation before the issuance of a permit for a salt cavern waste disposal facility.

a. Insurance responsibility may be evidenced by filing a certificate of sudden and accidental pollution liability insurance (indicating the required coverage is in effect and all deductible amounts applicable to the coverage), a letter of credit, bond, certificate of deposits issued by and drawn on Louisiana banks, or any other evidence of equivalent financial responsibility acceptable to the Office of Conservation.

b. The amount and extent of such sudden and accidental pollution liability insurance responsibility shall not be less than the face amounts per occurrence and/or aggregate occurrences as set by the Office of Conservation. The minimum coverage for sudden and accidental pollution liability insurance shall be \$5,000,000. The Office of Conservation retains the right to increase the minimum amount of insurance coverage as needed to prevent waste and to protect the environment, or the health, safety and welfare of the public.

c. Insurance coverage shall be issued by a company licensed to operate in the State of Louisiana. A copy of the insurance policy subsequently issued with any certificate of insurance is to be immediately filed with the Office of Conservation upon receipt by the operator.

3. Renewal of Financial Responsibility and Insurance. Any approved instrument of financial responsibility and insurance coverage shall be renewable yearly. Documentation of renewals shall be submitted to the Office of Conservation.

C. Duty to Comply. The operator must comply with all conditions of a permit. Any permit noncompliance is a violation of the permit and these rules and regulations and is grounds for enforcement action, permit termination, revocation and possible reissuance, modification, or denial of any future permit renewal applications. It shall be the duty of the operator to prove that continued operation of the salt

cavern waste disposal facility shall not endanger the environment, or the health, safety and welfare of the public.

D. Duty to Halt or Reduce Activity. It shall not be a defense for an owner or operator in an enforcement action to claim it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of the permit.

E. Duty to Mitigate. The owner or operator shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from a noncompliance with the permit or these rules and regulations.

F. Proper Operation and Maintenance

1. The operator shall always properly operate and maintain all facilities and systems of storage, treatment, disposal, injection, withdrawal, and control (and related appurtenances) installed or used to achieve compliance with the permit or these rules and regulations. Proper operation and maintenance include effective performance (including well/cavern mechanical integrity), adequate funding, adequate operation, staffing and training, and adequate controls. This provision requires the operation of back-up, auxiliary facilities, or similar systems when necessary to achieve compliance with the conditions of the permit or these rules and regulations.

2. The operator shall address any unauthorized escape, discharge, or release of any material or waste from the salt cavern waste disposal facility, or part thereof, with a corrective action plan. The plan shall address the cause, delineate the extent, and determine the overall effects on the environment resulting from the escape, discharge, or release. The Office of Conservation shall require the operator to formulate a plan to remediate the escaped, discharged, or released material or waste if the material or waste is thought to have entered or has the possibility of entering an underground source of drinking water.

3. The Office of Conservation may immediately prohibit further operations if it determines that continued operations at a salt cavern waste disposal facility, or part thereof, may cause unsafe operating conditions, or endanger the environment, or the health, safety and welfare of the public. The prohibition shall remain in effect until it is determined that continued operations can and shall be conducted safely. It shall be the duty of the operator to prove that continued operation of the salt cavern waste disposal facility, or part thereof, shall not endanger the environment, or the health, safety and welfare of the public.

G. Inspection and Entry. Inspection and entry at a salt cavern waste disposal facility by Office of Conservation personnel shall be allowed as prescribed in Louisiana R.S. of 1950, Title 30, Section 4.

H. Notification Requirements. The operator shall give written, and where required, verbal notice to the Office of Conservation concerning activities indicated in this subsection.

1. Any change in the principal officers, management, owner or operator of the salt cavern waste disposal facility shall be reported to the Office of Conservation in writing within 10 days of the change.

2. Planned physical alterations or additions to the salt cavern well, salt cavern, surface facility or parts thereof that may constitute a modification or amendment of the permit.

3. Whenever there has been no disposal of waste into a salt cavern for 30 consecutive days or more, the operator shall notify the Office of Conservation in writing within seven days following the thirtieth day of the salt cavern becoming inactive (out of service). The notification shall include the date on which the salt cavern was removed from service, the reason for taking the salt cavern out of service, and the expected date that the salt cavern shall be returned to waste disposal service. See §3135 for additional requirements for inactive caverns.

4. The operator of a new or converted salt cavern well or salt cavern shall not begin waste disposal operations until the Office of Conservation has been notified of the following:

a. well construction or conversion is complete, including submission of the completion report and all supporting information (e.g., as-built diagrams, records, sampling and testing results, well and cavern tests, logs, etc.) required in §3127;

b. a representative of the Commissioner has inspected the well and/or facility; and

c. the operator has received written approval from the Office of Conservation clearly stating salt cavern waste disposal operations may begin.

5. Noncompliance or anticipated noncompliance with the permit or applicable regulations including a failed mechanical integrity pressure and leak test of §3129.

6. Permit Transfer. A permit is not transferable to any person except after giving written notice to and receiving written approval from the Office of Conservation clearly stating that the permit has been transferred. This action may require modification or revocation and re-issuance of the permit to change the name of the operator and incorporate other requirements as may be necessary, including but not limited to financial responsibility.

7. Twenty-Four Hour Reporting

a. The operator shall report any noncompliance that may endanger the environment, or the health, safety and welfare of the public. Any information pertinent to the noncompliance shall be reported to the Office of Conservation by telephone within 24 hours from when the operator becomes aware of the circumstances. A written submission shall also be provided within five days from when the operator becomes aware of the circumstances. The written notification shall contain a description of the noncompliance and its cause, the periods of noncompliance including exact times and dates, and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.

b. The following additional information must also be reported within the 24-hour period:

i. monitoring or other information (including a failed mechanical integrity test of §3129) that suggests the waste disposal operation or disposed waste may cause an endangerment to underground sources of drinking waters, oil, gas, other commercial mineral deposits (excluding the salt), neighboring salt operations of any kind, or movement outside the salt stock or salt cavern;

ii. any noncompliance with a regulatory or permit condition or malfunction of the waste injection/withdrawal system (including a failed mechanical integrity test of

§3129) that may cause fluid migration into or between underground sources of drinking waters or outside the salt stock or salt cavern.

8. The operator shall give written notification to the Office of Conservation upon permanent conclusion of waste disposal operations into a salt cavern. Notification shall be given within seven days after concluding disposal operations.

9. The operator shall give written notification before abandonment (closure) of the salt cavern, salt cavern well, or related surface facility. Abandonment (closure) shall not begin before receiving written authorization from the Office of Conservation.

10. When the operator becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Office of Conservation, the operator shall promptly submit such facts and information.

I. Duration of Permits

1. Authorization to Operate. Authorization by permit to operate a salt cavern waste disposal facility shall be valid for the life of the facility, unless suspended, modified, revoked and reissued, or terminated for cause as described in §3111.K.

2. Authorization to Drill and Complete. Authorization by permit to drill and complete a new salt cavern well into an existing salt cavern shall be valid for one year from the effective date of the permit. If drilling and well completion is not completed in that time, the permit shall be null and void and the operator must obtain a new permit.

3. Authorization to Convert. Authorization by permit to convert an existing salt cavern well or salt cavern to waste disposal shall remain in effect for six months from the effective date of the conversion permit. If conversion has not begun within that time, the permit shall be null and void and the operator must obtain a new permit.

4. Extensions. The operator shall submit to the Office of Conservation a written request for an extension of the times of §3109.I.2 and §3109.I.3; however, the Office of Conservation shall approve the request only for extenuating circumstances. The operator shall have the burden of proving claims of extenuating circumstances.

J. Compliance Review. Cavern disposal facility permits shall be reviewed at least once every five years to determine compliance with applicable permit requirements and conditions. Commencement of the permit review process for each facility shall proceed as authorized by the Commissioner of Conservation.

K. Additional Conditions. The Office of Conservation may, on a case-by-case basis, impose any additional conditions or requirements as are necessary to protect the environment, the health, safety and welfare of the public, underground sources of drinking waters, oil, gas, or other mineral deposits (excluding the salt), and preserve the integrity of the salt dome.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3111. Permitting Process

A. Applicability. This Section contains procedures for issuing and transferring permits to operate a non-commercial

salt cavern waste disposal facility. Any person required to have a permit shall apply to the Office of Conservation as stipulated in §3105. The Office of Conservation shall not issue a permit before receiving an application form and any required supplemental information showing compliance with these rules and regulations and that is administratively and technically completed to the satisfaction of the Office of Conservation.

B. Notice of Intent to File Application

1. The applicant shall make public notice that a permit application is to be filed with the Office of Conservation. A notice of intent shall be published at least 30 days but not more than 120 days before filing the permit application with the Office of Conservation. The applicant shall publish a new notice of intent if the application is not received by the Office of Conservation within the filing period.

2. The notice shall be published once in the official state journal, the official journal of the parish of the proposed project location, and, if different from the official parish journal, in a journal of general circulation in the area of the proposed project location. The cost for publishing the notice of intent shall be the responsibility of the applicant. The notice shall be published in bold-faced type, be not less than one-fourth page in size, and shall contain the following minimum information:

a. name and address of the permit applicant and, if different, the facility to be regulated by the permit;

b. the geographic location of the proposed project;

c. name and address of the regulatory agency to process the permit action where interested persons may obtain information concerning the application or permit action;

d. a brief description of the business conducted at the facility or activity described in the permit application including the method of storage, treatment, and/or disposal; and

e. the nature and content of the proposed waste stream(s).

C. Application Submission and Review

1. The applicant shall complete, sign, and submit one original application form, with required attachments and documentation, and two copies of the same to the Office of Conservation. The complete application shall contain all information to show compliance with applicable state laws and these rules and regulations.

2. The applicant shall be notified if a representative of the Office of Conservation decides that a site visit is necessary for any reason in conjunction with the processing of the application. Notification may be either oral or written and shall state the reason for the visit.

3. If the Office of Conservation deems an application to be incomplete, deficient of information, or requires additional data, a notice of application deficiency indicating the information necessary to make the application complete shall be transmitted to the applicant.

4. The Office of Conservation shall deny an application if an applicant fails, refuses, is unable to respond adequately to the notice of application deficiency, or if the Office of Conservation determines that the proposed activity cannot be conducted safely. The Office of Conservation shall notify the applicant by certified mail of the decision denying the application.

D. Public Hearing Requirements. A public hearing is required for new applications and shall not be scheduled until administrative and technical review of an application has been completed to the satisfaction of the Office of Conservation.

1. Notice by Office of Conservation

a. Upon acceptance of a permit application as complete and meeting the administrative and technical requirements of these rules and regulations, the Office of Conservation shall fix a time, date, and location for a public hearing. The public hearing shall be held in the parish of the proposed project location. The cost of the public hearing shall be set by LAC 43:XIX.Chapter 7 (Fees, as amended) and is the responsibility of the applicant.

c. The Office of Conservation shall provide notice of a scheduled hearing by mailing a copy of the notice to the applicant, property owners immediately adjacent to the proposed project, operators of existing projects located on or within the salt stock of the proposed project; United States Environmental Protection Agency; Louisiana Department of Wildlife and Fisheries; Louisiana Department of Environmental Quality; Louisiana Office of Coastal Management; Louisiana Office of Conservation, Pipeline Division, Louisiana Department of Culture, Recreation and Tourism, Division of Archaeology; the governing authority for the parish of the proposed project; and any other interested parties.

2. Notice by Applicant

a. Public notice of a hearing shall be published by the applicant in the legal ad section of the official state journal, the official journal of the parish of the proposed project location, and, if different from the official parish journal, in a journal of general circulation in the area of the proposed project location, not less than 30 days before the scheduled hearing.

b. The applicant shall file at least one copy of the complete permit application with the local governing authority of the parish of the proposed project location at least 30 days before the scheduled public hearing to be available for public review.

c. One additional copy of the complete permit application shall be filed by the applicant in a public library in the parish and in close proximity to the proposed project location.

3. Contents. Public notices shall contain the following minimum information:

a. name and address of the permit applicant and, if different, the facility or activity regulated by the permit;

b. name and address of the regulatory agency processing the permit action;

c. name, address, and phone number of a person within the regulatory agency where interested persons may obtain information concerning the application or permit action;

d. a brief description of the business conducted at the facility or activity described in the permit application;

e. a brief description of the public comment procedures and the time and place of the public hearing;

f. a brief description of the nature and purpose of the public hearing.

E. Draft Permit. The Office of Conservation shall prepare a draft permit (Order) after accepting a permit

application as meeting the administrative and technical requirements of these rules and regulations. Draft permits shall be accompanied by a fact sheet, be publicly noticed, and made available for public comment.

F. Fact Sheet. The Office of Conservation shall prepare a fact sheet for every draft permit. It shall briefly set forth principal facts and significant factual, legal, and policy questions considered in preparing the draft permit.

1. The fact sheet may include:

a. a brief description of the type of facility or activity that is the subject of the draft permit or application;

b. the type and proposed quantity of material to be injected;

c. a brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provision;

d. a description of the procedures for reaching a final decision on the draft permit or application including the ending date of the public comment period of §3111.H, the address where comments shall be received, and any other procedures whereby the public may participate in the final decision;

e. the name and telephone number of a person within the permitting agency to contact for additional information.

2. The fact sheet shall be distributed to the permit applicant and, on request, to any interested person.

G. Public Hearing. Public hearings for permitting activities shall be held in the parish of the proposed project location. The cost of the public hearing shall be the responsibility of the applicant.

1. The public hearing shall be fact finding in nature and not subject to the procedural requirements of the Louisiana Administrative Procedure Act. All public hearings shall be publicly noticed as required by these rules and regulations.

2. At the hearing, any person may make oral statements or submit written statements and data concerning the application or permit action being the basis of the hearing. Reasonable limits may be set upon the time allowed for oral statements; therefore, submission of written statements may be required. The hearing officer may extend the comment period by so stating before the close of the hearing.

3. A transcript shall be made of the hearing and such transcript shall be available for public review.

H. Public Comments, Response to Comments, and Permit Issuance

1. Any interested person may submit written comments concerning the permitting activity during the public comment period. All comments pertinent and significant to the permitting activity shall be considered in making the final permit decision.

2. The Office of Conservation shall issue a response to all pertinent and significant comments as an attachment to and at the time of final permit decision. The final permit with response to comments shall be made available to the public.

3. The Office of Conservation shall issue a final permit decision within 90 days following the close of the public comment period; however, this time may be extended

due to the nature, complexity, and volume of public comments received.

4. A final permit decision shall be effective on the date of issuance.

5. Approval or the granting of a permit to construct a salt cavern waste disposal facility or salt cavern well shall not become final until a certified copy of a lease or proof of ownership of the property of the proposed project location is submitted to the Office of Conservation.

I. Permit Application Denial

1. The Office of Conservation may refuse to issue, reissue, or reinstate a permit or authorization if an applicant or operator has delinquent, finally determined violations of the Office of Conservation or unpaid penalties or fees, or if a history of past violations demonstrates the applicant's or operator's unwillingness to comply with permit or regulatory requirements.

2. If a permit application is denied, the applicant may request a review of the Office of Conservation's decision to deny the permit application. Such request shall be made in writing and shall contain facts or reasons supporting the request for review.

3. Grounds for permit application denial review shall be limited to the following reasons.

a. The decision is contrary to the laws of the State, applicable regulations, or evidence presented in or as a supplement to the permit application;

b. The applicant has discovered since the permit application public hearing or permit denial, evidence important to the issues that the applicant could not with due diligence have obtained before or during the initial permit application review;

c. There is a showing that issues not previously considered should be examined so as to dispose of the matter; or

d. there is other good ground for further consideration of the issues and evidence in the public interest.

J. Permit Transfer

1. Applicability. A permit may be transferred to a new owner or operator only upon written approval from the Office of Conservation. Written approval must clearly read that the permit has been transferred. It is a violation of these rules and regulations to operate a salt cavern waste disposal facility without a permit or other authorization if a person attempting to acquire a permit transfer allows operation of the salt cavern waste disposal facility before receiving written approval from the Office of Conservation.

2. Procedures

a. The proposed new owner or operator must apply for and receive an operator code by submitting a completed Organization Report (Form OR-1), or subsequent form, to the Office of Conservation.

b. The current operator shall submit an application for permit transfer at least 30 days before the proposed permit transfer date. The application shall contain the following:

i. name and address of the proposed new owner or operator;

ii. date of proposed permit transfer; and

iii. a written agreement between the existing and new owner or operator containing a specific date for transfer

of permit responsibility, insurance coverage, financial responsibility, and liability between them.

c. If no agreement described in §3011.J.2.b.iii above is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the existing operator to the new operator on the date the transfer is approved.

d. The new operator shall submit an application for a change of operator using Form MD-10-R-A, or subsequent form, to the Office of Conservation containing the signatories of §3105.D and E along with the appropriate filing fee.

e. The new operator shall submit evidence of financial responsibility under §3109.B.

f. Any additional information as may be required to be submitted by these regulations or the Office of Conservation.

K. Permit Suspension, Modification, Revocation and Reissuance, Termination. This subsection sets forth the standards and requirements for applications and actions concerning suspension, modification, revocation and reissuance, termination, and renewal of permits. A draft permit must be prepared and other applicable procedures must be followed if a permit modification satisfies the criteria of this subsection. A draft permit, public notification, or public participation is not required for minor permit modifications of §3111.K.5.

1. Permit Actions

a. The permit may be suspended, modified, revoked and reissued, or terminated for cause.

b. The operator shall furnish the Office of Conservation within a predetermined time any information that the Office of Conservation may request to determine whether cause exists for suspending, modifying, revoking and reissuing, or terminating a permit, or to determine compliance with the permit. Upon request, the operator shall furnish the Office of Conservation with copies of records required to be kept by the permit.

c. The Office of Conservation may, upon its own initiative or at the request of any interested person, review any permit to determine if cause exists to suspend, modify, revoke and reissue, or terminate the permit for the reasons specified in §§3111.K.2, 3, 4, 5, and 6. All requests shall be in writing and shall contain facts or reasons supporting the request.

d. If the Office of Conservation decides the request is not justified, the person making the request shall be sent a brief written response giving a reason for the decision. Denials of requests for suspension, modification, revocation and reissuance, or termination are not subject to public notice, public comment, or public hearings.

e. If the Office of Conservation decides to suspend, modify or revoke and reissue a permit under §§3111.K.2, 3, 4, 5, and 6, additional information may be requested and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the Office of Conservation shall require the submission of a new application.

f. The suitability of an existing salt cavern well, salt cavern, or salt cavern waste disposal facility location shall not be considered at the time of permit modification or revocation and reissuance unless new information or

standards suggest continued operation at the site endangers the environment, or the health, safety and welfare of the public which was unknown at the time of permit issuance. If the salt cavern well, salt cavern, or salt cavern waste disposal facility location is no longer suitable for its intended purpose, it shall be closed according to applicable sections of these rules and regulations.

2. Suspension of Permit. The Office of Conservation may suspend the operator's right to accept additional E&P wastes, or to treat, process, store, or dispose such waste until violations are corrected. If violations are corrected, the Office of Conservation may lift the suspension. Suspension of a permit and/or subsequent corrections of the causes for the suspension by the operator shall not preclude the Office of Conservation from terminating the permit, if necessary. The Office of Conservation shall issue a Notice of Violation (NOV) to the operator, by registered mail, return receipt requested, of violations of the permit or these regulations that list the specific violations. If the operator fails to comply with the NOV by correcting the cited violations within the date specified in the NOV, the Office of Conservation shall issue a Compliance Order requiring the violations to be corrected within a specified time and may include an assessment of civil penalties. If the operator fails to take corrective action within the time specified in the Compliance Order, the Office of Conservation shall assess a civil penalty, and shall suspend, revoke, or terminate the permit.

3. Modification or Revocation and Reissuance of Permits. The following are causes for modification and may be causes for revocation and reissuance of permits:

a. Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

b. Information. The Office of Conservation has received information pertinent to the permit. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. Cause shall include any information indicating that cumulative effects on the environment, or the health, safety and welfare of the public are unacceptable.

c. New Regulations

i. The standards or regulations on which the permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued and conformance with the changed standards or regulations is necessary for the protection of the environment, or the health, safety and welfare of the public. Permits may be modified during their terms when:

(a) the permit condition requested to be modified was based on a promulgated regulation or guideline;

(b) there has been a revision, withdrawal, or modification of that portion of the regulation or guideline on which the permit condition was based; or

(c) an operator requests modification within 90 days after Louisiana Register notice of the action on which the request is based.

ii. The permit may be modified as a minor modification without providing for public comment when standards or regulations on which the permit was based have been changed by withdrawal of standards or regulations or by promulgation of amended standards or regulations which impose less stringent requirements on the permitted activity or facility and the operator requests to have permit conditions based on the withdrawn or revised standards or regulations deleted from his permit.

iii. For judicial decisions, a court of competent jurisdiction has remanded and stayed Office of Conservation regulations or guidelines and all appeals have been exhausted, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the operator to have permit conditions based on the remanded or stayed standards or regulations deleted from his permit.

d. Compliance Schedules. The Office of Conservation determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the operator has little or no control and for which there is no reasonable available remedy.

4. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit.

a. Cause exists for termination under §3111.K.6, and the Office of Conservation determines that modification or revocation and reissuance is appropriate.

b. The Office of Conservation has received notification of a proposed transfer of the permit and the transfer is determined not to be a minor permit modification.

c. A determination that the waste being disposed into a salt cavern is not E&P waste as defined in §3101 or LAC 43:XIX.501, or subsequent revisions, either because the definition has been revised or because a previous determination has been changed.

5. Minor Modifications of Permits. The Office of Conservation may modify a permit to make corrections or allowances for changes in the permitted activity listed in this subsection without issuing a draft permit and providing for public participation. Minor modifications may only:

a. correct administrative or make informational changes;

b. correct typographical errors;

c. amend the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities;

d. change an interim compliance date in a schedule of compliance, provided the new date does not interfere with attainment of the final compliance date requirement;

e. allow for a change in ownership or operational control of a salt cavern waste disposal facility where the Office of Conservation determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Office of Conservation;

f. change quantities or types of waste or other material disposed into the salt cavern which are within the capacity of the salt cavern waste disposal facility and, in the judgement of the Office of Conservation, would not interfere with the operation of the facility or its ability to meet other conditions prescribed in the permit, and would not change the waste classification of the disposed material;

g. change construction requirements or plans approved by the Office of Conservation provided that any such alteration is in compliance with these rules and regulations. No such changes may be physically incorporated into construction of the salt cavern well, salt cavern, or surface facility before written approval from the Office of Conservation; or

h. amend a closure or post-closure plan.

6. Termination of Permits

a. The Office of Conservation may terminate a permit during its term for the following causes:

i. noncompliance by the operator with any condition of the permit;

ii. the operator's failure in the application or during the permit issuance process to fully disclose all relevant facts, or the operator's misrepresentation of any relevant facts at any time; or

iii. a determination that continued operation of the permitted activity cannot be conducted in a way that is protective of the environment, or the health, safety and welfare of the public.

b. If the Office of Conservation decides to terminate a permit, such shall only be done after a public hearing.

c. The Office of Conservation may alternatively decide to modify or revoke and reissue a permit for the causes in §3111.K.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3113. Location Criteria

A. No physical structure at a salt cavern waste disposal facility shall be located within 500 feet of a residential, commercial, or public building. Adherence to this requirement may be waived by the owner of the building. For a public building, the waiver shall be provided by the responsible administrative body. Any such waiver shall be in writing and be made part of the permit application. Examples of physical structures include, but are not limited to, the wellhead of the salt cavern well, waste storage, waste transfer and waste processing areas, onsite buildings, pumps, etc. An exception to the 500-foot restriction may be granted upon request for the placement of instruments or equipment required for safety or environmental monitoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3115. Site Assessment

A. Applicability. This section applies to all applicants, owners and/or operators of salt cavern waste disposal facilities. The applicant, owner and/or operator shall be responsible for showing that disposal of E&P wastes into the salt cavern shall be accomplished using good engineering and geologic practices for salt cavern operations to preserve

the integrity of the salt stock and overlying sediments. This shall include, but not be limited to:

1. an assessment of the geological, geomechanical, geochemical, geophysical properties of the salt stock;

2. stability of the salt cavern design (particularly regarding its size, shape, depth, and operating parameters);

3. physical and chemical characteristics of the waste;

4. the amount of separation between the salt cavern of interest and adjacent caverns and structures within the salt stock; and

5. the amount of separation between the outermost salt cavern wall and the periphery of the salt stock.

B. Geological Studies and Evaluations. The applicant shall do a thorough geological, geophysical, geomechanical, and geochemical evaluation of the salt stock to determine its suitability for waste disposal, stability of the salt cavern under the proposed set of operating conditions, and where applicable, the structural integrity of the salt stock between an adjacent cavern and salt periphery under the proposed set of operating conditions. The applicant shall provide a listing of data or information used to characterize the structure and geometry of the salt stock.

1. Where applicable, the geologic evaluation shall include, but should not be limited to:

a. geologic mapping of the structure of the salt stock and any cap rock;

b. geologic history of salt movement;

c. an assessment of the impact of possible anomalous zones (salt spines, shear planes, etc.) on the salt cavern well or salt cavern;

d. deformation of the cap rock and strata overlying the salt stock;

e. investigation of the upper salt surface and adjacent areas involved with salt dissolution;

f. cap rock formation and any non-vertical salt movement.

2. The applicant shall perform a thorough hydrogeological study on strata overlying the salt stock to determine the occurrence of the lowermost underground source of drinking water immediately above and in the vicinity of the salt stock.

3. The applicant shall investigate regional tectonic activity and the potential impact (including ground subsidence) of the waste disposal project on surface and subsurface resources.

C. Core Sampling.

1. At least one well at the site of the salt cavern waste disposal facility (or the salt dome) shall be or shall have been cored over sufficient depth intervals to yield representative samples of the subsurface geologic environment. This shall include coring of the salt stock and may include coring of overlying formations, including any cap rock. Cores should be obtained using the whole core method. Core acquisition, core handling, and core preservation shall be done according to standard field sampling practices considered acceptable for laboratory tests of recovered cores.

2. Data from previous coring projects may be used instead of actual core sampling provided the data is specific to the salt dome of interest. If site-specific data is unavailable, data may be obtained from sources that are not specific to the area as long as the data can be shown to

closely approximate the properties of the salt dome of interest. It shall be the responsibility of the applicant to make a satisfactory demonstration that data obtained from other sources are applicable to the salt dome of interest.

D. Core Analyses and Laboratory Tests. Analyses and tests shall consider the characteristics of the injected materials and should provide data on the salt's geomechanical, geophysical, geochemical, mineralogical properties, microstructure, and where necessary, potential for adjacent salt cavern connectivity, with emphasis on salt cavern shape and the operating conditions. All laboratory tests, experimentation, and numeric modeling shall be conducted using methods that simulate the proposed operating conditions of the salt cavern. Test methods shall be selected to define the deformation and strength properties and characteristics of the salt stock under salt cavern operating conditions.

E. Area of Review. A thorough evaluation shall be undertaken of both surface and subsurface activities in the defined area of review of the individual salt cavern well or project area that may influence the integrity of the salt stock, salt cavern well, and salt cavern, or contribute to the movement of injected fluids outside the salt cavern, wellbore, or salt stock.

1. Surface Delineation. The area of review for a salt cavern well shall be a fixed radius around the wellbore of not less than one-half mile. Exception shall be noted as shown in §§3115.E.2.c and d below.

2. Subsurface Delineation. At a minimum, the following shall be identified within the area of review:

- a. all known active, inactive, and abandoned wells within the area of review with known depth of penetration into the cap rock or salt stock;
- b. all known water wells within the area of review;
- c. all salt caverns within the salt stock regardless of usage, depth of penetration, or distance to the proposed salt cavern well or salt cavern;
- d. all conventional (dry or room and pillar) mining activity either active or abandoned occurring anywhere within the salt stock regardless of distance to the proposed salt cavern well or salt cavern.

F. Corrective Action

1. For manmade structures identified in the area of review that are not properly constructed, completed, or plugged and abandoned, the applicant shall submit a corrective action plan consisting of such steps, procedures, or modifications as are necessary to prevent the movement of fluids outside the salt cavern or into underground sources of drinking water.

a. Where the plan is adequate, the provisions of the corrective action plan shall be incorporated into the permit as a condition.

b. Where the plan is inadequate, the Office of Conservation shall require the applicant to revise the plan or the application shall be denied.

2. Any permit issued for an existing salt cavern well or salt cavern for which corrective action is required shall include a schedule of compliance for complete fulfillment of the approved corrective action procedures. If the required corrective action is not completed as prescribed in the schedule of compliance, the permit shall be suspended,

modified, revoked and possibly reissued, or terminated according to these rules and regulations.

3. No permit shall be issued for a new salt cavern well until all required corrective action obligations have been fulfilled.

4. The Office of Conservation may prescribe additional requirements for corrective action beyond those submitted by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3117. Cavern and Surface Facility Design Requirements

A. This section provides general standards for design of salt caverns to assure that project development can be conducted in a reasonable, prudent, and a systematic manner and shall stress physical and environmental safety. The cavern design shall be modified where necessary to conform with good engineering and geologic practices.

B. Cavern Spacing Requirements

1. Property Boundary. The wellhead and borehole shall be located such that the salt cavern at its maximum diameter shall not extend closer than 100 feet to the property boundary of the salt cavern waste disposal facility.

2. Adjacent Structures Within the Salt. As measured in any direction, the minimum separation between walls of adjacent salt caverns or between the walls of the salt cavern and any manmade structure within the salt stock shall not be less than 200 feet.

3. Salt Periphery. Without exception or variance to these rules and regulations, the minimum separation between the walls of a salt cavern at any point and the periphery of the salt stock shall not be less than 300 feet.

C. Cavern Coalescence. The Office of Conservation may permit the use of coalesced salt caverns for waste disposal. It shall be the duty of the applicant, owner or operator to demonstrate that operation of coalesced salt caverns under the proposed cavern operating conditions can be accomplished in a physical and environmentally safe manner. The intentional subsurface coalescing of adjacent salt caverns must be requested by the applicant, owner or operator in writing and be approved by the Office of Conservation before beginning or resumption of salt cavern waste disposal operations. Approval for salt cavern coalescence shall only be considered upon a showing by the applicant, owner or operator that the stability and integrity of the salt cavern and salt stock shall not be compromised and that salt cavern waste disposal operations can be conducted in a physical and environmentally safe manner. If the design of adjacent salt caverns should include approval for the subsurface coalescing of adjacent salt caverns, the minimum spacing requirement of §3117.B.2 above shall not apply to the coalesced salt caverns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3119. Well Construction and Completion

A. General Requirements

1. All materials and equipment used in the construction of the salt cavern well and related

appurtenances shall be designed and manufactured to exceed the operating requirements of the specific project. Consideration shall be given to depth and lithology of all subsurface geologic zones, corrosiveness of formation fluids, hole size, anticipated ranges and extremes of operating conditions, physical and behavioral characteristics of the injected and disposed material under the specific range of operating conditions, subsurface temperatures and pressures, type and grade of cement, and projected life of the salt cavern well.

2. All salt cavern wells and salt caverns shall be designed, constructed, completed, and operated to prevent the escape of injected or disposed materials out of the salt stock, into an underground source of drinking water, or otherwise create or cause pollution or endanger the environment or public safety. All phases of design, construction, completion, and testing shall be prepared and supervised by qualified personnel.

B. Open Borehole Surveys

1. Open hole wireline surveys that delineate subsurface lithologies, formation tops (including top of cap rock and salt), formation fluids, formation porosity, and fluid resistivities shall be done on wells from total well depth to either ground surface or base of conductor pipe. Wireline surveys shall be presented with gamma-ray and, where applicable, spontaneous potential curves. All surveys shall be presented on a scale of one inch to one hundred feet and a scale of five inches to one hundred feet.

2. Gyroscopic multi-shot surveys of the borehole shall be taken at intervals not to exceed every 100 feet of drilled borehole.

3. Where practicable, caliper logging to determine borehole size for cement volume calculations shall be done before running casings.

C. Casing and Cementing. Except as specified below, the wellbore of the salt cavern shall be cased, completed, and cemented according to rules and regulations of the Office of Conservation and good petroleum industry engineering practices for wells of comparable depth that are applicable to the same locality of the salt cavern. Design considerations for casings and cementing materials and methods shall address the nature and characteristics of the subsurface environment, the nature of injected and disposed materials, the range of conditions under which the well, cavern, and facility shall be operated, and the expected life of the well including closure and post-closure.

1. Cementing shall be by the pump-and-plug method or another method approved by the Office of Conservation and shall be circulated to the surface. Circulation of cement may be done by staging.

a. For purposes of these rules and regulations, circulated (cemented) to the surface shall mean that actual cement returns to the surface were observed during the primary cementing operation. A copy of the cementing company's job summary or cementing ticket indicating returns to the surface shall be submitted as part of the pre-operating requirements of §3127.

b. If returns are lost during cementing, the owner or operator shall have the burden of showing that sufficient cement isolation is present to prevent the upward movement of injected or disposed material into zones of porosity or transmissive permeability in the overburden along the

wellbore and to protect underground sources of drinking water.

2. Surface casing shall be set to a depth into a confining bed below the base of the lowermost underground source of drinking water. Surface casing shall be cemented to surface where practicable.

3. All salt cavern wells shall be cased with a minimum of two casings cemented into the salt. The surface casing shall not be considered one of the two casings of this subparagraph.

4. New wells drilled into an existing salt cavern shall have an intermediate casing and a final cemented casing set into the salt. The final cemented casing shall be set a minimum distance of 300 feet into the salt and shall make use of a sufficient number of casing centralizers.

5. The following applies to wells existing in salt caverns before the effective date of these rules and regulations and are being converted to salt cavern waste disposal. If the design of the well or cavern precludes having distinct intermediate and final casing seats cemented into the salt, the wellbore shall be cased with two concentric casings run from the surface of the well to a minimum distance of 300 feet into the salt. The inner casing shall be cemented from its base to surface.

6. The intermediate and final casings shall be cemented from their respective casing seats to the surface when practicable.

D. Casing and Casing Seat Tests. When doing tests under this paragraph, the owner or operator shall monitor and record the tests by use of a surface readout pressure gauge and a chart or a digital recorder. All instruments shall be properly calibrated and in good working order. If there is a failure of the required tests, the owner or operator shall take necessary corrective action to obtain a passing test.

1. Casing. After cementing each casing, but before drilling out the respective casing shoe, all casings shall be hydrostatically pressure tested to verify casing integrity and the absence of leaks. For surface casing, the stabilized test pressure applied at the surface shall be a minimum of 500 pounds per square inch gauge (PSIG). The stabilized test pressure applied at the surface for all other casings shall be a minimum of 1,000 PSIG. All casing test pressures shall be maintained for one hour after stabilization. Allowable pressure loss is limited to five percent of the test pressure over the stabilized test duration.

2. Casing Seat. The casing seat and cement of intermediate and production casings shall each be hydrostatically pressure tested after drilling out the casing shoe. At least 10 feet of formation below the respective casing shoes shall be drilled before the test. The test pressure applied at the surface shall be the greater of 1,000 PSIG or 125 percent of the maximum predicted salt cavern operating pressure. The appropriate test pressure shall be maintained for one hour after pressure stabilization. Allowable pressure loss is limited to five percent of the test pressure over the stabilized test duration.

3. Casing or casing seat test pressures shall never exceed a pressure gradient equivalent to 0.80 PSI per foot of vertical depth at the respective casing seat or exceed the known or calculated fracture gradient of the appropriate subsurface formation. The test pressure shall never exceed

the rated burst or collapse pressures of the respective casings.

E. Cased Borehole Surveys. A cement bond with variable density log (or similar cement evaluation tool) and a temperature log shall be run on all casings. The Office of Conservation may consider requests for allowances for wireline logging in large diameter casings or justifiable special conditions.

1. It shall be the duty of the well applicant, owner or operator to prove adequate cement isolation on all cemented casings. Remedial cementing shall be done before proceeding with further well construction, completion, or conversion if adequate cement isolation between the salt cavern well and other subsurface zones cannot be demonstrated.

2. A casing inspection log (or similar log) shall be run on the final cemented casing.

F. Hanging Strings. Without exception or variance to these rules and regulations, all salt cavern wells shall be completed with at least two hanging strings. One hanging string shall be for waste injection; the second hanging string shall be for displacing fluid out of the salt cavern from below the blanket material. Hanging strings shall be designed with a collapse, burst, and tensile strength rating conforming to all expected operating conditions, including flow induced vibrations. The design shall also consider the physical and chemical characteristics of fluids placed into and/or withdrawn from the salt cavern.

G. Wellhead Components and Related Connections. All wellhead components, valves, flanges, fittings, flowlines, and related connections shall be manufactured of steel. All components shall be designed with a test pressure rating of at least 125 percent of the maximum pressure that could be exerted at the surface. Selection and design criteria for components shall consider the physical and chemical characteristics of fluids placed into and/or withdrawn from the salt cavern under the specific range of operating conditions, including flow induced vibrations. The fluid withdrawal side of the wellhead (if applicable) shall be rated for the same pressure as the waste injection side. All components and related connections shall be maintained in good working order and shall be periodically inspected by the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3121. Operating Requirements

A. Cavern Roof

1. Without exception or variance to these rules and regulations, no salt cavern shall be used for E&P waste disposal if the salt cavern roof has grown above the top of the salt stock. The operation of an already permitted salt cavern shall cease and shall not be allowed to continue if information becomes available that shows this condition exist. The Office of Conservation may order the well and salt cavern closed according to an approved closure and post-closure plan.

2. The Office of Conservation may consider the use of a salt cavern for waste disposal if information exists that shows the salt cavern roof has grown vertically above the depth of the salt cavern well's deepest cemented casing seat. However, the salt cavern roof shall be below the top of the

salt stock, the owner/operator shall meet the provisions for proving well/cavern mechanical integrity of §3129 and cavern configuration and capacity of §3131, and the owner/operator shall submit and carry out a plan for doing cavern roof monitoring. It shall be the duty of the well applicant or owner or operator to prove that operation of the salt cavern under this condition shall not endanger the environment, or the health, safety and welfare of the public.

B. Blanket Material. Before beginning waste disposal operations, a blanket material shall be placed into the salt cavern to prevent unwanted leaching of the cavern roof. The blanket material shall consist of crude oil, diesel, mineral oil, or other fluid possessing similar noncorrosive, nonsoluble, low-density properties. The blanket material shall be placed between the outermost hanging string and innermost cemented casing of the salt cavern and shall be of sufficient volume to coat the entire cavern roof. The cavern roof and level of the blanket material shall be monitored at least once every five years by running a density interface survey or using an alternative method approved by the Office of Conservation.

C. Remedial Work. No remedial work or repair work of any kind shall be done on the salt cavern well or salt cavern without prior authorization from the Office of Conservation. The provision for prior authorization shall also extend to doing mechanical integrity pressure and leak tests and sonar caliper surveys. The owner or operator or its agent shall submit a valid work permit request form (Form UIC-17 or successor). Before beginning well or cavern remedial work, the pressure in the salt cavern shall be relieved, as practicable, to zero pounds per square inch as measured at the surface.

D. Well Recompletion/Casing Repair. The following applies to salt cavern wells where remedial work results from well upgrade, casing wear, or similar condition. For each paragraph below, a casing inspection log shall be done on the entire length of the innermost cemented casing in the well before doing any casing upgrade or repair. Authorization from the Office of Conservation shall be obtained before beginning any well recompletion, repair, upgrade, or closure. A salt cavern well that cannot be repaired or upgraded shall be properly closed according to §3141.

1. Liner. A liner may be used to recomplete or repair a well with severe casing damage. The liner shall be run from the well surface to the base of the innermost cemented casing. The liner shall be cemented over its entire length and shall be successfully pressure tested.

2. Casing Patch. Internal casing patches shall not be used to repair severely corroded or damaged casing. Casing patches shall only be used for repairing or covering isolated pitting, corrosion, or similar localized damage. The casing patch shall extend a minimum of 10 feet above and below the area being repaired. The entire casing shall be successfully pressure tested.

E. Multiple Well Caverns. No newly permitted well shall be drilled into an existing salt cavern until the cavern pressure has been relieved, as practicable, to zero pounds per square inch as measured at the surface.

F. Cavern Allowable Operating Pressure.

1. The maximum allowable salt cavern injection pressure shall be calculated at a depth referenced to the

shallower of either the salt cavern roof or the well's deepest cemented casing seat. When measured at the surface and calculated with respect to the appropriate reference depth, the maximum allowable salt cavern injection pressure shall never exceed a pressure gradient of 0.80 PSI per foot of vertical depth.

2. The salt cavern shall never be operated at pressures over the maximum allowable injection pressure defined above, exceed the maximum allowable pressure as may be established by permit, or exceed the rated burst or collapse pressure of all well tubulars (cemented or hanging strings) even for short periods, including pressure pulsation peaks, abnormal operating conditions, well or cavern tests.

3. The maximum injection pressure for a salt cavern shall be determined after considering the properties of all injected fluids, the physical properties of the salt stock, well and cavern design, neighboring activities within and above the salt stock, etc.

4. Shut-in pressure at the surface on the fluid withdrawal string or any annulus shall not be greater than 200 PSIG.

G Cavern Displaced Fluid Management. The operator shall maintain a strict accounting of the fluid volume displaced from the salt cavern. Fluid displaced from a salt cavern shall be managed in a way that is protective of the environment. Such methods may include subsurface disposal via a properly permitted Class II disposal well, onsite storage for recycling as a waste carrier fluid, or any other method approved by the appropriate regulatory authority.

H. Waste Storage. Without exception or variance to these rules and regulations, all E&P wastes shall be stored in aboveground storage tanks. Storing wastes in open pits, cells, or similar earthen or open structures is strictly prohibited. Storage tanks shall be constructed of fiberglass, metal, or other similar material. All waste storage areas shall be built on concrete slabs/pads, be enclosed by retaining walls of required construction, and possess a means for the collection of spilled fluids.

I. Time Limits for Onsite Waste Storage. E&P waste accepted for disposal shall not be held in storage at the facility for more than 14 consecutive days. The Office of Conservation may grant a waiver to this requirement for extenuating circumstances only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3123. Safety

A Emergency Action Plan. A plan outlining procedures for personnel at the facility to follow in case of an emergency shall be prepared and submitted as part of the permit application. The plan shall contain emergency contact telephone numbers, procedures and specific information for facility personnel to respond to a release, upset, incident, accident, or other site emergency. A copy of the plan shall be kept at the facility and shall be reviewed and updated as needed.

B Controlled Site Access. All operators of salt cavern waste disposal facilities shall install and maintain a chain link fence of at least six feet in height around the entire facility property. All points of entry into the facility shall be

through by a lockable gate system. All gates of entry shall be locked except during hours of operation.

C Facility Identification. An identification sign shall be placed at all gated entrances to the salt cavern waste disposal facility. All lettering on the sign shall be of at least one-inch dimensions and kept in a legible condition. The sign shall be of durable construction. Minimum information to include on the sign shall be the facility name, site address, daytime and nighttime telephone numbers, and shall be made applicable to the activity of the facility according to the following statement:

"This facility is authorized by the Office of Conservation, Injection and Mining Division to receive, store, treat, process, and/or dispose of E&P wastes into a salt cavern by means of subsurface injection. Improper operations, spills or violations at this facility should be reported to the Office of Conservation at (225) 342-5515."

D. Personnel. Trained and competent personnel shall be on duty and stationed as appropriate at the salt cavern waste disposal facility during all hours and phases of facility operation. Facility operation includes, but shall not be limited to, periods of waste acceptance, waste offloading, waste transfer, waste transport vehicle washing, waste storage, waste treatment, waste processing, and waste injection/disposal.

E. Wellhead Protection and Identification

1. A protective barrier shall be installed and maintained around wellheads, pipings, and above ground structures that may be vulnerable to physical or accidental damage by mobile equipment or trespassers.

2. An identifying sign shall be placed at the wellhead of each salt cavern well and shall include at a minimum the operator's name, well/cavern name and number, well serial number, section-township-range, and any other information required by the Office of Conservation. The sign shall be of durable construction with all lettering kept in a legible condition.

F. Valves and Flowlines

1. All valves, flowlines, flanges, fittings, and related connections shall be manufactured of steel. All components shall be designed with a test pressure rating of at least 125 percent of the maximum pressure that could be exerted at the surface. All components and related connections shall be maintained in good working order and shall be periodically inspected by the operator.

2. All valves, flowlines for waste injection, fluid withdrawal, and any other flowlines shall be designed to prevent pressures over maximum operating pressure from being exerted on the salt cavern well and salt cavern and prevent backflow or escape of injected waste material. The fluid withdrawal side of the wellhead shall have the same pressure rating as the waste injection side.

3. All flowlines for injection and withdrawal connected to the wellhead of the salt cavern well shall be equipped with remotely operated shut-off valves and shall also have manually operated positive shut-off valves at the wellhead. All remotely operated shut-off valves shall be fail-safe and tested and inspected according to §3123.L.

G Alarm Systems. Manual and automatically activated alarms shall be installed at all salt cavern waste disposal facilities. All alarms shall be audible and visible from any

normal work location within the facility. The alarms shall always be maintained in proper working order. Automatic alarms designed to activate an audible and a visible signal shall be integrated with all pressure, flow, heat, fire, cavern overflow, leak sensors and detectors, emergency shutdown systems, or any other safety system. The circuitry shall be designed such that failure of a detector or sensor shall activate a warning.

H. Emergency Shutdown Valves. Manual and automatically actuated emergency shutdown valves shall be installed on all systems of salt cavern injection and withdrawal and any other flowline going into or out from each salt cavern wellhead. All emergency shutdown valves shall be fail-safe and shall be tested and inspected according to §3123.L.

1. Manual controls for emergency shutdown valves shall be designed for operation from a local control room, at the salt cavern well, any remote monitoring and control location, and at a location that is likely to be accessible to emergency response personnel.

2. Automatic emergency shutdown valves shall be designed to actuate on detection of abnormal pressuring of the waste injection system, abnormal increases in flow rates, responses to any heat, fire, cavern overflow, leak sensors and detectors, loss of pressure or power to the salt cavern well, salt cavern, or valves, or any abnormal operating condition.

I. Vapor Monitoring and Leak Detection. The operator shall develop a vapor monitoring and leak detection plan as required in §3125.C below to detect the presence of noxious vapors, combustible gases, or any potentially ignitable substances.

J. Gaseous Vapor Control. Where necessary, the operator shall install and maintain in good working order a system for managing the uncontrolled escape of noxious vapors, combustible gases, or any potentially ignitable substances within the salt cavern waste disposal facility. Any vapor control system shall be in use continuously during facility operation.

K. Fire Detection/Suppression. All salt cavern waste disposal facilities shall have a system or method of fire detection and fire control or suppression. Emphasis for fire detection shall be at waste transfer, waste storage, waste process areas, and any area where combustible materials or vapors might exist. The fire detection system shall be integrated into the automatic alarm and emergency shutdown systems of the facility.

L. Systems Test and Inspection

1. Safety Systems Test. The operator shall function-test all critical systems of control and safety at least once every six months. This includes testing of alarms, test tripping of emergency shutdown valves ensuring their closure times are within design specifications, and ensuring the integrity of all electrical, pneumatic, and/or hydraulic circuits. Tests results shall be documented and kept onsite for inspection by an agent of the Office of Conservation.

2. Visual Facility Inspections. Visual inspections of the entire salt cavern waste disposal facility shall be conducted each day the facility is operating. At a minimum, this shall include inspections of the wellhead, flowlines, valves, waste transfer areas, waste storage areas, waste processing areas, signs, perimeter fencing, and all other

areas of the facility. Problems discovered during the inspections shall be corrected timely.

M. Retaining Walls and Spill Containment

1. Retaining walls, curbs, or other spill containment systems shall be designed, built, and maintained around appropriate areas of the facility to collect, retain, and/or otherwise prevent the escape of wastes or other materials that may be released through facility upset or accidental spillage. Retaining walls shall be constructed of reinforced concrete. All retaining walls shall be built to a level that will provide sufficient capacity for holding at least 110 percent of the volume of each tank. All storage areas shall be kept free of debris, trash, or other materials that may constitute a fire hazard.

2. At a minimum, the following areas shall be protected by retaining walls and/or spill containment:

- a. waste acceptance areas;
- b. waste unloading and waste transfer areas;
- c. waste storage areas;
- d. waste transport vehicle and transport container decontamination/washout areas;
- e. waste treatment and waste processing areas;
- f. curbed area around the wellhead of each salt cavern well; and
- g. any other areas of the facility the Office of Conservation deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3125. Monitoring Requirements

A. Pressure Gauges, Pressure Sensors, Flow Sensors

1. Pressure gauges that show pressure on the fluid injection string, fluid withdrawal string, and any annulus of the well, including the blanket material annulus, shall be installed at each wellhead. Gauges shall be designed to read in 10 PSI increments. All gauges shall be properly calibrated and shall always be maintained in good working order. The pressure valves onto which the pressure gauges are affixed shall have one-half inch female fittings.

2. Pressure sensors designed to automatically close all emergency shutdown valves in response to a preset pressure (high/low) shall be installed and properly maintained for all fluid injection and fluid withdrawal strings, and blanket material annulus.

3. Flow sensors designed to automatically close all emergency shutdown valves in response to abnormal increases in cavern injection and withdrawal flow rates shall be installed and properly maintained on each salt cavern well.

B. Continuous Recording Instruments. Continuous recording instrumentation shall be installed and properly maintained for each salt cavern well. Continuous recordings may consist of circular charts, digital recordings, or similar type. Mechanical charts shall not exceed a clock period of 24-hour duration. The chart shall be selected such that its scaling is of sufficient sensitivity to record all fluctuations of pressure or any other parameter being monitored. The chart shall be scaled such that the parameter being recorded is 30 percent to 70 percent of full scale. Instruments shall be housed in weatherproof enclosures when located in areas exposed to climatic conditions. All fluid volumes shall be

determined by metering or an alternate method approved by the Office of Conservation. Minimum data recorded shall include the following:

1. wellhead pressures on both the fluid injection and fluid withdrawal strings;
2. wellhead pressure on the blanket material annulus;
3. volume and flow rate of waste injected;
4. volume of fluid withdrawn;
5. salinity of injected material including the carrier fluid; and
6. density of injected material.

C. Vapor Monitoring and Leak Detection.

1. Without exception or variance to these rules and regulations, the operator shall develop a monitoring plan designed to detect the presence of a buildup of noxious vapors, combustible gases, or any potentially ignitable substances in the atmosphere resulting from the storage, treatment, processing, and disposal of waste at the facility. Variations in topography, atmospheric conditions typical to the area, characteristics of the wastes, nearness of the facility to homes, schools, commercial establishments, etc. shall be considered in developing the monitoring plan. The plan shall be submitted as part of the permit application and should include provisions for the strategic placement of detection devices at various areas of the facility such as:

- a. waste transfer, waste storage, and waste process areas;
- b. salt cavern wellhead(s). An exception may be allowed for salt cavern wells in close proximity to each other, thus, the monitoring plan may include installation of detection devices around the perimeter of the well field; and
- c. any other areas of the facility where may be appropriate.

2. All detection devices or systems identified in the monitoring plan shall include their integration into the facility's automatic alarm system. Activation of a detection device or system alarm shall cause a cessation of all waste acceptance, waste transfer, waste processing, and waste injection until the reason for the alarm activation has been determined and corrected.

D. Subsidence Monitoring. The owner or operator shall prepare and carry out a plan to monitor ground subsidence at and in the vicinity of the waste disposal cavern(s). Frequency of subsidence monitoring shall be scheduled to occur annually during the same period. A monitoring report shall be prepared and submitted to the Office of Conservation after completion of each monitoring event.

E. Wind Sock. At least one wind sock shall be installed at all salt cavern waste disposal facilities. The wind sock shall be visible from any normal work location within the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3127. Pre-Operating Requirements: Completion Report

A. The operator of a salt cavern waste disposal facility shall not accept, store, treat, process, or otherwise initiate waste disposal operations until all required information has been submitted to the Office of Conservation and the operator has received written authorization from the Office of Conservation clearly stating waste disposal operations may begin.

B. The operator shall submit a report to the Office of Conservation that describes, in detail, the work performed resulting from any approved permitted activity. A report shall include all information relating to the work and information that documents compliance with these rules and the approved permitted activity. The report shall be prepared and submitted for any approved work relating to the construction, installation and completion of the surface portion of the facility and information on the construction, conversion, or workover of the salt cavern well or salt cavern.

C. Where applicable to the approved permitted activity, information in a completion report shall include:

1. all required state reporting forms containing original signatures;
2. revisions to any operation or construction plans since approval of the permit application;
3. as-built schematics of the layout of the surface portion of the facility;
4. as-built piping and instrumentation diagram(s);
5. copies of applicable records associated with drilling, completing, working over, or converting the salt cavern well and/or salt cavern including a daily chronology of such activities;
6. revised certified location plat of the salt cavern well if the actual location of the well differs from the location plat submitted with the salt cavern well application;
7. as-built subsurface diagram of the salt cavern well and salt cavern labeled with appropriate construction, completion, or conversion information, i.e., depth and diameter of all tubulars, depths of top of cap rock and salt, and top and bottom of the cavern;
8. as-built diagram of the surface wellhead labeled with appropriate construction, completion, or conversion information, i.e., valves, gauges, and flowlines;
9. results of any core sampling and testing;
10. results of well or cavern tests such as casing and casing seat tests, well/cavern mechanical integrity pressure and leak tests;
11. copies of any wireline logging such as open hole and/or cased hole logs, cavern sonar survey;
12. any additional data documenting the work performed for the permitted activity, information requested by the Office of Conservation, or any additional reporting requirements imposed by the approved permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3129. Well and Salt Cavern Mechanical Integrity Pressure and Leak Tests

A. The operator of the salt cavern well and cavern shall have the burden of meeting the requirements for well and cavern mechanical integrity. The Office of Conservation shall be notified in writing at least seven days before any scheduled mechanical integrity test. The test may be witnessed by Office of Conservation personnel but must be witnessed by a qualified third party.

B. Frequency of Tests. Without exception or variance to these rules and regulations, all salt cavern wells and salt caverns shall be tested for and satisfactorily prove mechanical integrity before being placed into initial waste

disposal service. After the initial test for well and cavern mechanical integrity, all subsequent tests shall occur at least once every five years. Additionally, mechanical integrity testing shall be done for the following reasons regardless of test frequency:

1. after any alteration to any cemented casing or cemented liner;
2. after performing any remedial work to reestablish well or cavern integrity;
3. before suspending salt cavern waste disposal operations for reasons other than a lack of well/cavern mechanical integrity if it has been more than three years since the last mechanical integrity test;
4. before well/cavern closure; or
5. whenever the Office of Conservation believes a test is warranted.

C. Test Method

1. All mechanical integrity pressure and leak tests shall demonstrate no significant leak in the salt cavern, wellbore, casing seat, and wellhead. Test schedules and methods shall consider neighboring activities occurring at the salt dome to reduce any influences those neighboring activities may have on the salt cavern being tested.

2. Tests shall be conducted using the nitrogen-brine interface method with density interface and temperature logging. An alternative test method may be used if the alternative test can reliably demonstrate well/cavern mechanical integrity and with prior written approval from the Office of Conservation.

3. The salt cavern pressure shall be stabilized before beginning the test. Stabilization shall be reached when the rate of cavern pressure change is no more than 10 PSIG during 24 hours.

4. The stabilized test pressure applied at the surface shall be a minimum of 125 percent of the maximum cavern surface operating pressure or 500 PSIG whichever is greater. However, at no time shall the test pressure calculated with respect to the shallowest occurrence of either the cavern roof or deepest cemented casing seat and as measured at the surface exceed a pressure gradient of 0.80 PSI per foot of vertical depth. The salt cavern well or salt cavern shall never be subjected to pressures over the maximum allowable operating pressure or exceed the rated burst or collapse pressure of all well tubulars (cemented or hanging strings) even for short periods during testing.

5. A mechanical integrity pressure and leak test shall be run for at least 24 hours after cavern pressure stabilization and must be of sufficient time duration to ensure a sensitive test. All pressures shall be monitored and recorded continuously throughout the test. Continuous pressure recordings may be achieved through mechanical charts or may be recorded digitally. Mechanical charts shall not exceed a clock period of 24-hour duration. The chart shall be scaled such that the test pressure is 30 percent to 70 percent of full scale. All charts shall be selected such that its scaling is of sufficient sensitivity to record all fluctuations of pressure, temperature, or any other monitored parameter.

D. Submission of Pressure and Leak Test Results. One complete copy of the mechanical integrity pressure and leak test results shall be submitted to the Office of Conservation within 30 days of test completion. The report shall include the following minimum information:

1. current well and cavern completion data;
2. description of the test procedure including pretest preparation;
3. copies of all wireline logs performed during testing;
4. tabulation of measurements for pressure, volume, temperature, etc.;
5. interpreted test results showing all calculations including error analysis and calculated leak rates; and
6. any information the owner or operator of the salt cavern determines is relevant to explain the test procedure or results.

E. Mechanical Integrity Test Failure

1. Without exception or variance to these rules and regulations, a salt cavern well or salt cavern that fails a test for mechanical integrity shall be immediately taken out of waste disposal service. The failure shall be reported to the Office of Conservation according to the Notification Requirements of §3109.H. The owner or operator shall investigate the reason for the failure and shall take appropriate steps to return the salt cavern well or salt cavern to a full state of mechanical integrity. A salt cavern well or salt cavern is considered to have failed a test for mechanical integrity for the following reasons:

- a. failure to maintain a change in test pressure of no more than 10 PSIG over a 24-hour period;
- b. not maintaining nitrogen-brine interface levels according to standards applied in the salt cavern storage industry; or
- c. fluids are determined to have escaped from the salt cavern well or salt cavern during waste disposal operations.

2. Written procedures for rehabilitation of the salt cavern well or salt cavern, extended salt cavern monitoring, or abandonment (closure and post-closure) of the salt cavern well or salt cavern shall be submitted to the Office of Conservation within 30 days of mechanical integrity test failure.

3. Upon reestablishment of mechanical integrity of the salt cavern well or salt cavern and before returning either to waste disposal service, a new mechanical integrity pressure and leak test shall be performed that demonstrates mechanical integrity of the salt cavern well or salt cavern. The owner or operator shall submit the new test results to the Office of Conservation for written approval before resuming waste disposal operations.

4. If a salt cavern well or salt cavern fails to demonstrate mechanical integrity and where mechanical integrity cannot be reestablished, the Office of Conservation may require the owner or operator to begin closure of the well or cavern within six months according to an approved closure and post-closure plan.

5. If a salt cavern fails mechanical integrity and where rehabilitation cannot be accomplished within six months, the Office of Conservation may waive the six-month closure requirement if the owner or operator is engaged in a salt cavern remediation study and implements an interim salt cavern monitoring plan. The owner or operator must seek written approval from the Office of Conservation before implementing a salt cavern monitoring program. The basis for the Office of Conservation's approval shall be that any waiver granted shall not endanger the environment, or the health, safety and welfare of the public. The Office of

Conservation may establish a time schedule for salt cavern rehabilitation, cessation of interim salt cavern monitoring, and eventual salt cavern closure and post-closure activities.

F. Prohibition of Waste Acceptance During Mechanical Integrity Failure.

1. Salt cavern waste disposal facilities with a single cavern are prohibited from accepting E&P wastes at the facility until mechanical integrity of the salt cavern well or salt cavern is documented to the satisfaction of the Office of Conservation.

2. Salt cavern waste disposal facilities with multiple salt caverns may continue accepting E&P wastes if the other cavern(s) at the facility exhibit mechanical integrity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3131. Cavern Configuration and Capacity Measurements

A. Sonar caliper surveys shall be performed on all salt caverns. With prior approval of the Office of Conservation, the operator may use another similar proven technology designed to determine cavern configuration and measure cavern capacity as a substitute for a sonar survey.

B. Frequency of Surveys. A sonar caliper survey shall be performed and submitted as part of the salt cavern waste disposal permit application. All subsequent surveys shall occur at least once every five years. Additional surveys shall be done for any of the following reasons regardless of frequency:

1. before commencing salt cavern closure operations;
2. whenever leakage into or out of the salt cavern is suspected;
3. after performing any remedial work to reestablish salt cavern well or salt cavern integrity; or
4. whenever the Office of Conservation believes a survey is warranted.

C. Submission of Survey Results. One complete copy of each survey shall be submitted to the Office of Conservation within 30 days of survey completion.

1. Survey readings shall be taken a minimum of every 10 feet of vertical depth. Sonar reports shall contain the following minimum information and presentations:

- a. tabulation of incremental and total salt cavern volume for every survey reading;
- b. tabulation of the salt cavern radii at various azimuths for every survey reading;
- c. tabulation of the maximum salt cavern radii at various azimuths;
- d. graphical plot of Cavern Depth versus Volume;
- e. graphical plot of the maximum salt cavern radii;
- f. vertical cross sections of the salt cavern at various azimuths drawn to an appropriate horizontal and vertical scale;
- g. vertical cross section overlays comparing results of current survey and previous surveys;
- h. (optional)-isometric or 3-D shade profile of the salt cavern at various azimuths and rotations.

2. The information submitted resulting from use of an approved alternative survey method to determine cavern configuration and measure cavern capacity shall be determined based on the method or type of survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3133. Cavern Capacity Limits

A. The waste volume permitted for disposal into a salt cavern may not exceed 90 percent of the salt cavern volume measured from the sonar caliper survey submitted as part of the permit application. Upon reaching the permitted waste volume, the owner or operator shall remove the salt cavern from further waste disposal service and within seven days notify the Office of Conservation of such. Due to the potential for salt cavern enlargement resulting from disposal of undersaturated fluids, the operator may request a modification to the permit to allow for a continued waste disposal based on the findings of a new cavern capacity survey. If the Office of Conservation denies the request for permit modification, the operator shall begin preparations for salt cavern closure per approved updated closure and post-closure plan. The operator shall maintain a strict accounting of the waste volume disposed into the salt cavern, the fluid volume displaced from the salt cavern, and the salt cavern volume.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3135. Inactive Caverns

A. The operator shall comply with the following minimum requirements when there has been no disposal of waste into a salt cavern for 30 consecutive days or more, regardless of the reason:

1. notify the Office of Conservation as per the requirements of §3109.H.3;
2. disconnect all flowlines for injection to the salt cavern well;
3. maintain continuous monitoring of salt cavern pressure, fluid withdrawal, and other parameters required by the permit;
4. maintain and demonstrate salt cavern well and salt cavern mechanical integrity if disposal operations were suspended for reasons other than a lack of mechanical integrity;
5. maintain compliance with financial responsibility requirements of these rules and regulations;
6. any additional requirements of the Office of Conservation to document the salt cavern well and salt cavern shall not endanger the environment, or the health, safety and welfare of the public during the period of salt cavern inactivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3137. Monthly Operating Reports

A. The operator shall submit monthly waste receipts and operation reports to the Office of Conservation. Monthly reports are due no later than 15 days following the end of the reporting month.

B. The operator shall have the option of submitting monthly reports by any of the following methods:

1. the appropriate Office of Conservation supplied form;

2. an operator generated form of the same format and containing the same data fields as the Office of Conservation's form; or

3. electronically in a format meeting the Office of Conservation's requirements for electronic data submission.

C. Monthly reports shall contain the following minimum information:

1. name and location of the salt cavern waste disposal facility;
2. source and type of waste disposed;
3. wellhead pressures (PSIG) on all injection and withdrawal hanging strings;
4. wellhead pressure (PSIG) on the blanket material annulus;
5. density in pounds per gallon (PPG) of injected material;
6. volume in barrels (BBLs) and flow rate in barrels per minute (BPM) of injected material;
7. volume (BBLs) and disposition of all fluids withdrawn or displaced from the salt cavern;
8. chloride concentration in milligrams per liter (Mg/L) of injected materials including the carrier fluid;
9. changes in the blanket material fluid volume;
10. results of any monitoring program required by permit or compliance action;
11. summary of any test of the salt cavern well or salt cavern;
12. summary of any workover performed during the month including minor well maintenance;
13. description of any event which triggers an alarm or shutdown device and the response taken;
14. description of any event that exceeds operating parameters for annulus pressure or injection pressure as may be specified in the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3139. Record Retention

A. The owner or operator shall retain copies of all records, data, and information concerning the design, permitting, construction, and operation of the salt cavern well, salt cavern, and related surface facility. Records shall be retained throughout the operating life of the salt cavern waste disposal facility and for five years following conclusion of any post-closure care requirements. Records, data, and information shall include, but shall not be limited to the permit application, cementing (primary and remedial), wireline logs, drill records, casing records, casing pressure tests, well recompletion records, well/cavern mechanical integrity tests, cavern capacity and configuration surveys, surface construction, sources of wastes disposed, waste manifests, waste testing results, post-closure activities, corrective action, etc. All documents relating to any waste accepted and rejected for disposal shall be kept at the facility and shall be available for inspection by agents of the Office of Conservation at any time.

B. Should there be a change in the owner or operator of the salt cavern waste disposal facility, copies of all records identified in the previous paragraph shall be transferred to the new owner or operator. The new owner or operator shall then have the responsibility of maintaining such records.

C. The Office of Conservation may require the owner or operator to deliver the records to the Office of Conservation at the conclusion of the retention period. If so, the records shall be retained at a location designated by the Office of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§3141. Closure and Post-Closure

A. Closure. The owner or operator shall close the salt cavern well, salt cavern, surface facility or parts thereof as approved by the Office of Conservation. Closure shall not begin without written authorization from the Office of Conservation.

1. Closure Plan. Plans for closure of the salt cavern well, salt cavern, and related surface facility shall be submitted as part of the permit application. The closure plan shall meet the requirements of these rules and regulations and be acceptable to the Office of Conservation. The obligation to implement the closure plan survives the termination of a permit or the cessation of salt cavern waste disposal operations or related activities. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The Office of Conservation may modify a closure plan where necessary.

2. Closure Plan Requirements. The owner or operator shall review the closure plan annually to determine if the conditions for closure are still applicable to the actual conditions of the salt cavern well, salt cavern, or surface facility. Any revision to the plan shall be submitted to the Office of Conservation for approval. At a minimum, a closure plan shall address the following:

a. assurance of financial responsibility as required in §3109.B.1. All instruments of financial responsibility shall be reviewed each year before its renewal date according to the following process.

i. A detailed cost estimate for adequate closure of the entire salt cavern waste disposal facility (salt cavern well, salt cavern, surface appurtenances, etc.) shall be prepared by a qualified, independent third party and submitted to the Office of Conservation by the date specified in the permit.

ii. The closure plan and cost estimate shall include provisions for closure acceptable to the Office of Conservation and shall reflect the costs for the Office of Conservation to complete the approved closure of the facility.

iii. After reviewing the closure cost estimate, the Office of Conservation may increase, decrease or allow the amount to remain the same.

iv. Documentation from the operator showing that the required financial instrument has been renewed shall be received each year by the date specified in the permit. When an operator is delinquent in submitting documentation of financial instrument renewal, the Office of Conservation shall initiate procedures to take possession of funds guaranteed by the financial instrument and suspend or

revoke the operating permit. Permit suspensions shall remain in effect until renewal documentation is received and accepted by the Office of Conservation;

b. a prediction of the pressure build-up in the salt cavern following closure;

c. an analysis of potential pathways for leakage from the salt cavern, cemented casing shoe, and wellbore. Consideration shall be given to site specific elements of geology, waste characteristics, salt cavern geometry and depth, salt cavern pressure build-up over time due to salt creep and other factors inherent to the salt stock and/or salt dome;

d. procedures for determining the mechanical integrity of the salt cavern well and salt cavern before closure;

e. removal and proper disposal of any waste or other materials remaining at the facility;

f. closing, dismantling, and removing all equipment and structures located at the surface (including site restoration) if such equipment and structures will not be used for another purpose at the same disposal facility;

g. the type, number, and placement of each wellbore or salt cavern plug including the elevation of the top and bottom of each plug and the method of placement of the plugs;

h. the type, grade, and quantity of material to be used in plugging;

i. a description of the amount, size, and location (by depth) of casing and any other well construction materials to be left in the salt cavern well;

j. any proposed test or measurement to be made before or during closure.

3. Notice of Intent to Close.

a. The operator shall review the closure plan before seeking authorization to begin closure activities to determine if the conditions for closure are still relevant to the actual conditions of the salt cavern well, salt cavern, or surface facility. Revisions to the method of closure reflected in the plan shall be submitted to the Office of Conservation for approval no later than the date on which the notice of closure is required to be submitted as shown in the subparagraph below.

b. The operator shall notify the Office of Conservation in writing at least 30 days before the expected closure of a salt cavern well, salt cavern, or surface facility. Notification shall be by submission of a request for a work permit. At the discretion of the Office of Conservation, a shorter notice period may be allowed.

4. Standards for Closure. The following are minimum standards for closing the salt cavern well or salt cavern. The Office of Conservation may require additional standards prior to actual closure.

a. After permanently concluding waste disposal operations into the salt cavern but before closing the salt cavern well or salt cavern, the owner or operator shall:

i. observe and accurately record the shut-in salt cavern pressures and salt cavern fluid volume for an appropriate time or a time specified by the Office of

Conservation to provide information regarding the salt cavern's natural closure characteristics and any resulting pressure buildup;

ii. using actual pre-closure monitoring data, show and provide predictions that closing the salt cavern well or salt cavern as described in the closure plan will not result in any pressure buildup within the salt cavern that could adversely effect the integrity of the salt cavern well, salt cavern, or any seal of the system.

b. Before closure, the owner or operator shall do mechanical integrity pressure and leak tests to ensure the integrity of both the salt cavern well and salt cavern.

c. Before closure, the owner or operator shall remove and properly dispose of any free oil or blanket material remaining in the salt cavern well or salt cavern.

d. Upon permanent closure, the owner or operator shall plug the salt cavern well with cement in a way that will not allow the movement of fluids into or between underground sources of drinking water or outside the salt stock. Placement of cement plugs shall be accomplished by using standard petroleum industry practices for downhole well abandonment. Each plug shall be appropriately tagged and pressure tested for seal and stability before closure is completed.

e. Upon successful completion of the closure, the owner or operator shall identify the surface location of the abandoned well with a permanent marker inscribed with the operator's name, well name and number, serial number, section-township-range, date plugged and abandoned, and acknowledgment that the well and salt cavern were used for disposal of E&P waste.

5. Closure Report. The owner or operator shall submit a closure report to the Office of Conservation within 30 days after closure of the salt cavern well, salt cavern, surface facility, or part thereof. The report shall be certified as accurate by the owner or operator and by the person charged with overseeing the closure operation (if other than the owner or operator). The report shall contain the following information:

a. detailed procedures of the closure operation. Where actual closure differed from the plan previously approved, the report shall include a written statement specifying the differences between the previous plan and the actual closure;

b. all state regulatory reporting forms relating to the closure activity; and

c. any information pertinent to the closure activity including test or monitoring data.

B. Post-Closure. Plans for post-closure care of the salt cavern well, salt cavern, and related surface facility shall be submitted as part of the permit application. The post-closure plan shall meet the requirements of these rules and regulations and be acceptable to the Office of Conservation. The obligation to implement the post-closure plan survives the termination of a permit or the cessation of salt cavern waste disposal operations or related activities. The requirement to maintain and implement an approved post-closure plan is directly enforceable regardless of whether the

requirement is a condition of the permit. The Office of Conservation may modify a post-closure plan where necessary.

1. The owner or operator shall review the post-closure plan annually to determine if the conditions for post-closure are still applicable to actual conditions. Any revision to the plan shall be submitted to the Office of Conservation for approval. At a minimum, a post-closure plan shall address the following:

a. assurance of financial responsibility as required in §3109.B.1. All instruments of financial responsibility shall be reviewed each year before its renewal date according to the following process.

i. A detailed cost estimate for adequate post-closure care of the entire salt cavern waste disposal facility shall be prepared by a qualified, independent third party and submitted to the Office of Conservation by the date specified in the permit.

ii. The post-closure care plan and cost estimate shall include provisions acceptable to the Office of Conservation and shall reflect the costs for the Office of Conservation to complete the approved post-closure care of the facility.

iii. After reviewing the post-closure cost estimate, the Office of Conservation may increase, decrease or allow the amount to remain the same.

iv. Documentation from the operator showing that the required financial instrument has been renewed must be received each year by the date specified in the permit. When an operator is delinquent in submitting documentation of financial instrument renewal, the Office of Conservation shall initiate procedures to take possession of the funds guaranteed by the financial instrument and suspend or revoke the operating permit. Any permit suspension shall remain in effect until renewal documentation is received and accepted by the Office of Conservation;

b. any plans for monitoring, corrective action, site remediation, site restoration, etc., as may be necessary.

2. Where necessary and as an ongoing part of post-closure care, the owner or operator shall continue the following activities:

a. complete any corrective action or site remediation resulting from the operation of a salt cavern waste disposal facility;

b. conduct any groundwater monitoring or subsidence monitoring required by the permit until pressure in the salt cavern displays a trend of behavior that can be shown to pose no threat to salt cavern integrity, underground sources of drinking water, or other natural resources of the state;

c. complete any site restoration.

3. The owner or operator shall retain all records as required in §3139 for five years following conclusion of post-closure requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

Part XIX. Office of Conservation

Subpart 1. Statewide Order No. 29-B

Chapter 5. Off-site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated From Drilling and Production of Oil and Gas Wells

NOTE: Onsite disposal requirements are listed in LAC 43:XIX, Chapter 3.

§501. Definitions

* * *

Exploration and Production Waste (E&P Waste) Drilling wastes, salt water, and other wastes associated with the exploration, development, or production of crude oil or natural gas wells and which is not regulated by the provisions of, and, therefore, exempt from the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act, as amended. E&P Wastes include, but are not limited to the following.

Waste Type	E&P Waste Description
01	Salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations, process fluids generated by approved salvage oil operators who only receive oil (BS&W) from oil and gas leases, and nonhazardous natural gas plant processing waste fluid which is or may be commingled with produced formation water.
02	Oil-base drilling wastes (mud, fluids and cuttings)
03	Water-base drilling wastes (mud, fluids and cuttings)
04	Completion, workover and stimulation fluids
05	Production pit sludges
06	Storage tank sludge from production operations, onsite and commercial saltwater disposal facilities, DNR permitted salvage oil facilities (that only receive waste oil [B, S, & W] from oil and gas leases), and sludges generated by service company and commercial facility or transfer station wash water systems
07	Produced oily sands and solids
08	Produced formation fresh water
09	Rainwater from firewalls, ring levees and pits at drilling and production facilities
10	Washout water and residual solids generated from the cleaning of containers that transport E&P Waste and are not contaminated by hazardous waste or material; washout water and solids (E&P Waste Type 10) is or may be generated at a commercial facility or transfer station by the cleaning of a container holding a residual amount (no more than 1 barrel) of E&P Waste
11	Washout pit water and residual solids from oilfield related carriers and service companies that are not permitted to haul hazardous waste or material
12	Nonhazardous Natural gas plant processing waste solids.
13	(Reserved)
14	Pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e., waste fluids/solids generated from the cleaning of a pipeline
15	E&P Wastes that are transported from permitted commercial facilities and transfer stations to permitted commercial treatment and disposal facilities, except those E&P Wastes defined as Waste Types 01 and 06
16	Crude oil spill clean-up waste
50	Salvageable hydrocarbons bound for permitted salvage oil operators
99	Other E&P Waste not described above (shipment to a commercial facility or transfer station must be pre-approved prior to transport)

* * *

Salt Cavern Waste Disposal Facility Any public, private, or commercial property, including surface and subsurface lands and appurtenances thereto, used for receiving, storing, and/or processing oil and gas exploration and production waste for disposal into a solution-mined salt cavern.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§503. General Requirement for Generators

A. - F.2. ...

3. Prior to shipment and disposal at commercial land treatment facilities, natural gas plant processing waste solids (gas plant waste - Waste Type 12) must be analyzed for the chemical compound benzene (C₆H₆). Testing must be performed by a DEQ certified laboratory in accordance with procedures presented in the *Laboratory Manual for the Analysis of E&P Waste* (Department of Natural Resources, August 9, 1988, or latest revision).

F.4. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 29:

§505. General Requirements for Commercial Facilities and Transfer Stations

A. ...

B. Commercial land treatment facilities may not receive, store, treat or dispose of natural gas plant processing waste solids (Waste Type 12) that exceed the MPC criteria of §549.C.7.a for total benzene (3198 mg/kg) unless the company has demonstrated to the commissioner that Waste Type 12 can be pretreated to below the applicable MPC prior to land treatment. Such demonstration shall be considered a major modification of any existing permit and will require compliance with the permitting procedures of §§519, 527, and 529, including the submission of an application and public participation. The E&P waste management and operations plan required in §515 shall clearly indicate how the E&P Waste storage and treatment system will minimize the release of benzene (e.g., enclosed tanks, enclosed treatment equipment, vapor recovery systems, etc.). Such demonstration shall also include proof of solicitation from DEQ regarding applicable required air permitting for the existing and amended land treatment system.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2813 (December 2000), amended LR 29:

§507. Location Criteria

A. Commercial facilities and transfer stations may not be located in any area:

1. within one-quarter mile of a public water supply water well or within 1,000 feet of a private water supply well for facilities permitted after January 1, 2002;

2. - 5. ...

6. where such area, or any portion thereof, has been designated as wetlands by the U.S. Corps of Engineers during, or prior to, initial facility application review, unless

the applicable wetland and DNR Coastal Management Division coastal use permits are obtained;

A.7 - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2817 (December 2000), amended LR 27:1902 (November 2001), LR 29:

§511. Financial Responsibility

A. - E.1. ...

2. The insurer further certifies the following with respect to the insurance described in LAC 43:XIX.511.E.1.

E.2. - H. ...

§519. Permit Application Requirements for Commercial Facilities

A. - C.4.c. ...

d. all public supply water wells and private water supply wells within one mile of the proposed facility;

5. - 6. ...

7. documentation of compliance with the applicable location criteria of §507.A.5 and 6, with regard to flood zones and wetland areas;

8. - 21. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2813 (December 2000), amended LR 27:1905 (November 2001), LR 29:

§523. Permit Application Requirements for Land Treatment Systems

A. - C.5. ...

D. An explanation of the proposed E&P Waste management and operations plan with reference to the following topics:

D.1. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2813 (December 2000), amended LR 27:1906 (November 2001), LR 29:

§525. Permit Application Requirements for Other Treatment and Disposal Options

A. - C.5. ...

D. An explanation of the proposed E&P Waste management and operations plan with reference to the following topics:

D.1. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1907 (November 2001), amended LR 29:

§535. Notification Requirements

A. - F. ...

G The operator of a commercial salt cavern E&P waste storage well and facility shall provide a corrective action plan to address any unauthorized escape, discharge or release of any material, fluids, or E&P waste from the well or facility, or part thereof. The plan shall address the cause, delineate the extent, and determine the overall effects on the environment resulting from the escape, discharge or release. The Office of Conservation shall require the operator to formulate a plan to remediate the escaped, discharged or released material, fluids or E&P waste if the material, fluids,

or E&P waste is thought to have entered or has the possibility of entering an underground source of drinking water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1909 (November 2001), LR 29:

§547. Commercial Exploration and Production Waste Treatment and Disposal Options

A. - A.5. ...

6. Cavern Disposal. The utilization of a solution-mined salt cavern for the disposal of E&P waste fluids and solids. Applicants for permits and operators of commercial E&P waste salt cavern disposal wells must comply with the requirements of this Chapter (LAC 43:XIX.501 et seq) and the applicable requirements of Statewide Order No. 29-M-2, LAC 43:XVII, 3101 et seq. (see §555).

A.7. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1910 (November 2001), LR 29:

§555. Requirements for Cavern Disposal

A. Applicants for new commercial solution-mined salt cavern facilities to receive and dispose of E&P waste and operators of such existing facilities must comply with the administrative and technical criteria of LAC 43:XIX, Subpart 1, Chapter 5 (§501 et seq.) as well as the applicable definitions, administrative criteria and technical criteria of LAC 43:XVII, Subpart 4, Chapter 31 (§3101 et seq., Disposal of Exploration and Production Waste in Solution-Mined Salt Caverns).

B. The application for a new commercial salt cavern for the disposal of E&P waste shall include, but may not be limited to the following information:

1. The general provisions of LAC 43:XVII.3103;
2. An application shall contain the information required in LAC 43:XVII.3107, as follows:
 - a. §3107.B – Administrative Information;
 - b. §3107.C – Maps and Related Information;
 - c. §3107.D – Area of Review;
 - d. §3107.E – Technical Information.
3. The legal permit conditions required in LAC 43:XVII, 3109, as follows:
 - a. §3109.A – Signatories;
 - b. §3109.C – Duty to Comply;
 - c. §3109.D – Duty to Halt or Reduce Activity;
 - d. §3109.E – Duty to Mitigate;
 - e. §3109.F – Proper Operation and Maintenance;
 - f. §3109.G – Inspection and Entry;
 - g. §3109.H. 3, 4, 7b, 8, 9 and 10 – Notification Requirements;
 - h. §3109.I – Duration of Permits;
 - i. §3109.J – Compliance Review;
 - j. §3109.K – Additional Conditions.
4. The location criteria of Statewide Order No. 29-M-2, LAC 43:XVII.3113.
5. The site assessment requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3115.
6. The cavern and surface facility design requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3117.

7. The well construction and completion requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3119.

8. The operating requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3121.

9. The safety requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3123.

10. The monitoring requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3125.

11. The pre-operating and completion report requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3127.

12. The well and salt cavern mechanical integrity pressure and leak test requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3129.

13. The requirements for determining cavern configuration and measuring cavern capacity in Statewide Order No. 29-M-2, LAC 43:XVII.3131.

15. The limits on cavern capacity in Statewide Order No. 29-M-2, LAC 43:XVII.3133.

16. The requirements for inactive caverns in Statewide Order No. 29-M-2, LAC 43:XVII.3135.

17. The monthly reporting requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3137.

18. The record retention requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3139.

19. The applicable closure and post-closure requirements of Statewide Order No. 29-M-2, LAC 43:XVII.3141.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:

§565. Resource Conservation and Recovery of Exploration and Production Waste

A. - E.4.b. ...

F. Testing Criteria for Reusable Material

* E&P Waste when chemically treated (fixed) shall, in addition to the criteria set forth be acceptable as reusable material with a pH range of 6.5 to 12 and an electrical conductivity of up to 50 mmhos/cm, provided such reusable material passes leachate testing requirements for chlorides in §565.F above and leachate tests for metals in §565.F above.

** The leachate testing method for TPH, chlorides and metals is included in the *Laboratory Manual for the Analysis of E&P Waste* (Department of Natural Resources, August 9, 1988, or latest revision).

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1916 (November 2001), LR 29:

In accordance with the provisions of R.S. 49:940 et seq. and R.S. 30:4, notice is hereby given that the Commissioner of Conservation will conduct a public hearing at 10 am, Monday, January 27, 2003, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

All interested parties will be afforded the opportunity to submit data, views, or arguments regarding these new and amended regulations, orally or in writing at said public hearing in accordance with R. S. 49:953. Written comments will be accepted until 4:30 pm, Monday, February 3, 2003, at Office of Conservation, Injection and Mining Division, P

James H. Welsh
Commissioner of Conservation

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Disposal of Exploration
and Production Waste**

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

There are no implementation costs (savings) to state or local governmental units.

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

This new rule, Statewide Order No. 29-M-2 and an amendment of Statewide Order No. 29-B, LAC 43:XIX.501 et seq., will result in initial collection of approximately \$2,914 in application fees and hearing fees (2 Applications) by the Office of Conservation in FY 02-03. For subsequent years, two facilities would pay annual regulatory fees in the amount of \$11,300 (\$5,650 per facility). Local governmental units will not be affected.

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.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

James H. Welsh
Commissioner
0212#091

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Fees (LAC 43:XIX.703)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes to amend the established application fees for public hearings.

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Family Impact Statement

In accordance with R.S. 49:972, the following statements are submitted after consideration of the impact of the proposed Rule on family as defined therein.

1. The proposed Rules will have no effect on the stability of the family.

2. The proposed Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed Rules will have no effect on the functioning of the family.

4. The proposed Rules will have no effect on family earnings and family budget.

5. The proposed Rules will have no effect on the behavior and personal responsibility of children.

6. Family or local government is not required to perform any function contained in the proposed Rules.

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Monday, February 3, 2003. Comments should be directed, in writing, to Engineering Division, P.O. Box 94275, Baton Rouge, LA 70804-9275.

A public hearing will be held at 9 a.m., Tuesday, January 28, 2003 in the Hearing Room, located on the First Floor, LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh
Commissioner of Conservation

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fees**

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

There are no implementation costs (savings) to state or local governmental units.

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

This proposed amendment to Statewide Order No. 29-R-02/03 will result in an increase of collections by the Louisiana Office of Conservation of \$49,700 in Application Fees for Public Hearings by increasing these fees from \$700 per application to \$755 per application, for a total Application Fees fiscal impact from the present \$2,669,374 to \$2,710,074. The application fee increase of up to 8.5 percent was authorized by the passage of Act No. 97 of the 2002 First Extraordinary Session. The application Fee for Public Hearings increase was calculated in the original FEIS submitted for the Amendment to LAC 43:XIX, Subpart 2, Chapter 7, Statewide Order No. 29-R-02/03 Fee Schedule, and published in the *Louisiana Register* on August 20, 2002, but the corresponding text increasing the Application Fee for Public hearings from \$700 to \$755 was inadvertently omitted from the referenced Fee Schedule. Local governmental units will not be affected.

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

The proposed amendment to Statewide Order No. 29-R-02/03 will result in an 8.5 percent increase of collections by the Louisiana Office of Conservation in Application Fees for Public hearings from \$700 to \$755 (from \$2,699,374 to \$2,719,074), assessed to industries under the jurisdiction of the Office of Conservation, as authorized by the passage of Act No. 97 of the 2002 First Extraordinary Session of the Legislature.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Felix J. Boudreaux
Assistant Commissioner
0212#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Examiners of Bar Pilots for the Port of New Orleans

Bar Pilot Regulations
(LAC 46:LXXVI.Chapters 11-16)

Editor's Note: This Notice of Intent was originally printed on pages 1740-1750 of the October 2001 edition of the *Louisiana Register*. The Rule text has not been changed.

The Louisiana Legislature formed the Board of Examiners of Bar Pilots for the Port of New Orleans for the purpose of establishing Rules, regulations and requirements for holding examinations for all applicants who have registered with them for the posts of bar pilots; to establish standards for recommendation by the Board of Examiners of bar pilots for the Port of New Orleans to the Governor of the state of Louisiana for appointment as bar pilots who, pursuant to R.S. 34:941 et seq., have the duty to pilot sea-going vessels into and out of the entrances of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waterways of the Gulf of Mexico; to establish procedures in conformity with the requirements of the Administrative Procedure Act for investigating and conducting hearings relative to incidents and/or complaints of pilot misconduct; to establish certain minimum standards of conduct, including conduct relative to neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, incompetency, unreasonable absence from duty, and general bad conduct of bar pilots; to provide a uniform set of Rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of the Associated Branch Pilots for the Port of New Orleans; and to insure compliance by the Board of Examiners with the Public Meetings Law. These Rules and regulations are enacted to accomplish those purposes required by the Legislature and to protect the public by ensuring available, safe and competent pilotage of vessels on the waterways under the jurisdiction of this board of examiners.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXVI. Steamship Pilots

Subpart 3. Bar Pilots of the Port of New Orleans

Chapter 11. General Provisions

§1101. Authority

A. As mandated by R.S. 34:945.C.1, these rules and regulations are issued by the Board of Examiners of bar pilots for the Port of New Orleans in accordance with the Administrative Procedure Act under R.S. 49:950, et seq. for the purpose of adopting rules, regulations and requirements for holding examinations for all applicants who have registered with them for the posts of bar pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1102. Purpose

A. The purposes of these rules and regulations are as follows:

1. to establish standards for recommendation by the Board of Examiners of Bar Pilots for the Port of New Orleans to the Governor of the State of Louisiana for appointment as bar pilots who, pursuant to R.S. 34:941 et seq., have the duty to pilot sea-going vessels into and out of the entrances of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waterways of the Gulf of Mexico.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1103. Definitions

A. The following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act Cthe Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Application Cthe written application supplied by the Board of Examiners to an applicant who desires to become a bar pilot for the Port of New Orleans.

Board of Examiners or *Board* Cthe Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

Bar Pilot or *Pilot* Ca bar pilot for the Port of New Orleans, as designated in R.S. 34:943.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1104. Severability

A. If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which 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. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1105. Effective Date

A. These Rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these rules and regulations as well as any amendments, after the rules and regulations are adopted by the Board of Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, L

§1106. Qualifications of Pilots

A. No person shall be recommended to the governor for appointment as a Bar Pilot unless the applicant:

1. is a qualified elector of the State of Louisiana;
2. has served at least 12 months next preceding the date of his application in a pilot boat at the mouth of the

Mississippi River or other entrances into the Gulf of Mexico or other outside waters from the Port of New Orleans;

3. has successfully passed the examination given by the board of examiners, as required by R.S. 34:948;

4. owns or has made a binding legal agreement to acquired as owner or part owner of at least one decked pilot boat of not less than 50 tons burden, which is used and employed exclusively as a pilot boat, as required by R.S. 34:930;

5. is a high school graduate or, in lieu thereof, holds a third mate's license;

6. has served at least 1 year at sea on a sea-going vessel of not less than 1600 gross tons in the deck department;

7. has successfully passed a physical examination which in the judgment of the Board of Examiners includes those standards, such as vision, color perception and hearing tests, to perform duties as a bar pilot;

8. is of good moral character; and

9. shall have completed satisfactorily an apprenticeship program which culminates in a cubbing period of not less than 9 months duration handling vessels over the routes of the bar pilots under the supervision of not less than 25 licensed state bar pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1107. Minimum Requirements

A. The Board of Examiners shall review, and if found satisfactory, approve the apprenticeship program of the applicant, the minimum requirements of which shall be as follows: the applicant must set forth in detail the names of the vessels handled, dates handled, the direction of travel, size, draft, and type of vessel, and the name of the supervising bar pilot. During the period of apprenticeship the applicant shall handle vessels on not less than 650 occasions, two-thirds of which shall be at night.

B. The board of examiners will review the number and times of vessels handled, the size, draft, and type of vessels and the conditions under which the applicant has performed the apprenticeship in order to determine if the applicant has had sufficient exposure as to enable the board of examiners to make a determination of the applicant's competence and ability to perform the duties of a bar pilot.

C. The Board of Examiners shall prescribe the form of the application and required documentary proof of the applicant's eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1108. Bond

A. No person shall assume the position of bar pilot until he shall have first taken the oath prescribed by law and has furnished a bond in favor of the Governor in the amount of \$2,000 conditioned on the faithful performance of his duties imposed upon him as a bar pilot. This bond shall be approved by the Board of Commissioners of the Port of New Orleans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

Chapter 13. Pilots

Subchapter A. General Provisions

§1301. Authority

A. As mandated by R.S. 34:945.c.1, these Rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950 et seq. for the purpose of establishing minimum standards of conduct for bar pilots and for the proper and safe pilotage of sea-going vessels into and out of the entrance of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur Sound off Point Chicot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1302. Purpose

A. The purposes of these Rules and regulations are as follows:

1. to establish certain minimum standards of conduct, including conduct relative to neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, incompetency, unreasonable absence from duty, and general bad conduct of bar pilots;

2. to provide a uniform set of Rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways referred to in §1101.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1303. Definitions

A. The following terms as used in these Rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act The Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Board of Examiners or *Board* The Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

Bar Pilot or *Pilot* A bar pilot for the Port of New Orleans, as designated in R.S. 34:943.

Services of a Bar Pilot Any advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

Waterways The entrance into and out of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur sound off Point Chicot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1304. Investigations And Enforcement

A. All complaints reported to the board shall be considered for investigation. A complaint under the provisions of §1304.A through §1304.F is defined as:

1. any written complaint involving a bar pilot commissioned for the Port of New Orleans;

2. any reported incident involving a bar pilot commissioned for the Port of New Orleans while piloting a vessel; or

3. any other event involving a bar pilot commissioned for the Port of New Orleans that, in the discretion of any member of the board, justifies further investigation.

B. The board may appoint an investigating officer to investigate the complaint and report to the board.

C. If the board, or its designated investigating officer, is of the opinion that the complaint, if true, is sufficient to justify a further investigation, it shall appoint an investigating officer, or authorize its designated investigating officer to conduct a full investigation of the complaint.

D. Once authorized under §1304.C, the investigating officer, who may be an active or retired member of the Associated Branch Pilots of the Port of New Orleans, Louisiana, and who may be a member of the Board, shall make a full and complete investigation of the complaint. He shall be assisted by an attorney, named as independent prosecutor by the board. In the event that the Investigating Officer, as contemplated by either §1304.B or §1304.C, is an active member of the board, he shall be recused from any participation in the decision of the case.

E. If the investigating officer is of the opinion that the conduct in question is not sufficient to justify further proceedings, he shall make a reasoned report to the board, which may accept or reject his recommendation.

F. If the investigating officer is of the opinion that the conduct complained of is sufficient to justify further proceedings and the board has accepted his recommendations, or if the board has rejected his recommendation to dismiss the complaint, he shall give notice to the respondent, by registered mail, of the facts or conduct on which the complaint is based, and offer the respondent an opportunity to show compliance with the laws or regulations allegedly violated. If, in the opinion of the investigating officer, the respondent is able to demonstrate such compliance, then the investigating officer shall make a report to the board, recommending to the board that the complaint be dismissed. The board may accept or reject the recommendation of the investigating officer.

G. If the respondent is unable to demonstrate such compliance, or if the board rejects the recommendation of the investigating officer to dismiss the complaint, the investigating officer shall initiate proceedings by filing a written administrative complaint with the board, which shall be signed by the investigating officer.

H. The administrative complaint shall name the accused bar pilot as respondent in the proceedings. It shall also set forth, in separately numbered paragraphs, the following:

1. a concise statement of material facts and matters alleged and to be proven by the investigating officer, including the facts giving rise to the board's jurisdiction over the respondent;

2. the facts constituting legal cause under law for administrative action against the respondent;

3. the statutory or regulatory provisions alleged to have been violated by respondent.

I. The administrative complaint shall conclude with a request for the administrative sanction sought by the investigating officer, and shall state the name, address, and telephone number of administrative complaint counsel engaged by the board to present the case at the evidentiary hearing before the board.

J. The board may either accept or reject the administrative complaint.

K. If it rejects the administrative complaint, the case may be either dismissed or referred back to the investigating officer for further investigation.

L. If the board accepts the administrative complaint, the board shall docket the administrative complaint and schedule the administrative complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event the respondent's commission as a bar pilot for the port of New Orleans has been suspended by the board pending hearing, the evidentiary hearing on the administrative complaint shall be noticed and scheduled not more than 45 days after the filing of the administrative complaint.

M. A written notice of the administrative complaint and the time, date and place of the scheduled hearing thereon shall be served upon the respondent by registered, return receipt requested mail, as well as by regular first class mail, at the most current address for the respondent reflected in the official records of the board, or by personal delivery of the administrative complaint to the respondent. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held, and shall be accompanied by a certified copy of the administrative complaint.

N. The case shall be prosecuted by the independent prosecutor, also referred to administrative complaint counsel, who shall handle the case to its conclusion. He shall be entirely independent of the authority of the board in going forward with the matter, and may conduct such further investigation, and prepare and try the case in such manner as he may deem appropriate.

O. Within 15 days of service of the administrative complaint, or such longer time as the board, on motion of the respondent, may permit, the respondent may answer the administrative complaint, admitting or denying each of the separate allegations of fact and law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that the respondent does not file a response to the administrative complaint, all matters asserted therein shall be deemed denied.

P. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in the state of Louisiana. Upon receipt of service of an administrative complaint pursuant to these rules, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the board of

the name, address, and telephone number of such counsel. Following receipt of proper notice of such representation, all further notices, administrative complaints, subpoenas or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

Q. All pleadings, motions or other papers permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall by the same method of delivery be concurrently served upon administrative complaint counsel designated by the administrative complaint, if filed by or on behalf of the respondent, or upon respondent, through counsel of record, if any, if filed by administrative complaint counsel.

2. All such pleadings, motions or other papers shall be submitted on plain white letter-size (8 1/2 x 11") bond, with margins of at least one inch on all sides, and double spaced except as to quotations and other matters customarily single spaced, shall bear the caption and docket number of the case as it appears on the administrative complaint, and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by Subsection A of this Section.

3. The Board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this section.

R. Motions for continuance of hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the Administrative Complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the investigating officer, through administrative complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officer's position with respect to the motion.

S.1. A motion for continuance of hearing shall be filed within the delay prescribed by §1304.R of these rules, provided that the Board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

2. A scheduled hearing may be continued by the board only upon a showing by respondent or administrative complaint counsel that there are substantial legitimate grounds that the hearing should be continued, balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

3. If an initial motion for continuance is not opposed, it may be granted by the presiding officer.

T.1. Any prehearing motion, other than an unopposed initial motion for continuance of hearing which may be

granted by the chairman of the board, shall be referred for decision to the board member designated by the board as the presiding officer of the board designated with respect to the proceeding for ruling. The presiding officer, who shall be a member of the board designated as presiding officer by the board in each matter before the board, in his discretion, may refer any prehearing motion to the board for disposition, and any party aggrieved by the decision of a presiding officer on a prehearing motion may request that the motion be reconsidered by the entire panel.

2. Prehearing motions shall ordinarily be ruled upon by the presiding officer or the board, as the case may be, on the papers filed, without hearing. On the written request of respondent or of administrative complaint counsel, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing by oral argument, on any prehearing motion.

U.1. Upon request of the respondent or administrative complaint counsel and compliance with the requirements of this Section, any board member shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

2. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examination, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

V.1. In any case of adjudication noticed and docketed for hearing, counsel for respondent and administrative complaint counsel may agree, or the presiding officer may require, that a prehearing conference be held among such counsel, or together with the board's independent counsel appointed pursuant to §1304.W hereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

2. Following such prehearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a prehearing stipulation which should include:

a. a brief statement by administrative complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;

b. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

c. a list of the witnesses to be called by administrative complaint counsel and by respondent, together with a brief general statement of the nature of the testimony each such witness is expected to give;

d. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents or issues; and

e. an estimate of the time required for the hearing.

W.1. Unless otherwise requested by the respondent, adjudication hearings, being the hearing conducted on the merits of the administrative complaint, shall be conducted in closed session.

2. At an adjudication hearing, opportunity shall be afforded to administrative complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the administrative complaint.

3. Unless stipulation is made between the parties and approved by the board, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

4. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in executive session. At any such hearing, the board may be assisted by legal counsel retained by the board for such purpose, who is independent of administrative complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

5. The record in a case of adjudication shall include:

a. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery, and all pleadings, motions, and intermediate rulings;

b. evidence received or considered at the hearing;

c. a statement of matters officially noticed except matter so obvious that statement of them would serve no useful purpose;

d. offers of proof, objections, and rulings thereon;

e. proposed findings and exceptions, if any;

f. the decision, opinion, report or other disposition of the case made by the board.

6. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

X.1. In an adjudication hearing, the board may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

2. All evidence, including records and documents in the possession of the board which administrative complaint counsel desires the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts,

or by incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

3. Notice may be taken of judicially cognizable facts and generally recognized technical or scientific facts within the board's knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

4. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

5. Except as otherwise governed by the provision of these rules, adjudication hearings before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

Y. The board may make informal disposition, by default, consent order, agreement, settlement or otherwise of any adjudication pending before it. A consent order shall be considered by the board only upon the recommendation of the investigating officer.

Z.1. The final decision of the board in an adjudication proceeding shall, if adverse to the respondent, and otherwise may be, in writing, shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

2. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of administrative complaints.

AA.1. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within ten days from service of the decision on respondent or on its own motion. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §1304.Q and shall set forth the grounds upon which such motion is based, as provided by Subsection B of this Section.

2. The board may grant rehearing, reopening, or reconsideration if it is shown that:

a. the decision is clearly contrary to the law and the evidence;

b. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;

c. other issues not previously considered ought to be examined in order to properly dispose of the matter; or

d. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

BB. Pursuant to R.S. 34:945(C)(3), the board of Examiners shall have the authority to impose a fine of not more than \$500 on any bar pilot, to reprimand or remove from a vessel any bar pilot, or to recommend to the Governor that the commission of any bar pilot be suspended or revoked, if after a hearing conducted in accordance with these Rules and regulations and the administrative procedure act a bar pilot is found in violation of any rule or regulation adopted by the board of examiners.

CC. The authority established in these rules is in addition to and in no way limits the authority of the board to seek to remove or to remove a pilot from a vessel pursuant to the provisions of R.S. 34: 947 and R.S. 49:961(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1305. Severability

A. If any provision of these Rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which 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. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1306. Effective Date

A. These Rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these Rules and regulations, as well as any amendments, after the Rules and regulations are adopted by the board of examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

Chapter 14. Standards of Conduct: Proper and Safe Pilotage

§1401. Adoption of Inland Navigational Rules

A. For those waters on which the Inland Rules apply within the jurisdiction of the bar pilots, the board of Examiners hereby adopts, by reference and in its entirety, the Inland Navigational Rules at 33 U.S.C. Section 2001, et seq. The Board of Examiners also adopts the navigation safety standards set forth in Title 33 CFR part 164 (p). All bar pilots and bar pilot applicants shall be subject to these Inland Navigational Rules and safety standards as adopted herein by reference.

Title 33 CFR Part 164 (P)

- (p) The person directing the movement of the vessel sets the vessel's speed with consideration for
- (1) The prevailing visibility and weather conditions;
 - (2) The proximity of the vessel to fixed shore and marine structures;
 - (3) The tendency of the vessel underway to squat and suffer impairment of maneuverability when there is small underkeel clearance;
 - (4) The comparative proportions of the vessel and the channel;
 - (5) The density of marine traffic;
 - (6) The damage that might be caused by the vessel's wake;
 - (7) The strength and direction of the current; and
 - (8) Any local vessel speed limit;

NOTE: These rules CFR 110.195 and 161.402 have not been adopted but should be reviewed by all pilots and applicants.

Title 33 CFR 110.195

- (a) The Anchorage Grounds. Unless otherwise specified, all anchorage widths are measured from the average low water plane (ALWP).
- (1) Pilottown Anchorage. An area 5.2 miles in length along the right descending bank of the river from mile 1.5 to mile 6.7 above Head of Passes, extending in width to 1600 feet from the left descending bank of the river.

Title 33 CFR 161.402

- (c) Navigation of South and Southwest Passes.
- (1) No vessel, except small craft and towboats and tugs without tows, shall enter either South Pass or southwest Pass from the Gulf until after any descending vessel which has approached within two and one-half (2 ½) miles of the outer end of the jettles and visible to the ascending vessel shall have passed to sea.
 - (2) No vessel having a speed of less than 10 mph shall enter South Pass from the Gulf when the state of the Mississippi Rive exceeds 15 feet on the Carrollton Gage at New Orleans. This paragraph does not apply when Southwest Pass is closed to navigation.
 - (3) No vessel, except small craft and towboats and tugs without tows, ascending South Pass shall pass Franks Crossing Light until after a descending vessel shall have passed Depot Point Light.
 - (4) No vessel, except small craft and towboats and tugs without tows, shall enter the channel at the head of South Pass until after an ascending vessel which has reached Franks Crossing Light shall have passed through into the river.
 - (5) When navigating South Pass during periods of darkness no tow shall consist of more than one towed vessel other than small craft, and during daylight hours no tow shall consist of more than two towed vessels other than small craft. Tows may be in any formation, When towing on a hawser, the hawser shall be as short as practicable to provide full control at all times.
 - (6) When towing in Southwest Pass during periods of darkness no tow shall consist of more than two towed vessels other than small craft, and during daylight hours no tow shall consist of more than three towed vessels other than small craft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1402. Ships Required To Take Pilots

A. All ships and vessels inward or outward bound throughout the entrances of the Mississippi River or other inland waterway connecting the Port of New Orleans with the Gulf of Mexico, or other outside waters, except those of 100 tons or less lawfully engaged in the coasting trade of the United States, shall take a bar pilot when one is offered; and any ship or vessel refusing or failing to take a pilot shall be liable to the pilot thus offering for pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1403. Pilots' Duty of Remain on Board Ship until Crossing Bar

A. When boarding an outward bound ship or vessel at the boarding stations bar pilots shall remain on board the ship until she crosses the bar, unless permission is given by the master for the pilot to absent himself from the ship or vessel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1404. Acting as Pilot without License; Penalty

A. No person who is not commissioned a bar pilot shall board any ship or vessel required to take a bar pilot, for the purpose of piloting, or to pilot or attempt to pilot the same; and no person or pilot shall board any such ship or vessel for the purpose of piloting, except from the pilot boats on the bar pilot stations. Whoever violates the provisions of this Section shall be fined not less than \$1,500 nor more than \$5,000, or may be imprisoned for not more than six months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1405. Pilot's Duty to Exhibit License

A. Whoever offers to pilot a ship or other vessel shall, if required, exhibit to the commander thereof this identification card as a bar pilot, attested to by the chairman of the board of examiners; and if he refuses or neglects to do so, he shall not be entitled to any remuneration for any service he may render as pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1406. Employing Pilot without Licenses; Liability of Vessel, Master or Owner

A. When a vessel, inward or outward bound to or from the Port of New Orleans employs as a pilot a person who is not a state commissioned bar pilot, when a bar pilot offers his services, the vessel, her captain and owners, shall be liable for a civil penalty of and shall forfeit to the state of Louisiana the sum of \$15,000 with privilege on the vessel, to be recovered before any court of competent jurisdiction. An action for forfeiture under this Section may be brought by the attorney general of Louisiana or by the Associated Branch Pilots of the Port of New Orleans. If the Associated Branch Pilots of the Port of New Orleans obtains a judgement hereunder, the court shall include in its judgement a reasonable attorney's fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1407. Employing Pilot without a State Commission; Penalties

A. No master, owner, or agent of a vessel required under R.S. 34:953 to take a state commissioned bar pilot shall, when a state commissioned bar pilot offers his services, employ as a pilot a person who is not a state commissioned bar pilot.

B. Whoever violated this Section shall be subject to a fine of not less than \$1,500 nor more than \$5,000, or imprisoned for not more than 6 months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1408. Offering of Services

A. As used in this Subpart, reference to the offering of a bar pilot or the offering of services by a bar pilot shall mean any offering of any advice or assistance with respect to

pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, and other navigational conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1409. Prohibition of Interest of Members of Board of Commissioners of Port of New Orleans, in Pilot Boat or Pilotage

A. The members of the Board of Commissioners of the Port of New Orleans shall not be interested, directly or indirectly, in any bar pilot boat or pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1410. Report by Pilot

A. In any case where a vessel being piloted by a bar pilot shall go aground, or shall collide with any object, or shall meet with any casualty, which causes injury to persons or damage to property, the pilot shall, as soon as possible report such incident to the Board.

B. The board, with or without complaint made against said pilot, shall investigate the incident.

C. The pilot shall make a complete report to the board within 10 days after the incident. This report may either be an oral or a written report as the board deems necessary.

D. These rules shall apply to any bar pilot engaged in piloting within the operating territory as defined by R.S. 34:941 et seq., whether the vessel be subject to compulsory pilotage or elective pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1411. Pilots Duty to Report

A. Pilots, when notified, shall report in person to the board at the time and place so designated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1412. Pilots Summoned to Testify

A. Any bar pilot summoned to testify before the board shall appear in accordance with such summons and shall make answer under oath to any question put to him, touching any matter connected with the pilot's service or of the pilot grounds over which he is commissioned to pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

Chapter 15. Drug And Alcohol Policy

§1501. Application

A. The board of examiners hereby adopts the following Rules and regulations relating to a drug and alcohol abuse policy applicable to all State licensed bar pilots pursuant to the provisions of R.S. 34:941 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1502. Statement of Findings and Purposes

A. The Board of Examiners of Bar Pilots for the Port of New Orleans, Louisiana, (hereinafter "board") has always had a strong commitment to the pilot members of the Associated Branch Pilots for the Port of New Orleans to provide a safe work place and to establish programs promoting high standards of bar pilot health. Consistent with the spirit and intent of this commitment, the board has established this policy regarding drug and alcohol abuse. Its goal will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug abuse.

B. While the board has no intention of intruding into the private lives of bar pilots, the board does expect bar pilots to report for work in a condition to perform their duties. The board recognizes that off-the-job, as well as on-the-job, involvement with alcohol and drugs can have an impact on the work place and on a bar pilot's ability to accomplish our goal of an alcohol and drug-free work environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1503. Bar Pilots' Assistance Program

A. Establishment. The board has designed a Bar Pilots' Assistance Program (BPAP) to provide help for any bar pilot whose personal alcohol or drug abuse problems may seriously affect his or her ability to function on the job, at home and in society.

B. Eligibility. The BPAP is available to all bar pilots and their spouses because an alcohol or drug abuse problem of a spouse may also affect a bar pilot's work and general well-being.

C. Procedure

1. At times, people find the solution to their own problems. When this cannot be accomplished, a BPAP staff person will discuss the bar pilot's problem with him and put him in touch with appropriate professional sources.

2. The bar pilot or spouse will then be advised of available alternatives for treatment, counseling or help, and assisted in arranging an appointment. When an eligible person requests assistance, that person decides whether or not he or she wants to pursue the recommendation.

3. The BPAP will either provide assistance by telephone or will arrange for a confidential consultation in their private offices.

D. Costs. If the counseled person needs to be referred to resources outside the BPAP, then he or she is responsible for all fees.

E. Confidentiality. A bar pilot's right to confidentiality and privacy in the BPAP is recognized. All information regarding referral, evaluation, and treatment will be maintained in a confidential manner and no BPAP matters will be entered in a bar pilot's personal file except as is mandated by law. A request for evaluation, diagnosis, information, or treatment will not affect this board's actions or recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1504. Definitions

A. As used in this Chapter:

Alcoholic Beverage Any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol.

Drug All controlled dangerous substances as defined in R.S. 40:961.7. Some of the drugs which are illegal under Federal, State, or local laws include, among others, marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited physician.

Prescription Medication Any medication distributed by the authorization of a licensed physician as defined in R.S. 40:961.30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1505. Prohibitions and Requirements of the Policy

A. A bar pilot who is under the influence of alcohol or drugs, or who possesses or uses alcohol or drugs on the job, has the potential for interfering with his own safety as well as that of the ship he is piloting and other vessels in the area, property, and personnel. Consistent with existing board practices, such conditions shall be proper cause for disciplinary action up to and including loss of state license as a bar pilot.

B.1. Off-the-job drug or alcohol abuse use that could adversely affect a bar pilot's job performance or could jeopardize the safety of others shall be proper cause for administrative or disciplinary action up to and including recommendation for revocation of a bar pilot's license.

2. Bar pilots who are arrested for off-the-job drug or alcohol activity may be considered to be in violation of this policy. In deciding what action to take, the board will take into consideration the nature of the charges, the bar pilot's overall job performance as a pilot, and other factors relative to the impact of the bar pilot's arrest upon the conduct of bar pilotage and the safety threat posed to the public by the specific activity.

C.1. A pilot shall be free of use of any drug as defined in §1504.A.*Drug*, but excluding prescription medication as defined in §1504.A.*Prescription Medication*, so long as such use of prescription medication does not impair the competence of the pilot to discharge his duties.

2. Bar pilots undergoing prescribed medical treatment with a controlled substance should report this treatment to the president of the board and to the Associated Branch Pilots doctor. The use of controlled substances as part of a prescribed medical treatment program is naturally not grounds for disciplinary action, although it is important for the board to know such use is occurring.

D. A bar pilot who voluntarily requests assistance in dealing with a personal drug or alcohol abuse problem may participate in the BPAP without the board taking action to fine or recommend action against a bar pilot, provided he stops any and all involvement with alcohol or drugs. Volunteering to participate in the BPAP will not prevent disciplinary action for a violation of this policy which has already occurred.

E.1. Narcotics or any other controlled dangerous substance made illegal by the laws of the United States or the state of Louisiana shall not be brought aboard or caused to be brought aboard any vessel no matter by whom owned, or property owned or leased by the Associated Branch Pilots.

2. Persons, or property, coming aboard any such vessel or property will be subject to inspection.

3. The board will cooperate fully with appropriate law enforcement agencies by reporting information with respect to the violation of laws regarding illegal substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1506. Drug Testing

A. Drug Investigated. All bar pilots shall be subject to testing for the presence of marijuana, opiates, cocaine, amphetamines, and phencyclidine.

B. Types of Testing

1. All bar pilots shall submit to reasonable scientific testing for drugs when directed by the board. All procedures and activities conducted in connection with such testing shall comply with R.S. 49:1001 - 1015, as those provisions may be amended from time to time.

2. A bar pilot shall be required to submit a urine specimen to be tested for the presence of drugs under the following circumstances:

a. prior to recommendation for appointment, as a part of the physical exam required in §1106.A.7 of these Rules and regulations;

b. after recommendation, whenever the pilot is required by the board to undergo a physical examination;

c. upon written complaint signed by the complainant in accordance with Chapter 16 of the Board of Review of Bar Pilots for the Port of New Orleans;

d. when the pilot is reasonably suspected of using drugs in violation of this policy;

e. at random at the discretion of the board; and

f. when the pilot is determined to be directly involved in a marine casualty or accident during the course of his activities as a pilot that results in:

i. one or more deaths;

ii. injury to any person which requires professional medical treatment beyond first aid;

iii. damage to property in excess of \$100,000; or

iv. actual or constructive loss of any vessel.

C. The board may designate a testing agency to perform any scientific test(s) necessary to detect the presence of drugs or their metabolites in a pilot's system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1507. Alcohol Testing

A. The board of examiners may require a pilot to submit to a blood alcohol test under the following circumstances:

1. upon written complaint signed by the complainant in accordance with Chapter 16 of the Rules and regulations of the Board of Review of Bar Pilots of the Port of New Orleans;

2. when there exists reasonable suspicion that a pilot is performing his duties while under the influence of alcohol; or

3. when the pilot is determined to be directly involved in a marine casualty or accident of the type described in Section 806(B)(2)(d).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1508. Violations of the Policy

A. Any Pilot found to be in violation of this policy may be reprimanded, fined, evaluated, and treated for drug use and have his commission suspended or revoked as provided by R.S. 34:945 and 962.

B. Any bar pilot reasonably suspected of bringing on board any vessel, no matter by whom owned, or property owned or leased by the Association, or causing to bring on board a vessel or property owned or leased by the Association, any narcotic or any other controlled dangerous substance made illegal by the laws of the United States of the State of Louisiana will be subject to disciplinary action either by the board or, upon recommendation of the board, by the Governor of the Louisiana.

C. A pilot shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:945 and 962 if:

1. he tests positive for any drug listed in §1506.A;

2. he uses any drug in violation of §1505.C;

3. he refuses to submit to reasonable scientific testing for drugs, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results;

4. tests positive for alcohol; or

5. refuses to submit to a blood alcohol test, fails to cooperate fully with the testing procedure, or in any way tries to alter the test results.

D. Any pilot who is required to undergo evaluation or treatment for alcoholism or drug abuse shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility, must be approved by the board.

E. Any pilot who believes he would be in violation of these Rules if he were to perform his duties as a bar pilot is obligated to remove himself from duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1509. Test Results

A. All drug test results shall be reviewed by a medical review officer in accordance with R.S. 49:1007.

B. Any pilot, confirmed positive, upon his written request, shall have the right of access, within seven working days of actual notice to him of his test results, to records relating to his drug tests and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings.

C. The results of the drug testing conducted pursuant to this policy and all information, interviews, reports, statements and memoranda relating to the drug testing shall, in accordance with R.S. 49:1012, be confidential and disclosed only to the board of examiners and the pilot tested, except that:

1. the board of examiners may report the results to the governor; and

2. in the event that the board of examiners determines that a hearing is required pursuant to R.S. 34:991 or 1001, there shall be no requirement of confidentiality in connection with such hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

Chapter 16. Administrative Policy

§1601. Application

A. The purpose of this section is to ensure compliance by the Board of Examiners of Bar Pilots for the Port of New Orleans with the provisions of the Louisiana Public Meeting Law and the records maintenance requirements of the provisions of R.S. 49:950, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1602. Meetings of Examiners

A. All meetings and notices thereof of the board of examiners shall be conducted in accordance with the Open Meetings Law (R.S. 42.4 et seq.). The board shall meet at least once each quarter and meetings shall be called in accordance with R.S. 42:7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

§1603. Record Keeping

A. The board of examiners shall maintain records and conduct its hearings in accordance with R.S. 49:950, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:

Family Impact Statement

Although the family of a pilot subject to the disciplinary process set forth in the proposed Rules and regulations for the Board of Examiners of Bar Pilots for the Port of New Orleans could potentially be impacted by the process and the possible discipline against the pilot, the proposed Rules and regulations should not have any known or foreseeable impact on the family as defined by R.S. 49:972.D in terms of the general public, or on family formation, stability and autonomy.

1. What effect will this Rule have on the stability of the family? The proposed rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect 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? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget, unless a disciplined pilot is fined or has his license suspended after going through the disciplinary process, or is removed from a vessel.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is strictly a state enforcement function.

All interested persons are invited to submit written comments on the proposed Rules and regulations for the Board of Examiners of Bar Pilots for the Port of New Orleans. Persons commenting should reference this proposed regulation by "Rules and regulations of the Board of Examiners." Such comments must be received no later than January 8, 2003, at 4:30 p.m., and should be sent to Captain Thomas L. Ittmann, Board of Examiners of Bar Pilots for the Port of New Orleans, 3813 North Causeway Boulevard, Suite 100, Metairie, LA 70002 or to fax (504) 831-4536. Copies of this proposed regulation can be purchased at the above referenced address. Contact the board office at (504) 831-6615 for pricing information. Check or money order is required in advance for each copy.

Captain Thomas L. Ittmann
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bar Pilot Regulations

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

The Board of Examiners of Bar Pilots for the Port of New Orleans anticipates that the additional costs associated with the implementation of the proposed rules will be \$1,500 for the fiscal year 2001-2002, and \$5,000 for the fiscal years 2002-2003 and 2003-2004. The board will formalize the procedures involved in investigating and prosecuting disciplinary complaints against Bar Pilots, thus better insuring the protection of the public, the rights of the accused Bar Pilot, and compliance with the requirements of the Louisiana Administrative Procedure Act. It is anticipated that a thorough investigation and prosecution of complaints against Bar Pilots will result in an increase in public safety.

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

The board is funded by billing all expenses, including the expenses of disciplinary procedures, to the Associated Branch Pilots of the Port of New Orleans, for whom the board serves as the examining and supervising authority. Funding will be derived from billings to the Associated Branch Pilots. Further, costs of a disciplinary proceeding may be assessed against the Bar Pilot who is the subject of the proceeding.

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

The proposed Rules changes provide for legal representation for the board, together with the requirement that the legal counsel prosecuting the action be independent of the board or its counsel. Thus the current cost of the disciplinary process will increase by the cost of the legal fees. The costs of the disciplinary procedures, exclusive of attorney's fees, may be assessed against the pilot in accordance with the Administrative Procedure Act and a fine imposed according to the enabling statute for the Board of Review of Bar Pilots for the Port of New Orleans. Those costs not paid by a disciplined pilot will be billed to and paid by the Associated Branch Pilots for the Port of New Orleans.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

It is not anticipated that the Rules changes will have any effect on competition and employment in either the public or private sector.

Thomas L. Ittmann
Chairman
0212#043

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Driver's License (LAC 55:III.187)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority contained in R.S. 32:408, notice is hereby given that the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles, proposes to amend the existing rules relative to the administration of knowledge and skills test by third parties to applicants for Class "D" and "E" driver's licenses. The proposed amendment would change the insurance coverage requirement for approved third parties to conduct the knowledge and skills test required of an applicant for a Louisiana drivers license.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

Chapter 1. Driver-s License

**Subchapter C. Third Party Knowledge and Skills
Testing for Class AD® and AE®**

§187. Compliance

A. - M. ...

N. Third Party Testers and Third Party Examiners shall maintain a minimum limit of automobile liability insurance coverage of \$1,000,000 per occurrence in connection with the skills test. Third Party Testers and Third Party Examiners shall also maintain a minimum general liability policy of \$1,000,000 per occurrence. These policies shall provide primary coverage to the state of Louisiana, the department, and the department's employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1928 (November 2001), amended LR 29:

Family Impact Statement

1. The Effect of These Rules on the Stability of the Family. These Rules will have no adverse affect on the family.

2. The Effect of These Rules on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These Rules will have no adverse impact on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of These Rules on the Functioning of the Family. These Rules will have no adverse impact on the functioning of the family.

4. The Effect of These Rules on Family Earnings and Family Budget. These Rules will have no adverse impact on family earnings and family budget.

5. The Effect of These Rules on the Behavior and Personal Responsibility of Children. These Rules will have no adverse impact on the behavior and personal responsibility of children.

6. The Effect of These Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no adverse impact on the ability of the family to perform the function as contained in the proposed Rules. Local governments are not affected by these Rules as they neither obtain nor issue driver's licenses.

Persons having comments or inquiries may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by January 21, 2003. A public hearing on these Rules is tentatively scheduled for Tuesday, January 28, 2003, in the Executive Conference Room at the Office of Motor Vehicles Headquarters at 7979 Independence Blvd., LA 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing. If the requisite number of comments are not received, no hearing will be held.

Chris Keaton
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Driver-s License**

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

There should be no costs or savings to the state to implement the proposed Rule amendment regarding the insurance requirement for third party testing of applicants for driver's licenses. The department has verified with the Office of Risk Management (ORM) that at the present time there is no information that this Rule amendment will have an effect on the amount of premiums paid by the department to ORM.

There should be no costs or savings to local governmental units to implement the proposed Rules authorizing third party testing of applicants for driver-s licenses as only the state issues driver's licenses

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

There should be no effect on revenue collections by the state. The department will still charge the normal license fee upon the issuance of the driver's license.

There should be no effect on the revenue of local governmental units as only the state issues drivers=licenses.

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

The \$2,000,000 minimum policy required of the third party tester is not commercially available as a \$1,000,000 policy is standard.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There should be a positive impact on employment as approved third-party testers will need to hire testers to administer the knowledge and skills test. There should be no effect on competition.

Chris Keaton
Undersecretary
0212#089

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Corrections Services**

Telephone Use and Policy on Monitoring
of Calls CAdult and Juvenile
(LAC 22:I.314)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to repeal, in its entirety, LAC 22:I.314, Adult Offender Telephone Use, and to adopt LAC 22:I.314, Telephone Use and Policy on Monitoring of Calls CAdult and Juvenile.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

**§314. Telephone Use & Policy on Monitoring of
Calls CAdult and Juvenile**

A. Purpose. The purpose of this regulation is to establish the secretary's policy regarding the use of telephones by inmates and the monitoring of inmate telephone calls at all adult and juvenile institutions.

B. To Whom this Regulation Applies. This regulation applies to deputy secretary, undersecretary, assistant secretaries and all wardens. It is the responsibility of each warden to implement this regulation and convey its contents to the inmate population, employees, and the public.

C. Policy. It is the secretary's policy that uniform telephone procedures Cincluding the ability to monitor and/or record inmate telephone calls to preserve the security and orderly management of the institution and to protect the public safety Cbe established and adhered to at all institutions. Each institution will offer inmates (including the hearing impaired) reasonable access to telephone communication without overtaxing the institution's ability to properly maintain security and to avoid abuse of this privilege on the part of any inmate.

D. Definition. Inmate refers to anyone committed to the custody of the department whether as an adult or juvenile in this context.

E. Procedures

1. General

a. Each inmate will be assigned a personal identification number (PIN) which must be used when placing outgoing telephone calls. The PIN will be the inmate's DOC number or JIRMS number.

b. At the juvenile institutions, one unique PIN, not the inmate's JIRMS number, will be utilized for calling the PZT Hotline only.

c. Each inmate will provide his assigned institution a master list of up to 20 frequently called telephone numbers inclusive of all family, personal, and legal calls. Each inmate's outgoing telephone calls will be limited to those telephone numbers he has placed on his master list. Changes may be made to the master list at the discretion of the warden, but no less than once each quarter. These changes may be input by the contractor or by appropriately trained institutional staff.

i. Changes to the master list for parents of juvenile offenders and attorneys representing a juvenile offender are to be expedited. All attempts should be made to institute such changes within six working days. For parents, the six days shall begin from written notification by the offender to the appropriate institutional staff. For an attorney, the time period shall begin upon receipt of the offender's written request to the appropriate institutional staff, if the offender is 18 years or older. For offenders under the age of 18, the time period shall begin upon receipt of written notice from the parent confirming the attorney as the legal representative of their child.

d. At juvenile institutions, regardless of custody status, offenders will be provided an opportunity to make telephone calls home at state expense when the offender's case worker determines that the call promotes the goal of the offender's intervention plan.

i. Offenders will also be given meaningful access to telephones for privileged communications with their attorneys.

e. For new inmates, PIN and master list numbers will be input into the telephone system upon intake at the Reception and Diagnostic Centers.

f. Upon the request of a telephone subscriber, the institution may block a telephone number and prevent the subscriber from receiving calls from an inmate housed in the facility. To accomplish a block of a particular number for all state facilities, the institution should contact the contractor to request that a universal block be put into place.

2. Dormitory Housing CMinimum or Medium Custody

a. Personal or Family Calls (Routine). Collect telephone access should be available on a relatively non-restricted basis. The specific hours in the various living areas at the individual institutions shall be established by the Warden of each institution. The Warden shall communicate the telephone schedule to the inmate population. A time limit should be established.

b. Personal or Family Calls (Emergency). Requests for access outside of normally scheduled hours may be made through the dormitory officer, counselor, or shift supervisor.

c. Legal Calls. The Warden shall establish a schedule for legal calls. Inmates are generally able to place legal calls during the lunch period or after the afternoon count (when "normal office hours" are in effect for attorneys). The Warden should establish an alternate procedure if this is not adequate.

3. Cellblock Housing CMaximum Custody

a. Personal or Family Calls (Routine). Collect telephone access is generally located in the cellblock lobby. (In those situations where the telephone is on the tier, the inmate may be allowed access during the shower or exercise period.) Lobby placement may restrict inmate access. Therefore, posted policy may limit routine personal calls for inmates assigned to cellblocks. Access may vary by inmate classification status. A time limit should be established.

b. Personal or Family Calls (Emergency). In all subclasses of maximum custody, the inmate is required to request consideration for this type call from the warden's designee (shift supervisor, unit major, or program staff) who decides if the justification the inmate presents warrants the request. That decision is then logged. No frequency for this type call is established as the severity and duration of the emergency may vary.

NOTE: Please refer to the "Emergency Review" provisions of the Administrative Remedy Procedure. Timely review can be solicited by the inmate.

c. Legal Calls. The warden shall establish a procedure for placing legal calls on a reasonable basis during normal attorney office hours. Each housing unit shall maintain a legal telephone log for the purpose of monitoring the number of legal calls made by inmates on a weekly basis.

4. Incoming Calls.

a. Personal or Family Calls (Routine). Messages are not accepted or relayed on a routine basis for any inmate.

b. Personal or Family Calls (Emergency). The warden should establish a procedure for inmate notification of legitimate personal or family emergencies communicated to the institution.

c. Legal Calls. Inmates may be given notice that their attorney has requested contact. Complete verification is required prior to processing. If minimum or medium custody, the inmate may call from the dormitory during lunch or after work. If maximum custody, the inmate may be allowed to call during normal attorney office hours at a time which does not interfere with orderly operation of the unit.

5. Monitoring

a. Inmates shall be put on notice of the following.

i. Telephone calls in housing areas are subject to being monitored and/or recorded and that "use" constitutes "consent."

ii. It is the inmate's responsibility to advise all other parties that conversations are subject to being monitored and/or recorded.

iii. A properly placed telephone call to an attorney will not be monitored and/or recorded unless reasonable suspicion of illicit activity has resulted in a formal investigation and such action has been authorized by the secretary or designee.

iv. The telephone system will normally terminate a call at the end of the authorized period, (normally 15 minutes); however, the warden or his designee may authorize calls of a longer duration as circumstances warrant.

v. The system will automatically broadcast recorded messages indicating that the telephone call is originating from a correctional facility.

b. Inmates shall not be allowed access to employee home telephone numbers and shall not be allowed to call any staff member of the department.

c. Each institution will advise their inmate population of the proper way to place a legal call.

d. Only personnel authorized by the warden may monitor inmate telephone calls. Information gained from monitoring calls which affects the security of the institution or threatens the protection of the public will be communicated to other staff members or other law enforcement agencies. Telephone calls to attorneys may not be routinely monitored (see E.5.a.iii of this Section); staff will immediately disconnect from any inmate telephone call if it appears that is the case. All other information shall be held in strict confidence.

e. Inmates being processed into the system through the Reception and Diagnostic Centers will be required to "consent" in writing that their telephone calls are subject to being monitored and/or recorded. A copy of this "consent" shall be placed in the inmate's institutional record.

f. Each institution's orientation manual must include the information contained in this regulation as a means to notify the inmate population and verbal notification must be given in their orientation program. Existing inmate populations shall be put on notice by a sign posted at each inmate telephone. The sign shall reflect the following information:

6. Remote Call Forwarding

a. Remote Call Forwarding (RCF) is a mechanism by which inmates employ a local telephone number that automatically forwards the telephone call to a pre-selected number generally located out of the local calling area code or long distance. RCF in essence is an automated three-way call.

b. RCF is also known as automated call forwarding or PBX call forwarding. Use of this automated and remote mechanism represents significant security risks for several reasons. The telephone call terminated number (the end destination of the call) cannot be readily identified or verified. This number is not a traditional telephone number located at a residence, business or other such location but merely a number within the telephone switching equipment local to the facility where the inmate is housed.

c. RCF initiated calls to an unidentified terminated number can and are being easily forwarded again to a cell phone and other unauthorized telephones. This forwarding is done through the normal three-way call hook ups. This in fact negates the security mechanisms achieved by the requirement of approved telephone lists. Safeguards to prevent calls to victims, to blocked or restricted numbers or to prevent other unauthorized call activities are defeated by the use of an RCF number.

d. RCF usage creates an opportunity to conduct criminal or illegal or un-authorized activities since the end call location is not readily being identified, verified or its actual location known. This affords untold opportunity for inmates to engage in potential scams, to call victims, to facilitate escape attempts and to engage in other conduct representing significant security risks to the facility.

e. The inmate population should be put on notice that all third-party telephone calls, including RCF calls, are

strictly prohibited and such activity will result in appropriate disciplinary action.

f. Wardens shall develop a monitoring system to analyze the frequency of local calls. High frequency may indicate RCF utilization. When RCF calls are discovered, a system wide block of the number should be initiated pursuant to E.1.f of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:829.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Correction Services, LR 29:

In accordance with the Administrative Procedure Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Correction Services, hereby provides the family impact statement.

Repealing the current LAC 22:I.314, Adult Offender Telephone Use, and adopting the proposed LAC 22:I.314, Telephone Use and Policy on Monitoring of Calls C Adult and Juvenile, by the Department of Public Safety and Corrections, Correction Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendment.

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, P.O. Box 94304, Capitol Station, Baton Rouge, LA 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m. on January 20, 2003.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Telephone Use and Policy on Monitoring of Calls C Adult and Juvenile

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no estimated costs associated with this Rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits directly affecting persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated impact on competition and employment.

Richard L. Stalder
Secretary
0212#093

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Alternative Dispute Resolution
(LAC 61:III.301-335)

Under the authority of R.S. 47:1511 and 1522 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of the Secretary proposes to adopt LAC 61:III.301-335, the rules and regulations governing alternative dispute resolution.

The secretary of the Department Revenue is authorized by R.S. 47:1511 to adopt reasonable rules and regulations to enforce the provisions relating to the taxes collected and administered by the department. Louisiana Administrative Code Title 61, Part III, §§301-335, is proposed to establish the method and the procedures available to implement R.S. 47:1522, which allows the Department of Revenue to use alternative dispute resolution as a means of resolving issues between the taxpayer and the department. Alternative dispute resolution will provide a voluntary, confidential and cooperative means of resolving tax disputes of less than \$1 million, which will reduce the costs and risks of litigation for the taxpayer and the department. Alternative dispute resolution will also expedite the tax collection and refund processes. The rules and regulations for the department's Alternative Dispute Resolution Program are modeled on the Multistate Tax Commission's Alternative Dispute Resolution Program.

Title 61

REVENUE AND TAXATION

Part III. Department of Revenue; Administrative Provisions and Miscellaneous

Chapter 3. Alternative Dispute Resolution Procedures

§301. Definitions

A. For purposes of this chapter, the following terms have the meanings ascribed to them.

Alternative Dispute Resolution—procedures for settling disputes by means other than litigation.

Arbitration—a binding process in which the department and taxpayer submit disputed issues and evidence to an arbitrator and a decision is rendered by the arbitrator.

Arbitrator—a neutral third party chosen by the department and taxpayer to hear their claims and render a decision.

Enrolled Agent—an individual who has demonstrated technical competence in the field of taxation and is licensed to represent taxpayers before all administrative levels of the Internal Revenue Service.

Hearing—a proceeding in which a neutral third party receives testimony or arguments and reviews documents to determine issues of fact and legal conclusions in order to render a decision based on the evidence presented.

Party—a taxpayer or department representative involved in an alternative dispute resolution process.

Secretary—the Secretary of the Louisiana Department of Revenue.

Session—the period of time during which the arbitrator meets with the parties to discuss the issues and listens to the arguments presented in order to reach a decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§303. Type of Alternative Dispute Resolution Process

A. The disputed issue(s) may be resolved by arbitration as agreed upon by the taxpayer and the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§305. Initiation of Arbitration

A. The secretary may select cases whose total value as of the date of selection for binding arbitration is less than \$1 million. Once a case has been selected for arbitration, notice will be sent to the taxpayer regarding the selection within 30 days.

B. The taxpayer may give written notice to the department of the taxpayer's desire to participate in arbitration. The notice must be signed by the taxpayer or representative of the taxpayer and contain the taxpayer's name, tax identification number, address, telephone number, fax number, and e-mail address and the taxpayer's representative e-mail address as well as a brief description of the nature of the dispute and the issues. The notice must also state the relief requested, the reasons supporting the relief, and any other relevant and reliable information supporting the claim.

C. Neither the department nor the taxpayer has the right to mandate or force the opposing party into arbitration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§307. Persons Authorized to Participate in Arbitration

A. Individuals, partnerships, and corporations. Any individual taxpayer participating in arbitration with the department may appear and act for himself or for a partnership of which he is a partner with authority to act on behalf of the partnership's members. A corporation, limited liability company, or limited liability partnership may be represented by a bona fide officer of the corporation upon presentation of a corporate resolution or other documentation evidencing the officer's authority to act on behalf of the organization.

B. Attorneys. Attorneys at law, qualified and licensed under the laws of the state, are entitled to represent any taxpayer participating in arbitration with the department. The arbitrator may permit attorneys at law, qualified and licensed under the laws of the several states or the District of Columbia to represent any taxpayer participating in arbitration with the department, in the same manner as these attorneys are permitted to practice in the courts of Louisiana.

C. Certified Public Accountants. Certified public accountants qualified and licensed under the laws of the state are entitled to represent any taxpayer participating in arbitration with the department. The arbitrator may permit certified public accountants, qualified and licensed under the laws of the several states or the District of Columbia to represent any taxpayer participating in arbitration with the

department, in the same manner as these certified public accountants are permitted to practice in Louisiana.

D. Enrolled Agents. Enrolled agents qualified and licensed to practice before the Internal Revenue Service are entitled to represent any taxpayer participating in arbitration with the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§309. Registry of Arbitrators

A. The department will maintain a registry of arbitration companies authorized to participate in the alternative dispute resolution process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§311. Time Delay for Providing Names of Arbitrators

A. As soon as practical, but not more than 30 business days after consent of the parties to participate in arbitration, the department will send to the taxpayer or the taxpayer's representative the names of potential arbitration companies to provide case management services for the arbitration session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§313. Selection of Arbitration Company

A. The department and taxpayer will select an arbitration company from the Registry maintained by the department. The arbitration company will select the arbitrator to preside over the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§315. Disclosure of Conflict of Interest

A. An arbitrator must have no official, financial, or personal conflict of interest with any issue or party in controversy unless the conflict of interest is fully disclosed, in writing, to all parties and all parties agree, in writing, that the person may continue to serve. If an arbitrator is disqualified by either party, another arbitrator will be selected by the arbitration company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§317. Procedures for Arbitration

A. The arbitrator will take necessary steps to avoid delay and to achieve a just, speedy, and cost-effective resolution. The department and taxpayer will cooperate in the exchange of documents, exhibits, and information within either party's control. In addition, the department and taxpayer may conduct discovery as agreed upon by all parties. However, the arbitrator may provide for or place limitations on the discovery as the arbitrator deems appropriate. At the request of the department or the taxpayer, the arbitrator may require the deposition of any person who may possess information vital to the just resolution of the matter.

B. The arbitrator will select a hearing date. Each party must notify the arbitrator in writing at least 10 business days before the initial arbitration session of the following:

1. the party's intention to present witnesses;
2. whether the party will be represented by counsel; and
3. who will be present at the arbitration.

C. The department and taxpayer must submit a brief statement of facts, law, and issues to be resolved. The statement may not exceed 15 legal-size pages without prior approval from the arbitrator.

D. The arbitrator will distribute to the department and taxpayer the information provided in Subsection B and inform the parties of the arbitration process to be followed at least five business days before the initial arbitration session. Except where specified in the regulation, the arbitrator will determine the process to be followed.

E. The rules of evidence in arbitration will be the rules of evidence followed in the state district courts of Louisiana.

F. Any party desiring a stenographic or other recording of the proceedings must make arrangements directly with a stenographer or the person responsible for recording the proceedings. The party seeking to record the proceeding must notify the arbitrator and all other parties of the arrangements at least five business days before the arbitration hearing. The requesting party or parties shall pay the recording costs and the recording or transcript shall be made available to the arbitrator and the other parties for inspection and copying at a date, time, and place determined by the arbitrator.

G. If an arbitration decision is rendered on a case pending in any state court or the Louisiana Board of Tax Appeals, the decision will be entered in the court records.

H. The decision by the arbitrator will be made promptly and, unless otherwise agreed by the parties or specified by law, no later than 30 business days from the date of the closing of the arbitration hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§319. Discovery

A. The arbitrator will set forth the conditions of discovery. Any extensions of discovery must be in writing and approved by the arbitrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§321. Arbitration Hearing

A. In order to facilitate the arbitration process, the selected arbitrator will conduct hearings. Each party will be given an opportunity to present the facts, evidence, and argument that support its position regarding the disputed tax issue at the hearing. Hearings will be private and all matters will remain confidential. The only individuals who may participate in hearings will be the taxpayer, taxpayer representatives, department representatives, and any witnesses to be called.

B. Date, Time and Place of Hearing. Hearings will be held at the LaSalle Building in Baton Rouge or at any other place designated by the arbitrator with consideration given to the location and convenience of the parties and their

witnesses. All witnesses will be sequestered prior to giving testimony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§323. Sequence of the Arbitration Hearing

A. Unless otherwise determined by the arbitrator, the following sequence will be followed at the hearing.

1. Introduction. The arbitrator may make an introduction.

2. Opening statements. The taxpayer or his representative will make an opening statement followed by the department's representative.

3. Taxpayer's case. The taxpayer may introduce evidence, examine witnesses, and submit exhibits. The department's attorney or representative may cross-examine the witnesses.

4. Department's case. The department may introduce evidence, examine witnesses, and submit exhibits. The taxpayer or taxpayer's representative may cross-examine the witnesses.

5. Evidence procedure. Each party will have the opportunity to present relevant and credible evidence during the hearing. All statements will be made under oath administered by the arbitrator. The Rules of Evidence followed in the state district courts of Louisiana will apply to all evidence presented and objections will be permitted.

6. Rebuttal. Presentation of the evidence of the taxpayer in rebuttal and the argument of the taxpayer followed by the argument of the department, and of the taxpayer in rebuttal.

7. Summation. Each party may present a closing statement.

8. Concluding Remarks. The arbitrator may make closing remarks concerning the case.

9. Judgment. The arbitrator shall render a decision within 30 business days after the date of the close of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§325. Ex Parte Communication with the Arbitrator

A. No party or party representative may directly communicate with an arbitrator except at a hearing or during a scheduled conference concerning any issue related to the arbitration matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§327. Privacy

A. All arbitration sessions are private and confidential. To ensure the privacy of the arbitration sessions, only the parties and their representatives may attend the sessions. All parties participating in or attending a session are required to sign a confidentiality agreement. Any party that violates this confidentiality provision is subject to sanctions at the request of the other party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§329. Confidentiality

A. Except as authorized or required by law, no one participating in the session may disclose the existence, content, or results of the session without the written consent of all parties. Each participant to any process conducted, including the arbitrator, must execute a confidentiality agreement before beginning arbitration. Except as authorized, required, or consented to, no party, arbitrator, or any agent or other representative may make public, offer or introduce as evidence, or otherwise refer to in any administrative, judicial, or other proceeding, any statement made or any document or item of evidence provided during arbitration or any finding, conclusion, order, or result, or lack thereof relating to the process. This prohibition applies but is not limited to the following matters:

1. views expressed or suggestions made by a party with respect to possible settlement of the dispute;
2. admissions made by any party during arbitration;
3. statements made or views expressed by any witnesses, arbitrator, or other persons privy to the arbitration session; or
4. the fact that another party had or had not indicated a willingness to accept a proposal settlement.

B. The arbitrator is subject to the terms and conditions set forth in R.S. 47:1508 regarding the confidential character of tax records.

C. All returns, reports, and other documents presented during the arbitration session may be destroyed by order of the secretary after five years from the last day of December of the year in which the tax to which the records pertain became due, but not less than one year after receipt of the last payment of tax to which the records pertain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§331. Fees and Expenses

A. Each party will bear the fees and expenses for its own counsel, expert witnesses, travel, and preparation and presentation of its case. Except as otherwise agreed by the parties, the fees and expenses of the arbitrator will be borne equally by the taxpayer and the department in accordance with the arbitration company's fee schedule.

B. If an arbitration session has been scheduled and a party fails to appear at the session, the party failing to appear will be responsible for the payment of the reasonable costs and fees of the arbitrator and the reasonable travel expenses incurred by the other party, unless the party has provided reasonable notice in writing to the arbitrator and all other parties that they will not appear. It will be presumed, subject to a contrary showing under the circumstances, that giving five business days advanced written notice is reasonable notice.

C. If reasonable notice is not provided, the arbitrator shall determine if there was good cause for the failure to appear.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§333. Taxpayer's Duty to Protect Protests and Appeals

A. It is the duty of the taxpayer to protect his right to protest or appeal any assessment or proposed assessment or to pursue any right to refund relating to any issue that may also be subject to the arbitration process. Compliance with all conditions and time limits for perfecting and pursuing any and all administrative and judicial protests and appeals or requests for refund are the sole responsibility of the taxpayer. Any agreement between a taxpayer, taxpayer representative, and a representative of the department to alter the conditions or time limits must be authorized by the secretary of the Department of Revenue and executed in writing by both parties to be effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

§335. Notice of a Waiver or Extension

A. When required by any party, notice that a written waiver or extension of any and all applicable prescriptive periods must be executed to each party's satisfaction. No party will be required to execute any waiver or extension of a statutory limitation as a condition of participating in an alternative dispute resolution process. Unless otherwise agreed to by the parties, any waiver or extension of prescription will apply to only those issues agreed upon as subject to the alternative dispute resolution process. If a written waiver or extension is required by a party, no alternative dispute resolution process will begin until an agreement has been executed.

B. The department and taxpayer will have 30 business days to resolve the issues and execute the waiver or extension. If no agreement is reached during that period of time, the arbitrator will terminate the alternative dispute resolution process. In the event that an alternative dispute resolution process has been terminated, the parties have a right to initiate a new alternative dispute resolution process. If the second attempt to initiate an alternative dispute resolution process fails, any subsequent attempts will not be allowed unless the arbitrator agrees it is in the parties best interest to continue to arrive at an agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:

Family Impact Statement

The proposed adoption of LAC 61:III.301-335 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.

Interested persons may submit data, views, or arguments, in writing to Linda Denney, Miscellaneous Taxes and Regulatory Services, Policy Services Division, 617 North Third Street, Baton Rouge, LA 70802-5428 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., January 28, 2003. A public hearing will be held on January 29, 2003, at 9:30 a.m. at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Alternative Dispute Resolution

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

These proposed regulations provide for alternative dispute resolution procedures as a means of resolving disputed tax liabilities. Section 331 of the proposed Rule provides that each party will pay the fees and expenses for its own counsel, expert witnesses, travel, and the preparation and presentation of its case and the fees and expenses of the arbitrator will be paid equally by the taxpayer and the department. Alternative dispute resolution should result in reduced litigation costs and the closure of many older legal cases as well as faster resolution of current legal cases which will reduce the agency's costs and allow the department's resources to be employed more efficiently.

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

Alternative dispute resolution will provide more timely resolution of tax disputes and payment of taxes. However, there should be no effect of the state's revenues.

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

Taxpayers with disputed tax liabilities should benefit by alternative dispute resolution as a less expensive alternative to litigation as a means of resolving disputes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed regulations should have no effect on competition or employment.

Cynthia Bridges
Secretary
0212#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Tax Commission**

Ad Valorem Tax Rules and Regulations
(LAC 61:V.303, 703, 907, 1503, 2503, 2705, and 2707)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2003 (2004 Orleans Parish) tax year.

The full text of these proposed Rules may be viewed in the Emergency Rule Section of this issue of the Louisiana Register.

Interested persons may submit written comments on the proposed Rules until 4 p.m., January 6, 2003, at the following address: E. W. "Ed" Leffel, Property Tax Specialist, Louisiana Tax Commission, Box 66788, Baton Rouge, LA 70896.

Malcolm B. Price, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Ad Valorem Tax Rules and Regulations

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

Implementation costs to the agency are the costs of preparation reproduction and distribution of undated regulations and complete manuals. These costs are estimated at \$7,500 for the 2002-2003 fiscal year and are being reimbursed through an existing user service fee of \$15 per update set.

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

LOCAL GOVERNMENTAL UNITS

These revisions will generally decrease 2003 certain personal property assessments for property of similar age and condition in comparison with equivalent assessments in 2002. Composite multiplier tables for assessment of most personal property will decrease by 1.7 percent. Specific valuation tables for assessment of oil and gas wells will generally increase by an estimated 9.2 percent. The net effect of these revisions is estimated to decrease assessments by 0.6 percent and tax collections by \$2,619,000 on the basis of existing statewide average millage. However, these revisions will not necessarily effect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage and adjustment provisions of article VII, Section 23 of the state Constitution.

STATE GOVERNMENTAL UNITS

Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be \$316,000 from public service companies, and \$107,000 from financial institutions and insurance companies, all of which are assessed by the Tax Commission.

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

The effects of these new Rules on assessments of individual items of equivalent personal property will generally be lower in 2003 than in 2002. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and use service fees as itemized above total \$423,000 to be paid by public service property owners, financial institutions and insurance companies for 2002/2003.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. Inasmuch as the proposed changes in assessments and charges are relatively small, the impact is thought to be minimal.

James D. Peters
Administrator
0212#087

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of State
Office of the Secretary of State**

Non-Statutory Fee Schedule
(LAC 4:I.303)

In accordance with R.S. 49:222 and R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of State, Office of the Secretary of State proposes to amend the existing Department of State Fee Schedule, which provides for the schedule of fees to be charged for various filings and services by the Department of State. The schedule of fees is being amended to ensure that the fees collected are sufficient to cover the cost of carrying out the duties of office associated with the various filings and services for which such fees are charged.

**Title 4
ADMINISTRATION
Part I. General Provisions**

Chapter 3. Fees

303. Department of State Non-Statutory Fee Schedule

A. The Department of State has established the following schedule of fees to be charged for various filings and services by the Department of State.

Resignation of Agent, Officer or Director	25
Change of Domicile	25
Change of Address	25
Supplemental Initial Report	25
Microfilm per 35mm reel, shipping included	25
Microfilm per 16mm reel, shipping included	20
Document Certification	15
Pension Applications per 10 pages or any part thereof	10
Military Records per 25 pages or any part thereof	10
Legislative Audio Tape, tape provided by Archives	15
Legislative Audio Tape, tape provided by patron	10
5x7 Photo Reproduction	15
8x10 Photo Reproduction	25

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222.

HISTORICAL NOTE: Promulgated by the Department of State, LR 12:689 (October 1986), amended LR 29:

Family Impact Statement

In accordance with Section 953 and 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of law relating to public records.

1. Will the proposed Rule effect the stability of the family? No.

2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule effect the functioning of the family? No.

4. Will the proposed Rule effect family earnings and family budget? No.

5. Will the proposed Rule effect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., January 8, 2002 to Stephen Hawkland, Department of State, Office of the Secretary of State, P.O. Box 94125, Baton Rouge, LA. 70804-9125.

W. Fox McKeithen
Secretary of State

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Non-Statutory Fee Schedule**

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

The proposed amendment, which comprises the Department of State's non-statutory fee schedule, results in no anticipated implementation costs to state or local governmental units.

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

The proposed amendment, which comprises the Department of State's non-statutory fee schedule, results in an estimated revenue increase of approximately \$655,040.50 per

Item	Cost
Miscellaneous Certificates	\$ 20
Replacement Commission Certificates	15
Certified Copies Amended	25
Copies Amended	25
Powers of Attorney	25
Business Opportunity Agents	15
Name Reservations	25
Trade Name Reservations	25
Partnerships	100
Foreign Partnerships	150
Special Handling	30
Vital Records Certified/Uncertified	10
Limited Liability Companies	75
Appointment of Registered Agent, New Officers or Directors	25

year in state governmental unit revenue collections and results in no estimated revenue increase for local governmental units.

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

The proposed amendment, which comprises the Department of State's non-statutory fee schedule, results in an average cost increase of \$9.36 per filing/procurement fee for the affected services. The number of transactions affected annually by the proposed amendment is approximately 70,765, resulting in a total cost increase of approximately \$ 655,040.50 to users of the affected services as a whole.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendment, which comprises the Department of State's non-statutory fee schedule results in no estimated effect on competition and employment.

W. Fox McKeithen
Secretary of State
0212#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Temporary Assistance to Needy Families (TANF)
Initiatives
Women and Children's Residential
Prevention and Treatment Program
(LAC 67:III.5521)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to amend §5521, Women and Children's Residential Prevention and Treatment Program.

Act 12 of the 2001 Regular Session of the Louisiana Legislature authorized the Office of Family Support to implement the TANF Initiative, Women and Children's Residential Prevention and Treatment Program, through a Memorandum of Understanding with the Office of Addictive Disorders. Eligibility factors were established which limited services to needy families who were eligible for certain types of benefits.

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature and in an effort to expand the population serviced by this program, the agency will include needy families who have earned income at or below 200 percent of the federal poverty level as eligible for services. The program addresses the needs of women with dependent children through residential treatment and includes such services as comprehensive assessment and individualized treatment planning for women and children, intensive care coordination, individual, group and family therapy, parenting classes, life skills training, exposure to Alcoholics Anonymous/Narcotics Anonymous groups, child care, job readiness training, relapse prevention, family reunification and advocacy. The intended goal of these services is to enable clients to maintain self-sufficiency, employment and family stability.

This change was effected by a Declaration of Emergency signed November 8, 2002. Authorization for emergency action in the expenditure of TANF funds is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

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

Chapter 55. TANF Initiatives

**§5521. Women and Children's Residential Prevention
and Treatment Program**

A. - B. ...

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or effective October 1, 2002, who has earned income at or below 200 percent of the federal poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 29:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? Implementation of this Rule should have a positive impact on family stability as it will provide intervention and nonmedical substance abuse treatment to mothers with children.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule should have a positive impact on family functioning by providing clients who suffer from substance abuse disorders with intervention, treatment, and follow-up care in order to assist the client in maintaining self-sufficiency, employment, and family stability.

4. What effect will this have on family earnings and family budget? The Rule will have no immediate effect on family earnings and budget.

5. What effect will this have on the behavior and personal responsibility of children? Services such as counseling and tutoring will be offered to the dependent children of those women receiving services and this should have a positive impact on the child's behavior and personal responsibility.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through January 28, 2003 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 January 28, 2003, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA, beginning at 9 a.m. All interested persons

will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Temporary Assistance to Needy
Families (TANF) Initiatives C Women and Children's
Residential Prevention and Treatment Program**

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

The cost of amending §5521 is estimated to be \$4 million for FY 02/03. The agency has entered into a Memorandum of Understanding with the Office for Addictive Disorders to provide services for the Women and Children's Residential Prevention and Treatment Services Program. Funds for these services will be allocated from Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant. The minimal cost of publishing rulemaking is approximately \$160. The total increase in expenditures can be met with funds from Louisiana's TANF Block Grant. 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 an interagency transfer, the Office for Addictive Disorders will receive increased revenues totaling \$4 million to be expended in the provision of services for this TANF Initiative program.

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

This program provides assistance in the form of services, therefore, there is no immediate cost or economic benefit to any persons or non-governmental groups. However, the program has a long-term goal of improving the economic situation of the targeted families.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0212#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Purchasing**

Purchasing (LAC 70:XXIII.Chapter 3)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et. seq., notice is hereby given that the Louisiana Department of Transportation and Development intends to promulgate a Rule which replaces Chapter 3 of Part XXIII of Title 70 (formerly Chapter 9 of Part I of Title 70) entitled

"Purchasing Rules and Regulations." It is promulgated in accordance with the provisions of R.S. 39:1551-1736 and R.S. 48:204-210.

Title 70

TRANSPORTATION

Part XXIII. Purchasing

Chapter 3. Purchasing Rules and Regulations

§301. Types of Commodities

A. Commodities purchased by the DOTD procurement section fall into two categories, either exempt commodities or non-exempt commodities.

1. Exempt Commodities. Exempt commodities are defined in R.S. 39:1572 as materials and supplies that will become component parts of any road, highway, bridge or appurtenance thereto. These commodities are exempt from central purchasing and regulations of the commissioner of administration, but nevertheless shall be subject to the requirements of the Louisiana Procurement Code and such regulations as may be promulgated by the secretary of the Department of Transportation and Development.

2. Non-Exempt Commodities. Non-Exempt commodities are defined as materials and supplies that will not become component parts of any road, highway, bridge or appurtenance thereto. These commodities are subject to the requirements of the Louisiana Procurement Code and such regulations as may be promulgated by the commissioner of administration and shall be governed by the rules and regulations adopted by the director of state purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

**§303. Delegation of Purchasing Authority Set by the
Director of State Purchasing**

A. R.S. 39:1566 authorizes the director of state purchasing to delegate authority to any governmental body as deemed appropriate within the limitations of state law and the state procurement regulations. The director of state purchasing has set the delegated purchasing authority covering non-exempt commodities for the Department of Transportation and Development. The director of state purchasing has the authority to change or rescind the purchasing authority of the Department of Transportation and Development at any time.

B. In accordance with R.S. 39:1566 and the latest revision to the governor's executive order covering small purchases, the director of state purchasing has also set the delegated purchasing authority covering equipment repairs and/or parts to repair equipment. The director of state purchasing has the authority to change or rescind the purchasing authority of the Department of Transportation and Development which covers equipment repairs and parts to repair equipment at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

**§305. Delegation of Purchasing Authority Set by the
DOTD Procurement Director**

A. R.S. 39:1572 authorizes the secretary of the Department of Transportation and Development to

promulgate rules and regulations regarding the purchase of materials and supplies that will become a component part of any road, highway, bridge, or appurtenance thereto. The secretary has authorized the DOTD procurement director to set the delegated purchasing authority covering exempt commodities for each district and section within the Department of Transportation and Development. The DOTD procurement director has the authority to change or rescind the purchasing authority of any district or section at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§307. Non-Competitive Procurement

A. Purchases of less than \$500.00 (or the amount set in the latest governor's executive order, whichever is higher) do not require competitive bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551 - 1736 and 48:204 - 210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§309. Requests for Quotations Covering Non-Exempt Commodities

A. Purchases of non-exempt commodities having an estimated cost which exceeds the non-competitive dollar limit but which do not exceed the delegated purchasing authority of the department are referred to as "requests for quotations."

B. All requests for quotations covering non-exempt commodities which exceed the non-competitive dollar limit but do not exceed \$2,000.00 (or the dollar limits listed in the latest governor's executive order, whichever is higher) shall be awarded on the basis of the lowest responsive price quotation solicited by telephone, facsimile or other means to at least three bona fide, qualified bidders. Whenever possible, at least one of the bona fide, qualified bidders shall be a certified economically disadvantaged business. All facsimile or written solicitations shall include the bid closing date, time, and all pertinent specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions, and basis of award.

C. All requests for quotations covering non-exempt commodities having an estimated cost which exceeds \$2,000.00 but which do not exceed \$10,000.00, (or the dollar limits listed in the latest governor's executive order, whichever is higher) shall be awarded on the basis of the lowest responsive price quotation solicited by facsimile or written solicitation to at least five bona fide, qualified bidders. Whenever possible, at least two of the bona fide, qualified bidders shall be certified economically disadvantaged businesses. Facsimile quotations shall allow for bids to be accepted for a minimum period of five calendar days. Written solicitations shall allow for bids to be accepted for a minimum period of ten calendar days. All facsimile or written solicitations shall include the bid closing date, time, and all pertinent specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions and basis of award.

D. All requests for quotations shall be publicly opened and read whenever interested parties are present at the bid opening.

E. Purchases of non-exempt commodities having an estimated cost which exceeds \$10,000.00 (or the latest delegated purchasing authority, whichever is higher) are prepared and forwarded to the Office of State Purchasing for bid solicitation.

F. Requests for quotations for non-exempt commodities may also be referred to as "invitations for bids" throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§311. Requests for Quotations Covering Exempt Commodities

A. Purchases of exempt commodities having an estimated cost which exceeds the non-competitive dollar limit but which do not exceed \$25,000.00 (or the latest revision to R.S. 48:205, whichever is higher) are also referred to as "requests for quotations."

B. All requests for quotations covering exempt commodities which exceed the non-competitive dollar limit but which do not exceed \$2,000.00 (or the dollar limits listed in the latest governor's executive order, whichever is higher) shall be awarded on the basis of the lowest responsive price quotation solicited by telephone, facsimile or other means to at least three bona fide, qualified bidders. Whenever possible, at least one of the bona fide, qualified bidders shall be a certified economically disadvantaged business. All facsimile or written solicitations shall include the bid closing date, time, and all pertinent specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions, and basis of award.

C. All requests for quotations covering exempt commodities having an estimated cost which exceeds \$2,000.00 (or the dollar limit listed in the latest governor's executive order, whichever is higher) but which do not exceed \$25,000.00 (or the latest revision to R.S. 48:205, whichever is higher) shall be awarded on the basis of the lowest responsive price quotation solicited by facsimile or written solicitation to at least five bona fide, qualified bidders. Whenever possible, at least two of the bona fide, qualified bidders shall be certified economically disadvantaged businesses. Facsimile quotations shall allow for bids to be accepted for a minimum period of five calendar days. Written solicitations shall allow for bids to be accepted for a minimum period of ten calendar days. All facsimile or written solicitations shall include the bid closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions, and basis of award.

D. All requests for quotations shall be publicly opened and read whenever interested parties are present at the bid opening.

E. Purchase of exempt commodities having an estimated cost which exceeds \$25,000.00 (or the latest revision to R.S. 48:205, whichever is higher) will be processed as sealed bids and shall be advertised in accordance with R.S. 48:205.

F. Request for quotations for exempt commodities may also be referred to as "invitation for bids" throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§313. Request for Sealed Bids Covering Exempt Commodities

A. Purchases of exempt commodities having an estimated cost which exceeds \$25,000.00 (or the latest revision to R.S. 48:205, whichever is higher) are referred to as sealed bids.

B. All sealed bids shall be advertised in the Official Journal of the State. Advertisements shall be published not less than ten days prior to the date set for opening the bids. In the event the purchase pertains to a particular parish, the advertisement shall also be published in a newspaper of general circulation printed in the parish. The published advertisement shall fix the exact place and time for presenting and opening of bids.

C. For bids over \$25,000.00 (or the latest revision to R.S. 48:205, whichever is higher), a minimum of 21 days should be provided unless the DOTD procurement director or designee deems that a shorter time is necessary for a particular procurement. However, in no case shall the bidding time be less than 10 days unless the DOTD procurement director has declared the purchase to be an emergency.

D. Sealed bids shall be awarded on the basis of the lowest responsive price quotation solicited by written solicitation to at least five bona fide, qualified bidders. Whenever possible, at least two of the bona fide, qualified bidders shall be a certified economically disadvantaged business. All written solicitations shall include the bid closing date, time, and all pertinent specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions, and basis of award.

E. The practice of dividing proposed or needed purchases into separate installments for the purpose of evading the bid advertisement requirement is expressly prohibited.

D. Sealed bids shall be publicly opened on the bid opening day.

E. Bids will be publicly read whenever interested parties are present.

F. Sealed bids may also be referred to as invitation for bids throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§315. Single Purchase or One-Time Purchase

A. A single purchase or a one-time purchase refers to a purchase for a specific quantity to be delivered in one shipment.

B. A single purchase or a one-time purchase may also be referred to as invitation for bids throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§317. Term Contract

A. A Term contract (also referred to as an Indefinite Quantity Purchase) is a purchase by which a source of supply is established for a specific period of time. Term contracts are usually based on indefinite quantities to be ordered as needed, and no quantities are guaranteed. This type of contract can also be used to specify definite quantities with deliveries extended over the contract period.

B. Term contracts may contain an option for renewal or extension of the contract; however, this provision must be included in the bid solicitation. When such a contract is awarded by competitive sealed bidding, exercise of the option shall be at the discretion of the department only and shall be with the mutual agreement of the contractor.

C. A term contract or indefinite quantity purchase may also be referred to as invitation for bids throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§319. Proprietary Purchase

A. A proprietary purchase is defined as a purchase that cites brand name, model number, or some other designation that identifies a specific product to be offered exclusive of others.

B. Because use of a proprietary specification is restrictive, it may be used only when written documents verify and substantiate that only the identified brand name item or items will satisfy the needs of the department.

C. In order to declare a purchase a proprietary procurement, a "Justification For Sole Source or Proprietary Purchase" document must be submitted to the DOTD procurement director.

D. The use of a proprietary specification covering a non-exempt commodity requires approval of the DOTD procurement director and also requires the approval of the director of state purchasing if the purchase exceeds the delegated purchasing authority of the Department of Transportation and Development.

E. The use of a proprietary specification covering an exempt commodity requires approval of the DOTD procurement director.

F. The DOTD procurement section shall seek to identify sources from which the designated brand name item can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made as a sole source procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§321. Sole Source Procurement

A. A sole source procurement is the purchase of a required supply, service, or major repair without competition.

B. A sole source procurement is permissible only if the required supply, service, or major repair is available from only a single supplier.

C. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder, supplier or distributor for that item.

D. Examples of circumstances which could necessitate a sole source procurement:

1. compatibility of equipment, accessories, or replacement parts is the paramount consideration;

2. sole supplier's item is needed for trial use or testing.

E. In cases of reasonable doubt, competitive bids will be solicited.

F. Because use of a sole source procurement is restrictive, it may be used only when written documents verify and substantiate that only the identified brand name item or items will satisfy the needs of the department, and that there is only one single source.

G. In order to declare a purchase a sole source procurement, a "Justification For Sole Source or Proprietary Purchase" document must be submitted to the DOTD procurement director.

H. The request for a sole source procurement covering a non-exempt commodity requires approval of the DOTD procurement director and also requires the approval of the director of state purchasing if the purchase exceeds the delegated purchasing authority of the Department of Transportation and Development.

I. The request for a sole source procurement covering an exempt commodity requires approval of the DOTD procurement director.

J. The DOTD procurement director shall submit reports of all sole source purchases to the Office of State Purchasing upon their request. This report shall cover the preceding fiscal year and shall list the following:

1. contractor's name;

2. amount and type of contract;

3. list of the supplies, services or major repairs procured under the contract; and

4. contract number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§323. Emergency Purchase of Exempt Commodities

A. In order for the purchase of an exempt commodity to be declared an emergency purchase without solicitation of bids, the emergency must conform to the definition set forth in R.S. 48:207.

B. Purchases which conform to this definition are made in accordance with the Department's Policy and Procedure Memorandum No. 38 which states the internal procedures which must be followed before proceeding with an emergency purchase.

C. Prior to all emergency procurements of exempt commodities, the DOTD procurement director or designee shall approve the procurement if the emergency occurs during normal working hours. Facsimile requests for emergency procurement should be submitted to the DOTD procurement director if time permits, and must contain adequate justification for the emergency.

D. The procurement method used shall be selected so that required supplies, services, or major repair items are procured in time to meet the emergency. Given this constraint, such competition as is practicable should be obtained.

E. Any bid accepted shall be confirmed in writing.

F. The DOTD procurement director shall submit reports of all emergency purchases to the Office of State Purchasing upon request.

G. This report shall cover the preceding fiscal year and shall list the following:

1. contractor's name;

2. amount and type of contract;

3. the supplies services or major repairs procured under the contract;

4. the contract number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§325. Emergency Procurement of Non-Exempt Commodities

A. The provisions of this Section apply to every non-exempt procurement made under emergency conditions that will not permit other source selection methods to be used.

B. Emergency procurement shall be limited to only those supplies, services, or major repair items necessary to meet the emergency.

C. The Department of Transportation and Development is authorized to make emergency procurement of non-exempt commodities of up to \$10,000 (or the delegated purchasing authority, whichever is higher) when an emergency condition arises and the need cannot be met through normal procurement methods.

D. Prior to all such emergency procurement of non-exempt commodities above the delegated purchasing authority, both the DOTD procurement director and the director of state purchasing shall approve the procurement. Facsimile requests for emergency procurement should be submitted to the DOTD procurement director if time permits, and must contain adequate justification for the emergency.

E. The source selection method used shall be selected to insure that the required supplies, services, or major repair items are procured in time to meet the emergency. Given this constraint, such competition as is practicable should be obtained.

F. Any bid accepted shall be confirmed in writing.

G. If emergency conditions exist as a result of an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§327. Goods Manufactured or Services Performed by Sheltered Workshops

A. R.S. 39:1595.4 provides in part that a preference shall be given by all governmental bodies in purchasing products and services from state operated or state supported sheltered workshops for persons with severe disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 29:

§329. Purchase of Used or Demonstrator Equipment

A. R.S. 39:1645 authorizes the procurement of any equipment which is used or which has been previously purchased by an individual or corporation.

B. The DOTD procurement director must first determine that the procurement of said equipment is cost effective to the state.

C. After receiving the approval of the DOTD procurement director to proceed, the section or district will obtain a letter from the secretary of the Department of Transportation and Development certifying in writing to the director of state purchasing the following:

1. the price for which the used equipment may be obtained;
2. the plan for maintenance and repair of the equipment;
3. the cost of the equipment;
4. the savings that will accrue to the state because of the purchase of the used equipment;
5. the fact that following the procedures set out in the Louisiana Procurement Code will result in the loss of the opportunity to purchase the equipment.

D. If approved, the used equipment shall be purchased within the price range set by the director of state purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§331. Exclusive Statewide Contracts

A. If the Office of State Purchasing has entered into an exclusive statewide competitive contract for non-exempt commodities or services, the Department of Transportation and Development shall use such statewide competitive contracts when procuring such supplies or services unless given written exemption by the director of state purchasing.

B. A lower local price is not justification for exception.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§333. Non-Exclusive Statewide Contracts

A. If the Office of State Purchasing has entered into a non-exclusive contract for non-exempt commodities or services, the Department of Transportation and Development has the option of either using the contract or seeking competitive bids.

B. Non-Exclusive Contracts may be by-passed if the district or section can obtain the item at a better price or if the delivery time is more acceptable. Approval to by-pass a non-exclusive contract is not required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§335. Brand Name Contracts

A. Brand name contracts are non-exclusive contracts entered into by the Office of State Purchasing. Because these

contracts are not competitively bid, they are usually not considered cost effective.

B. The department also discourages the use of brand name products which come in concentrated form.

C. The only exception to the use of brand name contracts is computers and computer equipment which have been mandated by the DOTD Information Technology Director for approved usage. Purchases must be made against brand name contracts for this equipment if the item appears on the Information Technology Approved List.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§337. DOTD Contracts

A. DOTD contracts for exempt commodities are exclusive contracts entered into by the DOTD procurement section. Approval to by-pass a DOTD contract requires written approval from the DOTD procurement director and will only be approved in cases of emergency.

B. DOTD contracts may also be referred to as invitation for bids throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§339. Cost-Plus-a-Percentage-of-Cost Contracts

A. The cost-plus-a-percentage-of-cost system of contracting shall not be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§341. Vendor Commodity Lists

A. Vendor commodity lists are maintained to provide the department with the names and addresses of businesses that may be interested in competing for various types of state contracts. Unless otherwise provided, inclusion or exclusion of the name of a business does not indicate whether the business is responsible with respect to a particular procurement or otherwise capable of successfully performing the contract.

B. It shall be the responsibility of the bidder to confirm that his company is in the appropriate bid category.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§343. Qualified Products List

A. Qualified products lists have been developed by evaluating brands and models of various manufacturers of an item and listing those determined to be acceptable products. These qualified products lists have been developed by the DOTD Materials and Testing Laboratory when testing or examination of the supplies or major repair items prior to issuance of the solicitation is desirable or necessary in order to best satisfy the needs of the department.

B. When developing a qualified products list, the DOTD Materials and Testing Laboratory shall contact a representative group of potential suppliers soliciting

products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer products for consideration.

C. Inclusion on a qualified products list shall be based on results of tests or examinations conducted by the DOTD Materials and Testing Laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§345. Availability of Funds

A. The continuation of a term contract which extends beyond the fiscal year is contingent upon the appropriation of funds to fulfill the requirements of the contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of a contract, or if such appropriation is reduced by the veto of the governor or by any means provided in the Appropriations Act or Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§347. Bid Documents

A. All invitations for bids issued by the Department of Transportation and Development shall be solicited on the department's bid form and shall contain all pertinent information and shall be full and complete including, but not limited to, the following:

1. purchase description;
2. specifications;
3. special instructions and conditions;
4. instructions for submitting bids;
5. terms and conditions;
6. delivery requirements;
7. packaging;
8. bid evaluation and award criteria.

B. The bid solicitation may incorporate documents by reference, provided that the bid solicitation specifies where such documents can be obtained.

C. If any special conditions are to apply to a particular contract, they shall be included in the bid solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§349. Specifications

A. A specification is defined as any description of the physical, functional, or performance characteristics of a supply, service, or major repair item.

B. The specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or item for delivery.

C. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this rule.

D. The purpose of a specification is to serve as a basis for obtaining a supply, service, or major repair item adequate and suitable for the needs of the department in a cost effective manner, taking into account, to the extent practicable, the costs of ownership and operation as well as initial acquisition costs.

E. It is the policy of the Department of Transportation and Development that specifications permit maximum practicable competition consistent with this purpose. Specifications shall be drafted with the objective of clearly describing the requirements of the department.

F. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, service, or major repair item, or procurement from a sole source, unless no other manner of description will suffice. In that event, a written determination shall be made that it is not practicable to use a less restrictive specification.

G. It is the general policy of the Department of Transportation and Development to procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided to the extent practicable.

H. Bid specifications may contemplate a fixed escalation or de-escalation in accordance with a recognized escalation index.

I. Specifications and any written determination or other document generated or used in the development of a specification shall be available for public inspection.

J. This Section applies to all persons who may prepare a specification for use by the Department of Transportation and Development, including consultants, architects, engineers, designers, and other draftsmen of specifications used for public contracts.

K. To the extent feasible, a specification may provide alternate descriptions of supplies, services, or major repair items where two or more design, functional, or performance criteria will satisfactorily meet the requirements of the Department of Transportation and Development.

L. Whenever a manufacturer's name, trade name, brand name, catalog number or approved equivalent is used in a solicitation, the use is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§351. Bid Samples and/or Descriptive Literature

A. Descriptive literature means information available in the ordinary course of business which shows the characteristics, construction, packaging or operation of an item which enables the department to consider whether the item meets its specifications and needs.

B. Bid sample means a sample to be furnished by a bidder to show the characteristics of the item offered in the bid.

C. Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

D. If the invitation for bids states that either a sample or descriptive literature must be submitted with bid, the bid will be rejected if bidder fails to comply.

E. When the invitation for bids states that bidders may be required to submit a sample prior to award, the sample must be received by the deadline set at time of request. Failure to submit samples within the time allowed will result in disqualification or non-consideration of bid.

F. Requirements for samples

1. When required, samples must be submitted free of expense to the department.

2. Samples shall be marked plainly with name and address of bidder and the purchase requisition number.

3. The bidder must state if he desires that the sample be returned after evaluation, provided that the sample has not been used or made useless through testing procedures. When requested, samples will be returned at bidder's risk and expense. Unsolicited bid samples will not be evaluated and will not be returned to the bidder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§353. New Products

A. Unless specifically called for in the invitation for bids, all products for purchase must be new, never previously used, and the current model and/or packaging. No remanufactured, demonstrator, used or irregular product will be considered for purchase unless otherwise specified in the invitation for bids.

B. The manufacturer's standard warranty will apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 29:

§355. Brand Names

A. Unless otherwise specified in the invitation for bids, any manufacturer's name, trade name, brand name, or catalog number used in the solicitation is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§357. Product Acceptability

A. The invitation for bids shall set forth the evaluation criteria to be used in determining product acceptability. The invitation for bids may require the submission of bid samples, descriptive literature, technical data, or other material. It may also provide for inspection or testing of a product prior to award for such characteristics as quality or workmanship

B. Examination of the product to determine whether the product conforms with purchase description requirements, such as unit of measure or packaging, shall be performed. If a bidder changes the unit or packaging, the bid for the changed item shall be rejected.

C. The acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another but only to determine that a bidder's offering is acceptable as set forth in the invitation for bids. Any bidder's offering which does not meet the acceptability requirements shall be rejected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§359. Estimated Quantities

A. Term contracts and/or indefinite quantity contracts contain no specific quantities given or guaranteed. Only such quantities as required by the department during the contract period will be ordered.

B. Estimated quantities are based on the previous contract usage or estimates. Where usage is not available, a quantity of one indicates a lack of history on the item.

C. The contractor must supply actual quantities ordered, whether the total of such quantities are more or less than the estimated quantities shown on the bid schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§361. Guarantee and Liability

A. The Department of Transportation and Development requires that all contractors submit to the following guarantees.

1. Guarantee that the supplies delivered are free from defects in design and construction.

2. Guarantee that the supplies are the manufacturer's standard design in construction and that no changes or substitutions have been made in the items listed in the contract.

3. Guarantee that the contractor holds and saves the Department of Transportation and Development, its officers, agents and employees harmless from liability of any kind, including cost and expenses on account of any patented or non-patented invention, articles, devices or appliances manufactured or used in the performance of any DOTD contract, including use by the government.

4. Guarantee to replace free of charge all defective equipment, materials or supplies delivered under the contract. All transportation charges covering return and replacement shall be paid by the contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§363. Pre-Bid Conferences Covering Exempt Commodities

A. Pre-bid conferences may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have received an invitation for bids and shall be advertised in the Official Journal of the State if the estimated cost is over \$25,000 (or the latest revision to R.S.48:205, whichever is higher).

B. The conference will be held after an interval following the issuance of invitation for bids in order to allow bidders to become familiar with the invitation, but

sufficiently before bid opening to allow consideration of the conference results in preparing their bids.

C. Nothing stated at the pre-bid conference shall change the invitation for bids unless an addendum is issued.

D. If the pre-bid conference requires mandatory attendance, bidders not attending the conference will not be considered for award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§365. Modifying Written Bid Solicitations

A. Addenda modifying written bid solicitations covering purchases above the non-competitive bid level shall not be issued within three working days prior to the scheduled bid opening date for the opening of bids, excluding Saturdays, Sundays and any other legal holidays.

B. If the necessity arises to issue an addendum modifying an invitation for bids within the three working day period prior to the bid opening date, then the opening of bids shall be extended exactly one week, without the requirement of re-advertising.

C. An addendum shall be sent to all prospective bidders known to have received an invitation for bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§367. Cancellation of Invitation for Bids

A. A solicitation may be canceled in whole or in part when the DOTD procurement director determines, in writing, that such action is in the best interest of the department, for reasons including, but not limited to the following:

1. the department no longer requires the supplies, services, or major repairs;
2. proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable;
3. ambiguous or otherwise inadequate specifications were part of the solicitation;
4. the solicitation did not provide for consideration of all factors of significant cost to the state;
5. prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
6. all otherwise acceptable bids received are at unreasonable prices;
7. there is reason to believe that the bids or proposals may not have been independently calculated in open competition, may have been collusive, or may have been submitted in bad faith.

B. When a solicitation is canceled prior to the bid opening, a notice of cancellation shall be sent to all businesses solicited. The notice of cancellation shall:

1. identify the solicitation
2. briefly explain the reason for cancellation
3. where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar supplies, services, or major repairs.

C. The reasons for cancellation shall be made a part of the procurement file and shall be made available for public inspection.

D. If the solicitation is canceled prior to the bid opening, all bids will be returned to the bidders.

E. If the solicitation is canceled after the bid opening, all bids will be retained by the DOTD procurement section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§369. Modification or Withdrawal of Bids

A. Bids covering requests for quotations may be modified or withdrawn by written, telegraphic or fax notice received at the address designated in the invitation for bids prior to the time set for bid opening, as recorded by date stamp at the DOTD procurement section.

B. Bids covering sealed bids may only be modified if the modification is received in writing prior to the time set for bid opening, as recorded by date stamp at the DOTD procurement section. Telegraphic or fax modifications will not be accepted on a sealed bid.

C. A written request for the withdrawal of a bid or any part thereof will be granted if the request is received prior to the specified time of bid opening. If a bidder withdraws a bid prior to the bid opening, the bid document will be returned to the bidder.

D. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 29

§371. Postponed Bid Openings

A. In the event that bids are scheduled to be opened on a day that is a federal holiday, or if the governor, by proclamation, creates an unscheduled holiday, or for any cause that creates a non-working day, bids scheduled to be opened on that day shall be opened on the next working day at the same address and time specified in the invitation for bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§373. Receipt, Opening and Recording of Bids

A. Upon receipt, all bids and modified bids will be time-stamped, but not opened. They shall be stored in a secure place until time for bid opening.

B. Bids and modified bids shall be publicly opened and publicly read at the time and place designated in the invitation for bids if prospective bidders attend the bid opening.

C. The names of the bidders and the bid price shall be read aloud or otherwise be made available and shall be recorded.

D. Bidders may attend the bid opening but no information or opinion concerning the ultimate award will be given at the bid opening or during the evaluation process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§375. Late Bids

A. Formal bids and addenda thereto, received at the address designated in the invitation for bids after the time specified for bid opening will not be considered, whether delayed in the mail or for any other causes whatsoever. In no case will late bids be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§377. Bid Results

A. Information pertaining to results of bids may be secured by visiting the Department of Transportation and Development during normal working hours, except weekends and holidays.

B. Written tabulations may be obtained by submitting a stamped self-addressed envelope with the bid.

C. Information pertaining to completed files may be secured by visiting the department during normal working hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§379. Rejection of Bids

A. All written bids, unless otherwise provided for, must be submitted on, and in accordance with, forms provided. Bids submitted in the following manner will not be accepted.

1. Bid contains no signature indicating an intent to be bound.
2. A typed name without either a printed or written signature will not be accepted.
3. Bid completed in pencil.
4. Bids received after the bid opening time.
5. Bids not submitted on the Department of Transportation and Development's bid form indicating an intent not to be bound by the department's special instructions and conditions.
6. Bids which contain special conditions and terms which differ from the department's special instructions and conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§381. Mistakes in Bids

A. Bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders, and such actions may be taken only to the extent permitted under these regulations.

B. A request to withdraw a bid after the bid opening must be made within three business days after bid opening, and must be supported in writing.

C. Requests to withdraw a bid after three business days will be considered by the DOTD procurement director and the bidder may or may not be allowed to withdraw the bid

based on the best interest of the Department of Transportation and Development.

D. Minor informalities are matters of form rather than substance which are evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders. The DOTD procurement director may waive such informalities or allow the bidder to correct them depending on which is in the best interest of the state. Examples include, but are not limited to:

1. failure to return the number of signed bids required by the invitation for bids;
2. failure to sign the bid, but only if the unsigned bid is accompanied by other signed material indicating the bidder's intent to be bound;
3. failure to sign or initial a write-over or correction in bid;
4. failure to get certification that a mandatory job-site visit was made;
5. failure to return non-mandatory pages of the bid proposal.

E. If the mistake and the intended bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended bid and may not be withdrawn.

F. Some examples of mistakes that may be clearly evident on the face of the bid document are:

1. typographical errors;
2. errors in extending unit prices;
3. failure to return an addendum provided there is evidence that the addendum was received.

G. When an error is made in extending total prices, the unit bid price will govern.

H. Under no circumstances will a unit bid price be altered or corrected unless the bid price is clearly marked stating the unit of measure used. However, if the invitation for bids states that bids submitted in a different unit of measure will not be considered for award, the bid will be rejected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§383. Increase or Decrease in Quantities

A. Bidders must quote in the quantity shown on the invitation for bids.

B. Bidders increasing or decreasing quantity due to packaging will not be considered for award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§385. Alternate Bids

A. Any bidder quoting an alternate product which does not fully comply with the specifications contained in the invitation for bids must state in what respect the product deviates.

B. Failure to note exceptions on the bid form will be considered an indication that the product meets the specifications contained in the invitation for bids.

C. Bidders quoting an equivalent brand or model should submit with the bid information such as illustrations, descriptive literature and /or technical data sufficient for the

Department of Transportation and Development to evaluate quality, suitability and compliance with the specifications.

D. Failure to submit descriptive information may cause bid to be rejected.

E. Any change made to a manufacturer's published specification submitted for a product should include verification by the manufacturer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§387. All or None Bids Covering Non-Exempt Commodities

A. Bidders may limit a bid on acceptance of the whole bid, whereupon the department shall not thereafter reject part of such bid and award on the remainder.

B. An award shall be made to the "all or none" bid only if it is the overall low bid on all items, or on those items bid.

C. The overall low bid shall be that bid whose total bid, including all items bid, is the lowest dollar amount; be it an individual bid or a computation of all low bids on individual items of those bids that are not conditioned "all or none".

D. When multiple items are contained on any solicitation and the department chooses to make a group award in order to save the department the cost of issuing another purchase order, an award may be made to a vendor already receiving a purchase order if the total bid for said item is \$1,000 or less, and the total difference between the low bidder and the bidder receiving the award is \$100 or less.

E. Bidders quoting "all or none" will not be considered for award if the invitation for bids specifically states that all or none bids will not be considered for award. The only exception to this is if the bidder is the low bidder on all items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551 - 1736 and 48:204 - 210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§389. All or None Bids Covering Exempt Commodities

A. Bidders may limit a bid on acceptance of the whole bid, whereupon the department shall not thereafter reject part of such bid and award on the remainder.

B. When multiple items are contained on any solicitation and the department chooses to make a group award in order to save the department the cost of issuing another purchase order, an award may be made to a vendor already receiving a purchase order if the total bid for said item is \$1,000 or less, and the total difference between the low bidder and the bidder receiving the award is \$100 or less.

C. The decision to award on the basis of all or none or on individual items will be determined by the DOTD procurement director taking into consideration the best interest of the Department of Transportation and Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§391. Preferences

A. Preference in awarding contracts will be given for all types of products produced, manufactured, assembled,

grown, or harvested in Louisiana in accordance with the Louisiana Procurement Code.

B. Preferences will not be considered in the award of service contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§393. Bid Prices

A. All bid prices shall remain firm for the contractual period.

B. Unit prices must not exceed four digits to the right of the decimal point. Unit prices submitted beyond four digits will be rounded off to the nearest fourth digit.

C. All bid prices quoted shall include all costs incidental to any license or patent that may be held by any company. The bidder agrees to hold the Department of Transportation and Development harmless from any claims, suits, costs or penalties for infringement or use of licensed or patented products.

D. Bid prices, unless otherwise specified, must be net including transportation and handling charges fully prepaid to destination. Bids containing C.O.D. requirements will not be considered for award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§395. Bids Binding

A. Unless otherwise specified, all invitations for bid shall be binding for a minimum of 30 calendar days. Nevertheless, if the lowest responsive and responsible bidder is willing to keep his price firm in excess of 30 days, the department may award to this bidder after this period has expired, or after the period specified in the bid has expired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§397. Taxes

A. Pursuant to Act 1029 of the 1991 Regular Session of the Louisiana Legislature, the state and any of its agencies, boards or commissions are exempt from the Louisiana State Sales and Use Taxes.

B. Vendors are responsible for including any other applicable taxes in the bid price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§399. Rejection of Bids

A. The Department of Transportation and Development reserves the right to reject any or all bids in whole or in part, waive any informalities, and to award by items, parts of items, or by any group of items specified and/or waive any informalities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§401. Bid Evaluation and Award

A. Contracts are awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

B. No bid shall be evaluated for any requirements or criteria that are not disclosed in the invitation for bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§403. Determination of Lowest Bidder

A. Following determination of product acceptability, bids will be evaluated to determine which bidder offers the lowest cost to the Department of Transportation and Development in accordance with the evaluation criteria set forth in the invitation for bids.

B. Only objectively measurable criteria which are set forth in the invitation for bids shall be applied in determining the lowest bidder. Evaluation factors shall treat all bids equitably.

C. A contract shall not be awarded to a bidder submitting a higher quality item than that required by the invitation for bids unless the bid is also the lowest bid meeting specifications. There shall be no negotiation with any bidder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§405. Tie Bids

A. Tie bids are defined as low responsive bids from responsible bidders that are identical in price and which meet all requirements and criteria set forth in the invitation for bids.

B. Resident businesses shall receive preference over nonresident businesses where there is a tie bid and where there will be no sacrifice or loss of quality.

C. A written determination justifying the manner of award must be made a part of the file. This would include, but is not limited to consideration of such factors as:

- 1. resident business;
- 2. proximity;
- 3. past performance;
- 4. delivery;
- 5. completeness of bid proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§407. Discounts

A. Discounts will be considered in determining low bidder on one-time purchases or definite quantity purchases if the discount is at least one percent for a minimum of 30 days.

B. In the event the discount is for less than one percent or less than 30 days, the discount will be taken but will not be a determining factor in the bid evaluation.

C. Discounts will not be considered in determining low bidder on term contracts or indefinite quantity purchases.

D. Discounts will be taken but will not be a determining factor in the bid evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§409. Standards of Responsibility

A. A responsible bidder is a company or person who has the capability in all respects to perform fully the contract requirements, and which has the integrity and reliability which will assure good faith performance.

B. Capability, as used in this rule, means capability at the time of award of the contract, unless otherwise specified in the invitation for bids.

C. Factors to be considered in determining whether the standard of responsibility has been met include, but are not limited to, whether a prospective contractor has the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate capability of meeting all contractual requirements.

D. The prospective contractor shall supply information requested concerning the responsibility of such contractor.

E. If such contractor fails to supply the requested information, the DOTD procurement director shall base the determination of responsibility upon any available information or may find the prospective contractor non-responsive.

F. Before awarding a contract, the procurement officer must be satisfied that the prospective contractor is responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§411. Signatory Authority

A. By signing a bid form, the bidder certifies that the bid is made without collusion or fraud.

B. In accordance with R.S.39:1594, the person signing the bid must be:

- 1. a current corporate officer, partnership member or other individual specifically authorized to submit a bid as reflected in the appropriate records on file with the secretary of state; or
- 2. an individual authorized to bind the vendor as reflected by an accompanying corporation resolution, certificate or affidavit; or
- 3. an individual listed on the State of Louisiana Bidder's Application as authorized to execute bids.

C. Evidence of authority to submit the bid shall be required in accordance with R.S. 39:1594(C)(4).

D. By signing the bid, the bidder certifies compliance with the provisions listed above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§413. Documentation of Award

A. Following award, all files shall contain documentation including, but not limited to, the following:

- 1. a list of all solicited bidders;
- 2. a list of all bids received;
- 3. the bid tabulation; and

4. the basis of award.

B. In the event that the low bidder was by-passed and the award was made to a higher bidder, the file shall contain documentation that states the reason for the rejection of the lower bid.

C. If no bid was solicited from a certified economically disadvantaged business, the file shall contain an explanation of why such a bid was not solicited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§415. Insurance Requirements

A. Any contractor performing any service on any premises of the Department of Transportation and Development must furnish proof of:

1. public liability insurance;
2. property damage insurance;
3. workmen's compensation insurance; and
4. automobile public liability insurance, if applicable before work can commence.

B. The certificates of insurance, issued by a company licensed to do business in the state of Louisiana, must be furnished within ten days after notification of award.

C. The contractor shall not suspend, void, cancel or reduce the coverage or limits of any of the required insurance while the contract is in effect. In the event of any such occurrence, the DOTD procurement director must be immediately notified and acceptable alternate coverage must be furnished.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§417. Workman's Compensation Insurance

A. If applicable, contractors and subcontractors shall secure and maintain workman's compensation insurance for all of their employees employed at the site of a project.

B. In case any class of employees is engaged in hazardous work as defined by the Workman's Compensation Statute, the contractor and subcontractor shall provide employer's liability insurance for the protection of their employees not otherwise protected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551 - 1736 and 48:204 - 210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§419. Public Liability and Property Damage Insurance

A. If applicable, contractors and subcontractors shall secure and maintain comprehensive public general liability insurance, including but not limited to:

1. bodily injury;
2. property damage;
3. contractual liability;
4. products liability; and
5. owner's protective liability, with combined single

limits of \$500,000 per occurrence with a minimum aggregate of \$1,000,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§421. Automobile Public Liability Insurance

A. If applicable, contractors and subcontractors shall take and maintain automobile public liability insurance in an amount not less than combined single limits of \$500,000 per occurrence for bodily injury and/or property damage.

B. If any non-licensed motor vehicles are engaged in operations at a Department of Transportation and Development jobsite, such insurance shall cover the use of all such motor vehicles engaged in operating within the terms of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§423. Performance Bond

A. When specified in the invitation for bids, a performance bond made payable to the Department of Transportation and Development must be submitted prior to award.

B. Failure to submit a performance bond within the time allowed will result in disqualification or non-consideration of the bid.

C. Performance bonds shall be written by a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Service list of approved bonding companies which is published annually in the Federal Register, or by a Louisiana domiciled insurance company with at least an "A-" rating in the latest printing of the A.M. Best's Key Rating Guide to write individual bonds up to 10 percent of policyholders' surplus as shown in the A.M. Best's Key Rating Guide.

D. No surety or insurance company shall write a performance bond which is in excess of the amount indicated as approved by the U.S. Department of the Treasury Financial Management Service list or by a Louisiana domiciled insurance company with an "A-" rating by A.M. Best up to a limit of 10 percent of policyholders' surplus as shown by A.M. Best; companies authorized by this paragraph who are not on the Treasury List shall not write a performance bond when the penalty exceeds 15 percent of its capital and surplus, such capital and surplus being the amount by which the company's assets exceed its liabilities as reflected by the most recent financial statements filed by the company with the Louisiana Department of Insurance.

E. The requirement of a performance bond cannot be waived. The conditions of the performance bond shall provide that failure to meet delivery requirements and specifications shall constitute a forfeiture of said bond to the extent of loss suffered by the department or shall constitute a forfeiture of said bond to the extent required to enable the Department of Transportation and Development to meet the requirements of the contract hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§425. Deliveries

A. Any extension of time on delivery or project completion time must be requested in writing by the vendor and accepted or rejected in writing by the DOTD procurement director.

B. Such extension is applicable only to the particular item or shipment affected.

C. No delivery charges shall be added to invoices except when express delivery is requested by the DOTD procurement director and is substituted on an order for less expensive methods specified in the contract. In such cases, when requested by the DOTD procurement director, the difference between freight or mail and express charges may be added to the invoice.

D. The Department of Transportation and Development reserves the right to weigh shipments if deemed appropriate.

E. Deliveries shall be subject to reweighing on official scales designated by the department.

F. Payments shall be made on the basis of net weight of materials delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§427. Invoices

A. Upon each delivery and its acceptance by the department, the contractor shall bill the department by means of an invoice and such invoice shall make reference to the purchase order number on which delivery was made.

B. At the time of delivery, the contractor is to make a delivery ticket on his own form showing:

1. complete description;
2. the exact quantity delivered;
3. price;
4. extension; and
5. purchase order number.

C. Invoices shall be submitted by the contractor in triplicate directly to the address shown on the purchase order.

D. Invoice price must agree with contract price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§429. Payment

A. After receipt and acceptance of order and receipt of valid invoice, payment will be made by the Department of Transportation and Development within the discount period or within thirty calendar days from receipt of correct invoice.

B. If contractor proposes a discount, the discount period will start from receipt of correct invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§431. Default of Contractor

A. Failure to deliver within the time specified in the invitation for bids will constitute a default and may cause cancellation of the contract.

B. If the contractor is considered to be in default, the Department of Transportation and Development reserves the right to purchase any or all products or services covered by the contract on the open market and to charge the contractor with costs in excess of the contract price.

C. Until such assessed charges have been paid, no subsequent bid from the defaulting contractor will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§433. Assignments

A. No contract or purchase order or proceeds thereof may be assigned, sublet or transferred without a written request from the contractor.

B. Contractors are required to submit an "assignment of proceeds of contract" document and an "assignment of contract" document to the DOTD procurement director.

C. If the contract covers an exempt commodity, the assignment must be approved by the DOTD procurement director.

D. If the contract covers a non-exempt commodity, the assignment must be approved by the director of state purchasing and the commissioner of administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§435. Reduction in Contract Price

A. The Department of Transportation and Development cannot accept a reduction in price on any non-exempt commodity contract unless the price reduction is offered to all state agencies using the contract.

B. The Department of Transportation and Development reserves the right to accept a reduction in price on any exempt commodity contract if it is considered in the best interest of the department.

C. Inspection of Facilities Contracts entered into by the Department of Transportation and Development may provide that the state may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether they conform to solicitation requirements, or after award, to contract requirements, and are therefore acceptable.

D. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract and shall be performed so as not to unduly delay the work of the contractor or subcontractor.

E. No inspector may change any provision of the specifications or the contract without written authorization of the DOTD procurement director. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirements of the contract.

F. When an inspection is made in the plant or place of business of a contractor or subcontractor, such contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§437. Audit of Records

A. The state may enter a contractor's or subcontractor's plant or place of business to:

1. audit cost or pricing data; or
2. audit the books and records of any contractor or subcontractor;
3. investigate in connection with an action to debar; or
4. suspend a person from consideration for award of contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§439. Contract Renewal

A. When a contract contains an option for renewal clause, notice of such provision shall be included in the solicitation.

B. When such a contract is awarded by competitive sealed bidding, exercise of the option shall be at the department's discretion only, and shall be with the mutual agreement of the Department of Transportation and Development and the contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§441. Exercise of Renewal Option

A. Before exercising any option for renewal, the DOTD procurement director or designee shall attempt to ascertain whether a re-solicitation is practical.

B. Factors to be considered include but are not limited to:

1. current market conditions;
2. trends;
3. cost factors;
4. price comparisons with similar service in other states; and
5. various other factors as determined by the DOTD procurement director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§443. Termination of Contract

A. The Department of Transportation and Development reserves the right to terminate any contract prior to the end of the contract period upon providing a ten day written notice to the contractor for:

1. failure to deliver within the time specified in the contract;
2. failure of the product or service to meet specifications;
3. failure to conform to sample quality;
4. failure to be delivered in good condition;
5. unsatisfactory performance;
6. unsatisfactory delivery;
7. unsatisfactory service;
8. misrepresentation by the contractor;

9. fraud;
10. collusion;
11. conspiracy or other unlawful means of obtaining contract;
12. conflict of contract provisions with constitutional or statutory provisions of state or federal law;
13. breach of contract; or
14. if termination is in the best interest of the department.

B. Should the contractor find that due to increase in price or lack of product availability an order cannot be filled, the contractor must submit a request for cancellation to the DOTD procurement director.

C. The DOTD procurement director will make a determination as to whether the contract will be cancelled based upon the reasons cited in the request.

D. All orders delivered prior to the effective date of such termination shall be paid for by the department in accordance with the terms of the contract, whereupon all obligations of both parties to the contract shall cease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§445. Debarment

A. This Section applies to a debarment or suspension for cause from consideration for award of contracts where there is probable cause for such action.

B. After reasonable notice to the party involved, the appropriate chief procurement officer shall have authority to suspend or debar a party for cause.

C. The DOTD procurement director serves as the hearing officer for exempt commodities, and the director of state purchasing serves as the hearing officer for non-exempt commodities.

D. Should the party involved desire a formal hearing, he shall, within five days of receipt of the notice referred to Subsection B, inform the chief procurement officer in writing of said desire.

E. Formal hearings will be conducted pursuant to the provisions of Title 49, Chapter 13 of the Louisiana Revised Statutes.

F. Within fourteen days after the date of mailing of the notice referred to in Subsection B, the chief procurement officer will issue a written decision stating the reasons for the action taken and informing the party, aggrieved person or interested person of the right to administrative review and thereafter judicial review, where applicable.

G. A copy of the decision or order shall be mailed or otherwise furnished to all interested parties.

H. Appeals from a suspension or debarment decision must be filed with the commissioner of administration within fourteen days of the receipt of the decision.

I. The commissioner shall decide within fourteen days whether, or the extent to which, the debarment or suspension was in accordance with the Constitution, Statutes, Regulations, and the best interest of the state, and was fair.

J. The decision of the commissioner of administration on the appeal shall be final and conclusive unless:

1. the decision is fraudulent; or
2. the debarred or suspended party has timely appealed to the court in accordance with R.S. 39:1691(B).

K. The filing of the petition in the Nineteenth Judicial District Court shall not stay the decision of the commissioner of administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

§447. Protest of Bid Solicitation or Award

A. In accordance with R.S. 39:1671, any person who is aggrieved in connection with the solicitation, award, or issuance of written notice of intent to award may protest to the chief procurement officer.

B. The chief procurement officer for exempt commodities is the DOTD procurement director and the chief procurement officer for non-exempt commodities is the director of state purchasing.

C. Protests with respect to a solicitation shall be submitted in writing at least two days prior to the opening of bids.

D. In the event of protest, the chief procurement officer will suspend the bid opening until a decision on the protest has been determined.

E. Protests with respect to the award of a contract or the issuance of written notice of intent to award a contract shall be submitted in writing within fourteen days after contract award.

F. In the event of protest, the chief procurement officer will issue a stay until a decision on the protest has been determined.

G. Within fourteen days of receipt of protest, the chief procurement officer shall issue a written decision stating the reasons for the action taken and informing the party, aggrieved person, or interested person of the right to administrative review and thereafter judicial review where applicable.

H. An aggrieved person or an interested person must appeal to the commissioner of administration within seven days of receipt of the decision of the chief procurement officer.

I. The commissioner of administration shall decide within fourteen days whether the solicitation or award or intent to award was in accordance with the constitution, statutes, regulations and the terms and conditions of the solicitation.

J. The decision of the commissioner of administration on the appeal shall be final and conclusive unless:

1. the decision is fraudulent; or

2. the person adversely affected by the decision of the commissioner of administration has timely appealed to the court in accordance with R.S. 39:1691.

K. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a bidder or contractor, prospective or actual, to determine whether a solicitation or award of a contract is in accordance with the constitution, statutes, regulations, and the terms and conditions of the solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:

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 Dana Watlington, Procurement Section, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, Louisiana, 70804-9245, Telephone (225)379-1444.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Purchasing

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

Implementation of the proposed Rule has no effect in comparison to current practice. There also should be no effect on cost in comparison to the existing Rule. The proposed Rule simply reflects changes in departmental procurement policy which were prompted by changes in Louisiana law since the rules were originally promulgated in 1982. (The changes began in 1986.) Prior rules were written when the department was totally exempt from the rules and regulations of the Office of State Purchasing and commissioner of administration. Currently, the department can only procure component parts of roads and bridges "in house." For all other procurements over the delegated purchasing authority (now \$10,000.00), the division of administration much perform the procurement. However, when the department performed all procurements, it followed the guidelines of the division of administration.

The threshold amount for requiring sealed bids for departmental procurement was statutorily increased in 1991 and 1997 and those changes are reflected in the revised rule. These changes represent a potential increase in procurement costs, however such increase is not anticipated to be significant.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

John Basilica
Undersecretary
0212#070

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Alligator Regulations (LAC 76:V.701)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend the regulations governing the Alligator Regulations (LAC 76:V.701).

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A.13.d. ...

14. Alligator Egg Collection

a. - i. ...

j. The alligator egg collection permittee and the landowner are responsible for the return of the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. In no case shall the return rate be less than 14 percent at 48 inches total length. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36 inches and a maximum of 54 inches (no alligators will be accepted and no credit will be given for alligators over 54 inches) in total length and the returned sex ratio should contain at least 50 percent females. The alligator egg collection permittee/landowner are responsible for and must compensate in kind for alligator mortality which occurs for department-authorized return to the wild alligators while being processed, stored, or transported. The department shall be responsible for supervising the required return of these alligators. A department transfer authorization permit is not required for return to the wild alligators which are delivered to the farm of origin no more than 48 hours prior to being processed for wild release. Releases back to the wild will only occur between March 15 and August 15 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Any farmer who owes 1000 or more alligators at 48 inches must release at least 1/4 of the total owed for that year by April 30; at least another quarter by June 10, at least another quarter by July 15; and the

remainder by August 15th. A farmer may do more than the required one-fourth of his releases earlier if available unscheduled days allow. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department-sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Subparagraph is a class four violation as described in Title 56.

k. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 29:

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 on intent and final Rule and the preparation of reports and correspondence to other agencies of government.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its family impact statement in connection with the preceding notice of intent: This notice of intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit comments relative to the proposed Rule to Mr. L. Brandt Savoie, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to February 6, 2003.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Alligator Regulations**

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

There are no anticipated implementation costs or savings to state or local governmental units associated with this proposed Rule change.

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

The proposed Rule change is anticipated to have a minor negative impact on revenues deposited into the Alligator Resource Fund. As a result of this proposed rule change alligator farmers will be required to release more alligators in order to meet their release requirements. This will result in fewer alligators entering commercial trade, therefore reducing the alligator hide tag fees and severance tax collected by the department. We anticipate the revenue decrease to be approximately \$11,250 per year, starting in fiscal year 2004-2005.

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

The proposed Rule change will require alligator farmers to release more alligators to meet their release requirements. The change will result in some farmers having fewer alligators to sell, however their grow out cost will be reduced because the alligators will be released at smaller sizes. Overall the department anticipates the rule change to have a minimal negative impact on most alligator farmers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change will have no effect on competition, as the proposed Rule change will apply uniformly to all individuals currently in the alligator farming business. Employment may be affected slightly, since gross revenues from alligator sales are anticipated to decrease.

Thomas M. Gattle, Jr
Chairman
0212#059

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office