

Rules

RULE

Department of Agriculture and Forestry Horticulture Commission

Application for Examination
and Licensure or Permitting
(LAC 7:XXIX.107 and 119)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, has amended regulations regarding advertisement and solicitation for non-licensed landscape architects or retail florists.

The Rule change to §107 extends the time period for retail florists to complete passage of the retail florist exam and reduces the need for retail florists to retake parts of the exam. The Rule change to §119 limits the use of the word design or designer to licensed landscape architects or retail florists, in order to further delineate the distinction between the professions of landscape contractor and landscape architect.

These Rules are enabled by R.S. 3:3801.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticultural Commission

Chapter 1. Horticulture

§107. Application for Examination and Licensure or Permitting

A. Each applicant must complete the application form prescribed by the commission for the area in the practice of horticulture for which the license or permit is sought.

B. Retail Florist

1. - 2. ...

3. Both phases of the examination for licensure as a retail florist must be successfully completed within three years after successful completion of one phase. In any case where more than three years has elapsed since the applicant successfully completed one phase of the examination, the applicant must apply, and pay the fee required under §109.A.1, to retake the entire examination.

C.2. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:249 (March 1992), LR 20:639 (June 1994), LR 23:854 (July 1997), LR 29:1460 (August 2003).

§119. Prohibition

A. - E. ...

F. No licensee, permittee or person engaged in any profession or occupation regulated by the commission shall use the words "design" or "designer" or any form of these

words, whether separately or in combination with other words in any advertisement, solicitation or title, or on any estimate, contract or other document, except for those persons who are licensed as a landscape architect or as a retail florist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:186 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 29:1460 (August 2003).

Bob Odom
Commissioner

0308#024

RULE

Department of Agriculture and Forestry Office of the Commissioner

Contagious Diseases (LAC 7:XXI.121)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner, has amended regulations regarding the reporting of contagious diseases.

This regulation is being updated to reflect the current list of animal and poultry diseases that are of regulatory importance and present potential risk to human health. Some of these diseases are added since they are no longer found in Louisiana and special attention must be accorded them if and when they are diagnosed. Others are new and emerging diseases that were not a concern in the past.

These Rules comply with and are enabled by R.S. 3:2093, R.S. 3:2094, and R.S. 3:2095.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 1. General Provisions

§121. Requiring the Reporting of Contagious Diseases

A. In order to improve the protection of the animals and poultry populations from the effects of contagious diseases, all veterinarians licensed in the state of Louisiana are required to report to the state veterinarian, by telephone, fax, or electronic mail within 24 hours after diagnosis or tentative diagnosis, the occurrence or suspected occurrence of the following contagious diseases or symptoms: including but not limited to classical swine fever (hog cholera), anthrax, vesicular conditions, all equine encephalomyelitis conditions, transmissible spongiform encephalopathies (including chronic wasting disease, scrapie, bovine spongiform encephalopathy), pseudorabies (Aujeszky's Disease), tuberculosis, brucellosis, rabies, Newcastle Disease and other paramyxovirus infections, avian influenza

(highly pathogenic), ornithosis (chlamydiosis, psittacosis), salmonellas (pullorum disease or fowl typhoid), infectious laryngotracheitis (other than vaccine induced), any disease classified by USDA as a foreign animal disease, or any other disease condition which may seriously threaten the welfare of the animal and poultry populations of this state.

B. Reports should include the:

1. name, address and phone number of the owner;
2. location of the premises;
3. morbidity and mortality rate at the time of reporting;
4. number of susceptible animals in the immediate area; and
5. approximate number of animals or poultry exposed.

C. Reports of disease outbreaks will be coordinated by the state veterinarian.

D. Livestock owners who suspect the occurrence of contagious disease should immediately contact the local practicing veterinarian, area regulatory veterinarian or county agent who, in turn, will be responsible for reporting to the state veterinarian.

E. An investigation of the reported contagious disease will be made by representatives of the livestock sanitary board, preferably with the veterinarian or county agent reporting the disease. If necessary to protect the animal and poultry populations, a quarantine may be imposed on involved and exposed animals and areas. The quarantine will remain in effect until the threat has been removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2094 and R.S. 3:2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:234 (March 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:813 (October 1989), LR 16:391 (May 1990), LR 23:197 (February 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 29:1460 (August 2003).

Bob Odom
Commissioner

0308#025

RULE

Board of Elementary and Secondary Education

Bulletin 1566 **CR** Guidelines for Pupil Progression
(LAC 28:XXXIX.1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education has amended Bulletin 1566, *Guidelines for Pupil Progression*, referenced in LAC 28:I.907.A. The State Board of Elementary and Secondary Education (SBESE) at its February 2003 meeting approved a change to the High Stakes Testing Policy which is incorporated into Bulletin 1566, *Guidelines for Pupil Progression*. The Rule change eliminates the previously allowed one-year deferment from testing in the LEAP 21 for Limited English Proficient (LEP) students. The action is necessary to bring Louisiana's High Stakes Testing Policy in line with the federal No Child Left Behind legislation.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566 **CR Guidelines for Pupil Progression**

Chapter 13. Appendix B

§1301. LEAP for the 21st Century, High Stakes Testing Policy

A. Grade 4

1. - 6.b.i.(c).(i). ...

c. Waiver for Limited English Proficient (LEP) Students

i. LEP students shall participate in statewide assessment. The SBLC shall be granted the authority to waive the state's grade promotion policy for an LEP student. An LEP student who was granted a waiver at the 4th grade level is ineligible for a waiver at the 8th grade level.

6.c.ii. - 7 ...

B. Grade 8

1. - 8.b.i.(c).(i). ...

c. Waiver for Limited English Proficient (LEP) Students

i. LEP students shall participate in statewide assessment. The SBLC shall be granted the authority to waive the state's grade promotion policy for an LEP student. An LEP student who was granted a waiver at the 4th grade level is ineligible for a waiver at the 8th grade level.

d. Appeals Process

8.d.i. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001), amended LR 27:1683 (October 2001), LR 28:1189 (June 2002), LR 29:1461 (August 2003).

Weegie Peabody
Executive Director

0308#017

RULE

Board of Elementary and Secondary Education

Bulletin 1706 **CR** Regulations for Implementation of the Children with Exceptionalities Act
Students with Disabilities
(LAC 28:XLIII.1001)

Editor's Note: LAC 28:XLIII.1001 was amended in the June 20, 2003 issue of the *Louisiana Register*. It is being repromulgated to correct a codification error.

Title 28

EDUCATION

Part XLIII. Bulletin 1706 **CR Regulations for Implementation of the Children with Exceptionalities** **Subpart A. Regulations for Students with Disabilities** **Chapter 10. State Program Rules for Special Education**

§1001. Pupil/Teacher, Pupil/Speech/Language Pathologist, and Pupil Appraisal Ratios for Public Education

A. - 6. ...

7. Repealed. (Reserved for future use.)

8. - 12. ...

13. Pupil appraisal members shall be employed by LEAs at the rate listed below. LEAs may substitute one pupil appraisal for another provided that all pupil appraisal services are provided in accordance with these regulations.

	Public School Ratios Based on Membership	Private School Ratios Based on Membership
Educational Diagnosticians	1:2,400 or major fraction thereof	1:3,500 or major fraction thereof
School Psychologists	1:2,400 or major fraction thereof	1:3,500 or major fraction thereof
Social Workers	1:3,200 or major function thereof	1:4,500 or major function thereof

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:687 (April 2000), amended LR 29:897 (June 2003), repromulgated LR 29:1461 (August 2003).

Weegie Peabody
Executive Director

0308#106

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Concentrated Animal Feeding Operations (LAC 33:IX.2331, 2335, 2345, 2357, and 2533)(WQ050*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.2331, 2335, 2345, 2357, and 2533 (Log #WQ050*).

This Rule is identical to federal regulations found in 68 FR 7265-7269, No. 29, 2/12/03, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule ensures that concentrated animal feeding operations (CAFOs) take appropriate actions to manage manure effectively in order to protect the state's water quality. Improperly managed manure has caused serious, acute, and chronic water problems. This Rule will strengthen the requirements for CAFOs. The Rule establishes a mandatory requirement for all CAFOs to apply for an LPDES permit and to develop and implement a nutrient management plan. The revised guidelines establish performance expectations for existing and new sources to ensure appropriate storage of manure, as well as expectations for proper land application practices at the CAFO. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA and to keep Louisiana's water regulations current with their federal

counterpart. The basis and rationale for this Rule are to protect the waters of the state of Louisiana and to mirror the federal regulations in order to maintain equivalency.

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

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Chapter 23. The LPDES Program

Subchapter B. Permit Application and Special LPDES Program Requirements

§2331. Application for a Permit

A. Duty to Apply

1. Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR Part 503, and who does not have an effective permit, except persons covered by general permits under LAC 33:IX.2345, or discharges excluded under LAC 33:IX.2315, or a user of a privately owned treatment works unless the state administrative authority requires otherwise under LAC 33:IX.2361.M, must submit a complete application to the Office of Environmental Services, Permits Division in accordance with this Section and LAC 33:IX.Chapter 23.Subchapters E-G. All concentrated animal feeding operations have a duty to seek coverage under an LPDES permit as described in LAC 33:IX.2335.D.

A.2. - I. ...

1. For concentrated animal feeding operations (CAFOs):

- a. the name of the owner or operator;
- b. the facility location and mailing address(es);
- c. the latitude and longitude of the production area (entrance to production area);
- d. a topographic map of the geographic area in which the CAFO is located showing the specific location of the production area, in lieu of the requirements of Paragraph F.7 of this Section;
- e. specific information about the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
- f. the type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage (tons/gallons);
- g. the total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;
- h. the estimated amounts of manure, litter, and process wastewater generated per year (tons/gallons);
- i. the estimated amounts of manure, litter, and process wastewater transferred to other persons per year (tons/gallons); and

j. for CAFOs that must seek coverage under a permit after December 31, 2006, certification that a nutrient management plan has been completed and will be implemented upon the date of permit coverage.

I.2. - R.4.h. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:1766 (August 2002), LR 29:1462 (August 2003).

§2335. Concentrated Animal Feeding Operations

A. Permit Requirement for CAFOs. Concentrated animal feeding operations, as defined in Subsection B of this Section, are point sources that require LPDES permits for discharges or potential discharges. Once an operation is defined as a CAFO, the LPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter, and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

B. Definitions Applicable to this Section

Animal Feeding Operation (AFO) means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- a. animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and
- b. crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Concentrated Animal Feeding Operation (CAFO) means an AFO that is defined as a *Large CAFO* or as a *Medium CAFO* by the terms of this Subsection, or that is designated as a CAFO in accordance with Subsection C of this Section. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

Land Application Area means land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.

Large Concentrated Animal Feeding Operation (Large CAFO) means an AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

- a. 700 mature dairy cows, whether milked or dry;
- b. 1,000 veal calves;
- c. 1,000 cattle other than mature dairy cows or veal calves (*Cattle* includes but is not limited to heifers, steers, bulls, and cow/calf pairs.);
- d. 2,500 swine, each weighing 55 pounds or more;
- e. 10,000 swine, each weighing less than 55 pounds;
- f. 500 horses;
- g. 10,000 sheep or lambs;
- h. 55,000 turkeys;

i. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;

j. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

k. 82,000 laying hens, if the AFO uses other than a liquid manure handling system;

l. 30,000 ducks, if the AFO uses other than a liquid manure handling system; or

m. 5,000 ducks, if the AFO uses a liquid manure handling system.

Manure includes manure, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal.

Medium Concentrated Animal Feeding Operation (Medium CAFO) includes any AFO with the type and number of animals that fall within any of the ranges listed in this definition and that has been defined or designated as a CAFO. An AFO is a *Medium CAFO* if:

a. the type and number of animals that it stables or confines falls within any of the following ranges:

i. 200 to 699 mature dairy cows, whether milked or dry;

ii. 300 to 999 veal calves;

iii. 300 to 999 cattle other than mature dairy cows or veal calves (*Cattle* includes but is not limited to heifers, steers, bulls, and cow/calf pairs.);

iv. 750 to 2,499 swine, each weighing 55 pounds or more;

v. 3,000 to 9,999 swine, each weighing less than 55 pounds;

vi. 150 to 499 horses;

vii. 3,000 to 9,999 sheep or lambs;

viii. 16,500 to 54,999 turkeys;

ix. 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;

x. 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

xi. 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;

xii. 10,000 to 29,999 ducks, if the AFO uses other than a liquid manure handling system; or

xiii. 1,500 to 4,999 ducks, if the AFO uses a liquid manure handling system; and

b. either one of the following conditions are met:

i. pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device; or

ii. pollutants are discharged directly into waters of the state that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Process Wastewater means water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. *Process wastewater* also includes any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

Production Area That part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes, but is not limited to, lagoons, runoff ponds, storage sheds, stockpiles, under-house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins and areas within berms and diversions that separate uncontaminated storm water. Also included in the definition of *production area* are any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of mortalities.

Small Concentrated Animal Feeding Operation (Small CAFO) An AFO that is designated as a CAFO and is not a *Medium CAFO*.

C. How May an AFO be Designated as a CAFO? The appropriate authority (i.e., state administrative authority or regional administrator, or both, as specified in Paragraph C.1 of this Section) may designate any AFO as a CAFO upon determining that it is a significant contributor of pollutants to waters of the state.

1. Who May Designate?

a. **Approved States.** In states that are approved or authorized by EPA under 40 CFR Part 123, CAFO designations may be made by the state administrative authority. The regional administrator may also designate CAFOs in approved states, but only where the regional administrator has determined that one or more pollutants in the AFO's discharge contributes to an impairment in a downstream or adjacent state or Indian country water that is impaired for that pollutant.

b. **States With No Approved Program.** The regional administrator may designate CAFOs in states that do not have an approved program and in Indian country where no entity has expressly demonstrated authority and has been expressly authorized by EPA to implement the NPDES program.

2. In making this designation, the state administrative authority or the regional administrator shall consider the following factors:

- a. the size of the AFO and the amount of wastes reaching waters of the state;
- b. the location of the AFO relative to waters of the state;
- c. the means of conveyance of animal wastes and process wastewaters into waters of the state;
- d. the slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes, manure, and process wastewaters into waters of the state; and
- e. other relevant factors.

3. No AFO shall be designated under this Subsection unless the state administrative authority or the regional administrator has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. In addition, no

AFO with numbers of animals below those established in the definition of *Medium CAFO* in Subsection B of this Section may be designated as a CAFO unless:

a. pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device; or

b. pollutants are discharged directly into waters of the state that originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

D. Who Must Seek Coverage Under an LPDES Permit?

1. All CAFO owners or operators must apply for a permit. All CAFO owners or operators must seek coverage under an LPDES permit, except as provided in Paragraph D.2 of this Section. Specifically, the CAFO owner or operator must either apply for an individual LPDES permit or submit a notice of intent for coverage under an LPDES general permit. If the state administrative authority has not made a general permit available to the CAFO, the CAFO owner or operator must submit an application for an individual permit to the state administrative authority.

2. **Exception.** An owner or operator of a Large CAFO does not need to seek coverage under an LPDES permit otherwise required by this Section once the owner or operator has received from the state administrative authority notification of a determination under Subsection F of this Section that the CAFO has "no potential to discharge" manure, litter, or process wastewater.

3. **Information to Submit with Permit Application.** A permit application for an individual permit must include the information specified in LAC 33:IX.2331. A notice of intent for a general permit must include the information specified in LAC 33:IX.2331 and LAC 33:IX.2345.

E. Land application discharges from a CAFO are subject to LPDES requirements. The discharge of manure, litter, or process wastewater to waters of the state from a CAFO as a result of the application of that manure, litter, or process wastewater by the CAFO to land areas under its control is a discharge from that CAFO subject to LPDES permit requirements, except where it is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For purposes of this Subsection, where the manure, litter, or process wastewater has been applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as specified under LAC 33:IX.2357.E.1.f-i, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO is an agricultural storm water discharge.

F. "No Potential to Discharge" Determinations for Large CAFOs

1. **Determination by the State Administrative Authority.** The state administrative authority, upon request, may make a case-specific determination that a Large CAFO has "no potential to discharge" pollutants to waters of the state. In making this determination, the state administrative authority must consider the potential for discharges from both the production area and any land application areas. The state administrative authority must also consider any record of prior discharges by the CAFO. In no case may the CAFO be determined to have "no potential to discharge" if it has

had a discharge within the five years prior to the date of the request submitted under Paragraph F.2 of this Section. For purposes of this Section, the term "no potential to discharge" means that there is no potential for any CAFO manure, litter, or process wastewater to be added to waters of the state under any circumstance or climatic condition. A determination that there is "no potential to discharge" for purposes of this Section only relates to discharges of manure, litter, and process wastewater covered by this Section.

2. Information to Support a "No Potential to Discharge" Request. In requesting a determination of "no potential to discharge," the CAFO owner or operator must submit any information that would support such a determination within the time frame provided by the state administrative authority and in accordance with Subsections G and H of this Section. Such information must include all of the information specified in LAC 33:IX.2331.F and I.1.a-i. The state administrative authority has discretion to require additional information to supplement the request and may also gather additional information through on-site inspection of the CAFO.

3. Process for Making a "No Potential to Discharge" Determination. Before making a final decision to grant a "no potential to discharge" determination, the state administrative authority must issue a notice to the public stating that a "no potential to discharge" request has been received. This notice must be accompanied by a fact sheet that includes, when applicable, a brief description of the type of facility or activity that is the subject of the "no potential to discharge" determination, a brief summary of the factual basis upon which the request is based for granting the "no potential to discharge" determination, and a description of the procedures for reaching a final decision on the "no potential to discharge" determination. The state administrative authority must base the decision to grant a "no potential to discharge" determination on the administrative record, which includes all information submitted in support of a "no potential to discharge" determination and any other supporting data gathered by the permitting authority. The state administrative authority must notify any CAFO seeking a "no potential to discharge" determination of its final determination within 90 days of receiving the request.

4. What is the Deadline for Requesting a "No Potential to Discharge" Determination? The owner or operator must request a "no potential to discharge" determination by the applicable permit application date specified in Subsection G of this Section. If the state administrative authority's final decision is to deny the "no potential to discharge" determination, the owner or operator must seek coverage under a permit within 30 days after the denial.

5. The "no potential to discharge" determination does not relieve the CAFO from the consequences of an actual discharge. Any unpermitted CAFO that discharges pollutants into the waters of the state is in violation of the Clean Water Act even if it has received a "no potential to discharge" determination from the state administrative authority. Any CAFO that has received a determination of "no potential to

discharge," but which anticipates changes in circumstances that could create the potential for a discharge, should contact the state administrative authority and apply for and obtain permit authorization prior to the change of circumstances.

6. The state administrative authority retains authority to require a permit. When the state administrative authority has issued a determination of "no potential to discharge," the state administrative authority retains the authority to subsequently require LPDES permit coverage if circumstances at the facility change, if new information becomes available, or if there is another reason for the state administrative authority to determine that the CAFO has a potential to discharge.

G. When Must a CAFO Seek Coverage Under an LPDES Permit?

1. Operations Defined as CAFOs Prior to April 14, 2003. For operations that were defined as CAFOs under regulations that were in effect prior to April 14, 2003, the owner or operator must have or seek to obtain coverage under an LPDES permit as of April 14, 2003, and comply with all applicable LPDES requirements, including the duty to maintain permit coverage in accordance with Subsection H of this Section.

2. Operations Defined as CAFOs as of April 14, 2003, Which Were Not Defined as CAFOs Prior to That Date. For all such CAFOs, the owner or operator of the CAFO must seek to obtain coverage under an LPDES permit by a date specified by the state administrative authority, but no later than February 13, 2006.

3. Operations That Become Defined as CAFOs After April 14, 2003, but Which Are Not New Sources. For newly constructed AFOs and AFOs that make changes to their operations that result in becoming defined as CAFOs for the first time after April 14, 2003, but are not new sources, the owner or operator must seek to obtain coverage under an LPDES permit, as follows:

a. for newly constructed operations not subject to effluent limitations guidelines, 180 days prior to the time the CAFO commences operation; or

b. for other operations (e.g., resulting from an increase in the number of animals), as soon as possible, but no later than 90 days after becoming defined as a CAFO; except that

c. if an operational change that makes the operation a CAFO would not have made it a CAFO prior to April 14, 2003, the operation has until April 13, 2006, or 90 days after becoming defined as a CAFO, whichever is later.

4. New Sources. New sources must seek to obtain coverage under a permit at least 180 days prior to the time that the CAFO commences operation.

5. Operations That are Designated as CAFOs. For operations designated as a CAFO in accordance with Subsection C of this Section, the owner or operator must seek to obtain coverage under a permit no later than 90 days after receiving notice of the designation.

6. No Potential to Discharge. Notwithstanding any other provision of this Section, a CAFO that has received a "no potential to discharge" determination in accordance with Subsection F of this Section is not required to seek coverage

under an LPDES permit that would otherwise be required by this Section. If circumstances materially change at a CAFO that has received a "no potential to discharge" determination, such that the CAFO has a potential for a discharge, the CAFO has a duty to immediately notify the state administrative authority and seek coverage under an LPDES permit within 30 days after the change in circumstances.

H. Duty to Maintain Permit Coverage. No later than 180 days before the expiration of a permit, the permittee must submit an application to renew its permit, in accordance with LAC 33:IX.2331.G. However, the permittee need not continue to seek continued permit coverage or reapply for a permit if:

1. the facility has ceased operation or is no longer a CAFO; and

2. the permittee has demonstrated to the satisfaction of the state administrative authority that there is no remaining potential for a discharge of manure, litter, or associated process wastewater that was generated while the operation was a CAFO, other than agricultural storm water from land application areas.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002), LR 29:1463 (August 2003).

§2345. General Permits

A. - B.2.a. ...

b. The contents of the notice of intent shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s). General permits for storm water discharges associated with industrial activity from inactive mining, inactive oil and gas operations, or inactive landfills occurring on federal lands where an operator cannot be identified may contain alternative notice of intent requirements. All notices of intent shall be signed in accordance with LAC 33:IX.2333. Notices of intent for coverage under a general permit for concentrated animal feeding operations must include the information specified in LAC 33:IX.2331.I.1, including a topographic map.

B.2.c. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2276 (October 2000), LR 26:2553 (November 2000), LR 28:468 (March 2002), LR 29:1466 (August 2003).

Subchapter C. Permit Conditions

§2357. Additional Conditions Applicable to Specified Categories of LPDES Permits

The following conditions, in addition to those set forth in LAC 33:IX.2355, apply to all LPDES permits within the categories specified below.

A. - D. ...

E. Concentrated Animal Feeding Operations (CAFOs). Any permit issued to a CAFO must include the following requirements.

1. Requirements to Develop and Implement a Nutrient Management Plan. At a minimum, a nutrient management plan must include best management practices and procedures necessary to implement applicable effluent limitations and standards. Permitted CAFOs must have their nutrient management plans developed and implemented by December 31, 2006. CAFOs that seek to obtain coverage under a permit after December 31, 2006, must have a nutrient management plan developed and implemented upon the date of permit coverage. The nutrient management plan must, to the extent applicable:

a. ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;

b. ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;

c. ensure that clean water is diverted, as appropriate, from the production area;

d. prevent direct contact of confined animals with waters of the state;

e. ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system that is not specifically designed to treat such chemicals and other contaminants;

f. identify appropriate site-specific conservation practices to be implemented, including as appropriate, buffers or equivalent practices, to control runoff of pollutants to waters of the state;

g. identify protocols for appropriate testing of manure, litter, process wastewater, and soil;

h. establish protocols to land-apply manure, litter, or process wastewater in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater; and

i. identify specific records that will be maintained to document the implementation and management of the minimum elements described in Subparagraphs E.1.a-h of this Section.

2. Recordkeeping Requirements

a. The permittee must create, maintain for five years, and make available to the state administrative authority, upon request, the following records:

i. all applicable records identified in accordance with Subparagraph E.1.i of this Section; and

ii. in addition, all CAFOs subject to 40 CFR Part 412 must comply with recordkeeping requirements as specified in LAC 33:IX.2533.

b. A copy of the CAFO's site-specific nutrient management plan must be maintained on-site and made available to the state administrative authority upon request.

3. Requirements Relating to Transfer of Manure or Process Wastewater to Other Persons. Prior to transferring

manure, litter, or process wastewater to other persons, Large CAFOs must provide the recipient of the manure, litter, or process wastewater with the most current nutrient analysis. The analysis provided must be consistent with the requirements of 40 CFR Part 412. Large CAFOs must retain for five years records of the date, the recipient's name and address, and the approximate amount of manure, litter, or process wastewater transferred to another person.

4. Annual Reporting Requirements for CAFOs. The permittee must submit an annual report to the state administrative authority. The annual report must include:

a. the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

b. the estimated amount of total manure, litter, and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);

c. the estimated amount of total manure, litter, and process wastewater transferred to other persons by the CAFO in the previous 12 months (tons/gallons);

d. the total number of acres for land application covered by the nutrient management plan developed in accordance with Paragraph E.1 of this Section;

e. the total number of acres under control of the CAFO that were used for land application of manure, litter, and process wastewater in the previous 12 months;

f. a summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; and

g. a statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a Natural Resource Conservation Service (NRCS) certified nutrient management planner.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 29:1466 (August 2003).

Subchapter N. Incorporation by Reference

§2533. 40 CFR Chapter I, Subchapter N

A. 40 CFR, Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2002, and amendments to Part 420 in 67 FR 58997, September 19, 2002; Part 430 in 67 FR 64260-64268, October 17, 2002; and Part 412 in 68 FR 7269, February 12, 2003, are hereby incorporated by reference.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003).

James H. Brent, Ph.D.
Assistant Secretary

0308#009

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

De Minimis Concentration of Regulated Substances (LAC 33:XI.101)(UT010)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Underground Storage Tanks regulations, LAC 33:XI.101 (Log #UT010).

The Rule will clarify the existing regulation in a way that is consistent with the department's and the Environmental Protection Agency's long-standing interpretation and application of that regulation. The ambiguity of the term, *de minimis* concentration, has affected department enforcement actions directed at sub-standard USTs that have been in temporary closure for more than 12 months and that have not been upgraded or permanently closed according to department regulations. The basis and rationale for this Rule are to provide clarification to the UST regulations when referring to *de minimis* concentrations of a regulated substance.

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

Title 33

ENVIRONMENTAL QUALITY

Part XI. Underground Storage Tanks

Chapter 1. Program Applicability and Definitions

§101. Applicability

A. ...

B. Exclusions. The following UST systems are excluded from the requirements of these regulations. The owner or operator must provide documentation upon request for any exclusion claimed.

1. Any UST system holding hazardous wastes listed or identified in the Louisiana Department of Environmental Quality's Hazardous Waste Regulations or a mixture of such hazardous waste and other regulated substances is excluded from the requirements of these regulations.

2. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act is excluded from the requirements of these regulations.

3. Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks is excluded from the requirements of these regulations.

4. Any UST system whose capacity is 110 gallons or less is excluded from the requirements of these regulations.

5. Any UST system that has never contained more than a *de minimis* concentration of regulated substances is excluded from the requirements of these regulations.

6. Any emergency spill or overflow containment UST system that is expeditiously emptied after use is excluded from the requirements of these regulations.

C. - C.2.b. ...

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1467 (August 2003).

James H. Brent, Ph.D.
Assistant Secretary

0309#010

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

NRC Amendments to Radiation Protection Regulations
(LAC 33:XV.430, 440, 441, 442, 543, 544,
575, 577, 1739, 1755, Chapter 20)(RP032*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.430, 440, 441, 442, 543, 544, 575, 577, 1739, 1755, 2003, 2014, 2017, 2022, 2036, 2051, & Chapter 20, Appendix B (Log #RP032*).

This rule is identical to federal regulations found in 10 CFR 20.1701-03, 34.25, 34.43, 34.47, 34.83, 36.55, 36.81, 39.2, 39.15, 39.35, 39.41, 39.49, 39.53, 39.65, and 39.77, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule will bring state regulations into line with existing federal Nuclear Regulatory Commission rules to preserve the state's status as an agreement state. Changes include updating some calibration, inspection, processing, and replacement intervals; changing various references to a more generic term, "personnel dosimeter"; clarifying the responsible office of the department; expanding and detailing the section on Design, Performance, and Certification Criteria for Sealed Sources Used in Downhole Operations; and adding definitions, reporting and notification provisions, safety and health factors, etc. The basis and rationale for this rule are to mirror the federal regulations.

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

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 4. Standards for Protection Against Radiation

Subchapter C. Surveys and Monitoring

§430. General

A. - B. ...

C. Personnel Dosimeter Processing

1. All personnel dosimeters, except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to any extremity, that require processing to determine the radiation dose and that are used by licensees and registrants to comply with LAC 33:XV.410, with other applicable provisions of these regulations, or with conditions specified in a license or registration shall be processed and evaluated by a dosimetry processor:

a. holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; and

b. approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored.

2. Dosimetry reports received from the processor must be recorded and maintained indefinitely or until the Office of Environmental Services, Permits Division, terminates the license.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 20:653 (June 1994), LR 22:971 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1468 (August 2003).

Subchapter E. Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas

§440. Use of Process or Other Engineering Controls

A. The licensee or registrant shall use, to the extent practicable, process or other engineering controls, such as containment, decontamination, or ventilation, to control the concentrations of radioactive material in air.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1468 (August 2003).

§441. Use of Other Controls

A. - A.4. ...

B. If the licensee or registrant performs an ALARA analysis to determine whether or not respirators should be

used, the licensee or registrant may consider safety factors other than radiological factors. The licensee or registrant should also consider the impact of respirator use on workers' industrial health and safety.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1468 (August 2003).

§442. Use of Individual Respiratory Protection

Equipment

A. - A.3.c. ...

d. providing atmosphere-supplying respirators with respirable air of grade D quality or better as defined by the Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997, and included in the regulations of the Occupational Safety and Health Administration (29 CFR 1910.134(i)(1)(ii)(A) through (E)). Grade D quality air criteria include:

i. oxygen content (v/v) of 19.5-23.5 percent;
ii. hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;
iii. carbon monoxide (CO) content of 10 ppm or less;

iv. carbon dioxide content of 1,000 ppm or less;
and

v. lack of noticeable odor;

e. fit testing, with fit factor ≥ 10 times the APF for negative pressure devices, and a fit factor ≥ 500 for any positive pressure, continuous flow, and pressure-demand devices, before the first field use of tight fitting, face-sealing respirators and periodically thereafter at a frequency not to exceed one year. Fit testing must be performed with the facepiece operating in the negative pressure mode;

f. written procedures regarding selection, fitting, issuance, maintenance, and testing of respirators, including testing for operability immediately prior to each use; supervision and training of personnel; monitoring, including air sampling and bioassays; and recordkeeping; and

g. determination by a physician prior to initial fitting of respirators, and at least every 12 months thereafter, that the individual user is physically able to use the respiratory protection equipment;

4. - 4.a. ...

b. the routine, nonroutine, and emergency use of respirators;

c. ...

d. the availability of standby rescue persons to assist all respirator users and to provide effective emergency rescue if needed; and

e. provision for the availability of standby rescue persons who:

i. are required to be present in situations whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used from which an unaided individual would have difficulty extricating himself or herself;

ii. must be equipped with respiratory protection devices or other apparatus appropriate for the potential hazards; and

iii. shall observe or otherwise maintain continuous communication with the workers (by visual, voice, signal line, telephone, radio, or other suitable means) and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress;

A.5. - B.1. ...

2. the licensee or registrant shall obtain authorization from the Office of Environmental Services, Permits Division, before assigning respiratory protection factors in excess of those specified in Appendix A. The department may authorize a licensee or registrant to use higher protection factors on receipt of an application that:

B.2.a. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:972 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), LR 29:1469 (August 2003).

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter A. Equipment Control

§543. Radiation Survey Instruments

A. ...

B. Each radiation survey instrument shall be calibrated:

1. at energies appropriate for use and at intervals not to exceed six months and after each instrument servicing;

B.2. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000), LR 27:1233 (August 2001), LR 29:1469 (August 2003).

§544. Leak Testing, Repair, Tagging, Opening, Modification, Replacement, and Records of Receipt and Transfer of Sealed Sources

A. ...

B. Each sealed source, except an energy compensation source (ECS), shall be tested for leakage at intervals not to exceed six months. In the absence of a certificate from a transferor that a test has been made within the six-month period prior to the transfer, the sealed source shall not be put into use until tested.

C. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:1233 (August 2001), LR 29:1469 (August 2003).

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§575. Training and Testing

A. - C.2. ...

D. Each licensee or registrant shall conduct a program of internal audits, not to exceed every six months, to ensure that the Radiation Protection Regulations (LAC 33:XV), Louisiana radioactive material license conditions, and the licensee's or registrant's operating and emergency procedures are followed by each radiographer and radiographer trainee. Records of internal audits shall be maintained for review by the department for two consecutive years from the date of the audit. The internal audit program must include observation of the performance of each radiographer and radiographer trainee during actual industrial radiographic operations at intervals not to exceed six months. In those operations where a single individual serves as both radiographer and RSO, and performs all radiography operations, an internal audit program is not required.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002), LR 29:34 (January 2003), LR 29:1470 (August 2003).

§577. Personnel Monitoring Control

A. No licensee or registrant shall permit an individual to act as a radiographer, instructor, or radiographer trainee unless, at all times during radiographic operations, each such individual wears, on the trunk of the body, a direct-reading pocket dosimeter, an alarm ratemeter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor, except that for permanent radiography facilities where other appropriate alarming or warning devices are in routine use, the wearing of an alarm ratemeter is not required.

B. Pocket dosimeters shall have a range of zero to at least 2 millisieverts (200 millirems) and shall be recharged at least daily or at the start of each shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters. Each personnel dosimeter must be assigned to and worn only by one individual. Pocket dosimeters, or electronic personal dosimeters, shall be checked for correct response to radiation at periods not to exceed one year. Acceptable dosimeters shall read within ± 20 percent of the true radiation exposure. Records of positive dosimeter response shall be maintained for three years by the licensee or registrant for department inspection.

C. Each personnel dosimeter shall be processed and evaluated by an accredited NVLAP processor and assigned to and worn by only one individual. Personnel dosimeters must be replaced at periods not to exceed one month. After replacement, each personnel dosimeter must be processed as soon as possible.

D. Direct reading dosimeters, such as electronic personal dosimeters or pocket dosimeters, shall be read and exposures

recorded at least daily with use at the beginning and end of each shift, and records must be maintained for three years or until the Office of Environmental Services, Permits Division, authorizes their disposition.

E. If an individual's pocket dosimeter is discharged beyond its range (i.e., goes "off-scale"), or an individual's electronic pocket dosimeter reads greater than 2 millisieverts (200 millirems) and the possibility of radiation exposure cannot be ruled out as the cause, industrial radiographic operations by that individual shall cease and the individual's personnel dosimeter shall be sent for processing immediately. The individual shall not return to work with sources of radiation until a determination of the radiation exposure has been made. This determination must be made by the RSO or the RSO's designee. The results of this determination must be recorded and maintained indefinitely or until the Office of Environmental Services, Permits Division, authorizes their disposition.

F. Records of the pocket dosimeter readings shall be maintained for inspection by the department for three consecutive years. If the dosimeter readings were used to determine external radiation dose, the records shall be maintained indefinitely or until the Office of Environmental Services, Permits Division, authorizes their disposition.

G. If a personnel dosimeter is lost or damaged, the worker shall cease work immediately until a replacement personnel dosimeter is provided and the exposure is calculated for the time period from issuance to loss or damage of the personnel dosimeter. The results of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged must be recorded and maintained indefinitely or until the Office of Environmental Services, Permits Division, authorizes their disposition.

H. - H.3. ...

4. be calibrated at periods not to exceed one year for correct response to radiation: acceptable ratemeters must alarm within ± 20 percent of the true radiation dose rate. Records of calibrations shall be maintained for three years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002), LR 29:35 (January 2003), LR 29:1470 (August 2003).

Chapter 17. Licensing and Radiation Safety Requirements for Irradiators

§1739. Personnel Monitoring

A. Irradiator operators shall wear a personnel dosimeter while operating a panoramic irradiator or while in the area around the pool of an underwater irradiator. The personnel dosimeter processor shall be accredited by the National Voluntary Laboratory Accreditation Program for high energy photons in the normal and accident dose ranges in accordance with LAC 33:XV.430.C. Each personnel dosimeter shall be assigned to and worn by only one individual. Film badges shall be processed at least monthly, and other personnel dosimeters shall be processed at least quarterly.

B. Other individuals who enter the radiation room of a panoramic irradiator shall wear a dosimeter, which may be a pocket dosimeter. For groups of visitors, only two people who enter the radiation room are required to wear dosimeters. If pocket dosimeters are used to meet the requirements of this Subsection, a check of their response to radiation shall be done at least annually. Acceptable dosimeters shall read within ± 30 percent of the true radiation dose.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2118 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1470 (August 2003).

§1755. Records and Retention Periods

A. - A.2. ...

3. a copy of the current operating and emergency procedures required by LAC 33:XV.1737 until superseded or the Office of Environmental Services, Permits Division, terminates the license. Records of the radiation safety officer's review and approval of changes in procedures, as required by LAC 33:XV.1737.C.3, shall be retained for three years from the date of the change;

A.4. - B. ...

1. a copy of the license, the license conditions, documents incorporated into the license by reference, and amendments thereto until superseded by new documents or until the Office of Environmental Services, Permits Division, terminates the license for documents not superseded;

2. personnel dosimeter evaluations required by LAC 33:XV.1739 until the Office of Environmental Services, Permits Division, terminates the license;

3. - 5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2120 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 29:1471 (August 2003).

Chapter 20. Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies

§2003. Definitions

A. The following definitions apply to these terms as used in this Chapter.

Energy Compensation Source (ECS) **Ca** a small sealed source, with an activity not exceeding 3.7 MBq (100 microcuries), used within a logging tool, or other tool components, to provide a reference standard to maintain the tool's calibration when in use.

* * *

Tritium Neutron Generator Target Source **Ca** a tritium source used within a neutron generator tube to produce neutrons for use in well-logging applications.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569

(October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1471 (August 2003).

§2014. Leak Testing of Sealed Sources

A. ...

B. Method of Testing. Tests for leakage shall be performed only by persons specifically authorized to perform such tests by the Office of Environmental Services, Permits Division, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state. The test sample shall be taken from the surface of the source, source holder, or from the surface of the device in which the source is stored or mounted and on which one might expect contamination to accumulate. The test sample shall be analyzed for radioactive contamination, and the analysis shall be capable of detecting the presence of 0.005 microcurie (185 Bq) of radioactive material on the test sample.

C. Interval of Testing

1. Each sealed source of radioactive material, except an energy compensation source (ECS), shall be tested at intervals not to exceed six months. In the absence of a certificate from a transferor indicating that a test has been made prior to the transfer, the sealed source shall not be put into use until tested. If, for any reason, it is suspected that a sealed source may be leaking, it shall be removed from service immediately and tested for leakage as soon as practical.

2. Each ECS that is not exempt from testing in accordance with Subsection E of this Section must be tested at intervals not to exceed three years. In the absence of a certificate from a transferor that a test has been made within the three years before the transfer, the ECS may not be used until tested.

D. Leaking or Contaminated Source. If the test reveals the presence of 0.005 microcurie (185 Bq) or more of leakage or contamination, the licensee shall immediately withdraw the source from use and shall cause it to be decontaminated, repaired, or disposed of in accordance with these regulations. The licensee shall check the equipment associated with the leaking source for radioactive contamination and, if it is contaminated, have it decontaminated or disposed of in accordance with these regulations. A report describing the equipment involved, the test results, any contamination that resulted from the leaking source, and the corrective action taken shall be filed in writing with the Office of Environmental Compliance within five days of receiving the test results or within 30 days of discovery of a leaking or contaminated source.

E. ...

1. hydrogen-3 (tritium) sources;

2. - 4. ...

5. sources of alpha- or neutron-emitting radioactive material with an activity of 10 microcuries (0.370 MBq) or less.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 29:1471 (August 2003).

§2017. Design, Performance, and Certification Criteria for Sealed Sources Used in Downhole Operations

A. Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations and manufactured after October 20, 1988, shall be certified by the manufacturer, or other testing organization acceptable to the Office of Environmental Services, Permits Division, to meet the following minimum criteria:

A.1. - B. ...

C. Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations after October 20, 1988, shall be certified by the manufacturer, or other testing organization acceptable to the Office of Environmental Services, Permits Division, as meeting the sealed source performance requirements for oil well-logging as contained in the American National Standard N542, "Sealed Radioactive Sources, Classification," in effect on October 20, 1987.

D. Certification documents shall be kept and maintained for inspection by the Office of Environmental Services, Permits Division, for a period of two years after source disposal. If the source is abandoned downhole, the certification documents shall be maintained until the Office of Environmental Services, Permits Division, authorizes disposition in writing.

E. Sealed Source Used in Well-Logging Applications

1. A licensee may use a sealed source in well-logging applications if the sealed source:

- a. is doubly encapsulated;
- b. contains licensed material whose chemical and physical forms are as insoluble and nondispersible as practical; and
- c. meets the following requirements:
 - i. for a sealed source manufactured on or before July 14, 1989, the requirements of USASI N5.10-1968, "Classification of Sealed Radioactive Sources," or the requirements in Subsection C or D of this Section; or
 - ii. for a sealed source manufactured after July 14, 1989, the oil well-logging requirements of ANSI/HPS N43.6-1997, "Sealed Radioactive Sources Classification"; or
 - iii. for a sealed source manufactured after July 14, 1989, the sealed source's prototype has been tested and found to maintain its integrity after each of the following tests:

(a). Temperature. The test source must be held at -40°C for 20 minutes, 600°C for 1 hour, and then be subjected to a thermal shock test with a temperature drop from 600°C to 20°C within 15 seconds.

(b). Impact Test. A 5 kg steel hammer, 2.5 cm in diameter, must be dropped from a height of 1 m onto the test source.

(c). Vibration Test. The test source must be subjected to a vibration from 25 Hz to 500 Hz at 5 g amplitude for 30 minutes.

(d). Puncture Test. A 1 gram hammer and pin, 0.3 cm pin diameter, must be dropped from a height of 1 m onto the test source.

(e). Pressure Test. The test source must be subjected to an external pressure of 1.695×10^7 pascals (24,600 pounds per square inch absolute).

2. The requirements in Subparagraphs E.1.a-c of this Section do not apply to sealed sources that contain licensed material in gaseous form.

3. The requirements in Subparagraphs E.1.a-c of this Section do not apply to energy compensation sources (ECSs). ECSs must be registered with the Office of Environmental Services, Permits Division.

F. Energy Compensation Source. The licensee may use an energy compensation source (ECS) that is contained within a logging tool, or other tool components, only if the ECS contains quantities of licensed material not exceeding 3.7 MBq (100 microcuries).

1. For well-logging applications with a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of LAC 33:XV.2014, 2015, and 2016.

2. For well-logging applications without a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of Subsections E and H of this Section and LAC 33:XV.2014, 2015, 2016, and 2051.

G. Tritium Neutron Generator Target Source

1. Use of a tritium neutron generator target source, containing quantities not exceeding 1,110 MBq (30 curies) and in a well with a surface casing to protect fresh water aquifers, is subject to the requirements of these regulations except Subsections E and F of this Section and LAC 33:XV.2051.

2. Use of a tritium neutron generator target source, containing quantities exceeding 1,110 MBq (30 curies) or in a well without a surface casing to protect fresh water aquifers, is subject to the requirements of these regulations except Subsections E and F of this Section.

H. Use of a Sealed Source in a Well Without a Surface Casing. The licensee may use a sealed source in a well without a surface casing for protecting fresh water aquifers only if the licensee follows a procedure for reducing the probability of the source becoming lodged in the well. The procedure must be approved by the Office of Environmental Services, Permits Division.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000), LR 29:1472 (August 2003).

Subchapter A. Requirements for Personnel Safety

§2022. Personnel Monitoring

A. No licensee or registrant shall permit any individual to act as a logging supervisor or to assist in the handling of sources of radiation unless each such individual wears a personnel dosimeter. Each personnel dosimeter shall be

assigned to and worn by only one individual. Film badges must be replaced at least monthly, and other personnel dosimeters shall be processed at least quarterly. After replacement, each personnel dosimeter must be promptly processed. The processor of a personnel dosimeter shall be accredited by the National Voluntary Laboratory Accreditation Program.

B. Personnel monitoring records shall be maintained for inspection until the Office of Environmental Services, Permits Division, authorizes disposition.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000), LR 29:1472 (August 2003).

Subchapter B. Precautionary Procedures in Logging and Subsurface Tracer Operations

§2036. Uranium Sinkers

A. The licensee may use a uranium sinker bar in well-logging applications only if it is legibly impressed with the words "CAUTION—RADIOACTIVE DEPLETED URANIUM" AND "NOTIFY CIVIL AUTHORITIES [OR COMPANY NAME] IF FOUND."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:1473 (August 2003).

Subchapter D. Notification

§2051. Notification of Incidents, Abandonment, and Lost Sources

A. - B.1. ...

2. notify the Office of Environmental Compliance immediately by telephone at (225)765-0160 if radioactive contamination is detected at the surface or if the source appears to be damaged and provide a follow-up written report to the office within 30 days of detection.

C. - C.3.g. ...

h. information contained on the permanent identification plaque;

i. the names of state agencies receiving a copy of this report; and

j. the immediate threat to public health and safety justification for implementing abandonment if prior Office of Environmental Compliance approval was not obtained because the licensee believed there was an immediate threat to public health and safety.

D. Whenever a sealed source containing radioactive material is abandoned downhole, the licensee shall provide a means to prevent inadvertent intrusion on the source, unless the source is not accessible to any subsequent drilling operations, and a permanent plaque (see Appendix B of this Chapter) for posting the well or well-bore. This plaque shall:

1. - 2.c. ...

d. the well name and well identification number(s) or other designation;

e. the sealed source(s) by radionuclide and quantity of activity;

f. the source depth and the depth to the top of the plug; and

g. an appropriate warning, depending on the specific circumstances of each abandonment. Appropriate warnings may include "DO NOT DRILL BELOW PLUG BACK DEPTH"; "DO NOT ENLARGE CASING"; or "DO NOT RE-ENTER THE HOLE," followed by the words, "BEFORE CONTACTING THE OFFICE OF ENVIRONMENTAL COMPLIANCE, LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY."

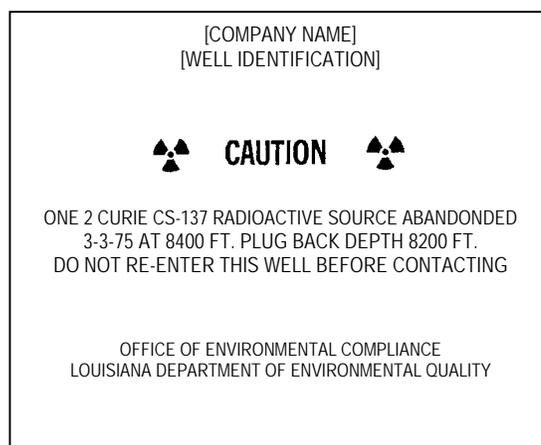
E. The licensee shall notify the Office of Environmental Compliance of the theft or loss of radioactive materials, radiation overexposure, excessive levels and concentrations of radiation or radioactive materials, and certain other accidents as required by LAC 33:XV.341, 485, 486, and 487.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 21:555 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2606 (November 2000), LR:29:1473 (August 2003).

Appendix B

Example of Plaque for Identifying Wells Containing Sealed Sources of Radioactive Material Abandoned Downhole



The size of the plaque should be convenient for use on active or inactive wells, e.g., a 7-inch square that is 3 mm (1/8-inch) thick. Letter size of the word "CAUTION" should be approximately twice the letter size of the rest of the information, e.g., 1/2-inch and 1/4-inch letter sizes, respectively.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2606 (November 2000), LR 29:1473 (August 2003).

James H. Brent, Ph.D.
Assistant Secretary

0308#008

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Incorporation by Reference of
Amendments to 40 CFR Part 63
(LAC 33:III.5122)(AQ233*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.5122 (Log #AQ233*).

This Rule is identical to federal regulations found in 68 FR 32586-32603, No. 104, May 30, 2003, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the Rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule change incorporates by reference the amendments to the General Provisions for the National Emission Standards for Hazardous Air Pollutants (NESHAP) and to the Rule that establishes criteria and procedures for equivalent emission limitations - case-by-case maximum achievable control technology (MACT) adopted in accordance with the Clean Air Act, Section 112(j). EPA changed the criteria and procedures for case-by-case MACT for sources that do not have promulgated MACT rules. Provisions of this change may be operative before the department promulgates its annual incorporation by reference in 2004. This action is necessary to keep the state regulations consistent with the federal regulations. The basis and rationale for this Rule are to mirror the federal regulations.

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

Title 33

ENVIRONMENTAL QUALITY

PART III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of*

Federal Regulations at 40 CFR Part 63, July 1, 2002, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference are amendments to EPA rule entitled "National Emission Standards for Hazardous Air Pollutants: General Provisions; and Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Section 112(g) and 112(j)," promulgated on May 30, 2003, in the *Federal Register*, 68 FR 32586-32603.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:1464 (August 1999), LR 25:1798 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003).

James H. Brent, Ph.D.
Assistant Secretary

0308#007

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Motiva Enterprises Delisting Petition
(LAC 33:V.Chapter 49)(HW079P)

Editor's Note: The following portion of LAC 33:V.Chapter 49.Appendix E is being reprinted to clarify existing text for the submittal information under Data Submittal, due to the department's relocation. The Rule HW079P was published in the July 20, 2003, *Louisiana Register* on pages 1084-1086.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.Chapter 49.Appendix E (Log #HW079P).

Motiva Enterprises LLC petitioned to exclude from the hazardous waste regulations (delist) residual solids resulting from the thermal desorption recycling of oil-bearing secondary materials at the Norco Oil Recovery Facility in Norco, Louisiana. LAC 33:V.105.M allows a hazardous waste generator to petition the department for this kind of rulemaking when a listed hazardous waste does not meet any of the criteria that justified the original listing. Based on extensive testing, the department has determined that the nature of this material does not warrant retaining this material as a hazardous waste. The basis and rationale for this Rule are to grant the delisting petition based on the supporting documentation submitted by Motiva Enterprises of Norco, Louisiana.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality-
Hazardous Waste
Chapter 49. Lists of Hazardous Wastes
Appendix E. Wastes Excluded under LAC 33:V.105.M

Table E1 - Wastes Excluded	
Facility	Address
DuPont Dow Elastomers LLC	LaPlace, LA
Waste Description	
* * *	
(5). Data Submittal DuPont Dow must notify the department, in writing, at least two weeks prior to initiating condition (1)(A). All data obtained to fulfill condition (1) must be submitted to the Office of Environmental Assessment within 60 days after each sampling event. Records of operating conditions and analytical data from condition (1) must be compiled, summarized, and maintained on-site for a minimum of three years. These records and data must be furnished upon request by the department and made available for inspection. Failure to submit the required data within the specified time period or failure to maintain the required records on-site for the specified time shall be considered by the department, at its discretion, sufficient basis to revoke the exclusion. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted.	
* * *	
Facility	Address
Marathon Oil Co.	Garyville, LA
Waste Description	
* * *	
(5). Data Submittal Marathon must notify the department, in writing, at least two weeks prior to initiating condition (1)(A). The data obtained during condition (1)(A) must be submitted to the Office of Environmental Assessment within the specified 90 days. Records of operating conditions and analytical data from condition (1) must be compiled, summarized, and maintained on-site for a minimum of five years. These records and data must be furnished upon request by the department and made available for inspection. Failure to submit the required data within the specified time period or failure to maintain the required records on-site for the specified time will be considered by the department, at its discretion, sufficient basis to revoke the exclusion. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted.	
* * *	
Facility	Address
Motiva Enterprises LLC	Norco, LA
Waste Description	
* * *	
(5). Data Submittal Motiva must notify the department, in writing, at least two weeks prior to initiating condition (1)(A). All data obtained to fulfill condition (1) must be submitted to the Office of Environmental Assessment within 60 days after each sampling event. Records of operating conditions and analytical data from condition (1) must be compiled, summarized, and maintained on-site for a minimum of three years. These records and data must be furnished upon request by the department and made available for inspection. Failure to submit the required data within the specified time period or failure to maintain the required records on-site for the specified time shall be considered by the department, at its discretion, sufficient basis to revoke the exclusion. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted.	
* * *	

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste

Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2003), repromulgated LR 29:1475 (August 2003).

James H. Brent, Ph.D.
 Assistant Secretary

0308#011

RULE

Office of the Governor
Board of Certified Public Accountants

Computer-Based Uniform CPA Exam
 (LAC 46:XIX.505, 701, and 703)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and of the Louisiana Accountancy Act, R.S. 37:74, the Board of Certified Public Accountants of Louisiana has amended LAC 46:XIX.505, 701 and 703 in order to provide for the application, grading, and transitioning requirements of the computer-based Uniform CPA Examination that is anticipated to become available in 2004. The action was necessary because the authorized licensing examination in use by all states is prepared and graded by the American Institute of Certified Public Accountants, and the AICPA in cooperation with all 50 state boards of accountancy is converting the examination from a paper and pencil examination to a computerized version. No preamble has been prepared with respect to the revised Rules, which appear below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XIX. Certified Public Accountants
Chapter 5. Qualifications; Education and
Examination

§505. Examination

A. - A.2. ...

B. General Procedures and Qualifications

1. Application. Candidates shall file complete application forms. A complete application is one that is properly filled out, accompanied by payment of the required fees and, if an initial application, accompanied by all required official transcripts. First time or transfer of grades candidates who have not taken their accounting courses in Louisiana must include a copy of the course description(s) of all accounting courses not clearly identified by titles listed in §503.A.

a. Prior to implementation of a computer-based examination, paper and pencil examinations are ordinarily held in May and November of each year. Applications for the May examination are due in the office of the board's agent no later than 5 p.m., March 1. Applications for the November examination are due in the office of the board's agent no later than 5 p.m., September 1. If the last day for filing falls on a Saturday, Sunday or state of Louisiana holiday, the due date will be extended to include the next state of Louisiana working day.

b. Effective with the implementation of a computer-based examination, applications shall be due as specified by the board in the application form or instructions. The board or its designee will forward notification of eligibility for the computer-based examination to the National Association of State Boards of Accountancy (NASBA) National Candidate Database. Eligible candidates shall be notified of the time and place of the examination or shall be sent a notice to independently contact a test center provider identified by the board to schedule examination at a board-approved test site. Scheduling reexaminations must be made in accordance with Paragraph F.2 below. The board may set authorization periods in which eligible candidates may schedule examination or reexaminations. A candidate's failure to schedule in an authorization period shall result in forfeiture of examination fees.

2. - 2.a.ii. ...

3. Fee Refund. A candidate who fails to appear for the examination, or fails to schedule or reschedule an examination in the period required, shall forfeit examination fees subject to board policy. For the paper and pencil examination, if after filing his application, a candidate is unable to sit for the CPA examination, he must so notify the agent of the board not later than seven working days prior to the first day of the examination in order to receive a refund; otherwise, the fee shall be forfeited. For the computer-based examination, rescheduling of appointments may be available depending on the amount of notice that is provided. A service charge will be assessed on all refunds of examination fees.

C. ...

D. Board Responsibilities

1. Grade Decision. Each candidate shall be notified in the manner and on the date determined by the board, of the grades earned in each section of the examination. No information concerning grades will be released until such date. The board shall not be required to furnish the reason for any grades which it shall grant or for any decision which it may reach with respect to the examination process.

2. ...

E. Determining and Reporting Examination Grades

1. Applicants shall each be given identifying ID numbers which shall be used on examinations for identification purposes.

2. A candidate shall be required to pass all test sections of the examination in order to be eligible to apply for certification. Upon receipt of advisory grades from the examination provider, the board will review and may adopt the examination grades and will report the official results to the candidate. Prior to the implementation of a computer-based examination, a passing grade for each test section shall be 75. Effective with the implementation of a computer-based examination, the candidate must attain the uniform passing grade established through a psychometrically acceptable standard-setting procedure and approved by the board.

F. Retake and Granting of Credit Requirements

1. Prior to implementation of a computer-based examination, on the paper and pencil examination a candidate must sit for all the test sections on which no conditional credit exists in order to receive grades and to be able to sit for the next examination. In order to pass the

examination a candidate must receive a grade of at least 75 in each section. The following Rule shall apply for conditional credit.

a. If a grade of 50 or more is made in each section, a candidate who passes at least two sections at a single examination shall receive credit for the sections passed, conditioned upon his passing the remaining section or sections as set forth in §505.F.1.b.

b. A candidate who has received credit for passing at least two sections of the examination, as set forth in §505.F.1.a, shall be required to remove the condition in any of the next six consecutive examinations but shall receive no credit for passing a section or sections at any examination in which he makes a grade of less than 50 in any other section.

2. Effective with the implementation of a computer-based examination, a candidate may take the required test sections individually and in any order. Credit for any test section(s) passed shall be valid for a rolling qualifying period as measured from the actual date the candidate took that test section, without having to attain a minimum score on any failed test section(s) and without regard to whether the candidate has taken other test sections. The qualifying period shall be determined by the board and shall be comprised of no less than eighteen months.

a. Candidates must pass all four test sections of the examination within a single rolling qualifying period, which begins on the date that a given test section(s) passed is taken.

b. Candidates shall not retake a failed test section(s) in the same examination "window." An examination window refers to a three-month period comprised initially of two months in which the examination is available to be taken and one month in which the examination will not be offered while routine maintenance is performed and the test item bank is refreshed. Thus, candidates will be able to test two out of the three months within an examination window.

c. In the event all four test sections of the examination are not passed within a given rolling qualifying period, credit for any test section(s) passed outside that qualifying period will expire and that test section(s) must be retaken.

3. Effective with the implementation of the computer-based examination, candidates having earned conditional credits on sections of the paper-and-pencil examination shall retain conditional credits for corresponding test sections during a transition period, as follows.

Paper and Pencil Exam	Computer-Based Exam
Auditing	Auditing and Attestation
Financial Accounting and Reporting	Financial Accounting and Reporting
Accounting and Reporting	Regulation
Business Law and Professional Responsibilities	Business Environment and Concepts

a. Such candidates with conditional credits will be allowed a transition period to complete any remaining test sections. The transition shall not exceed a candidate's completion of the same number of test opportunities under the computer-based exam that the candidate had remaining to take under the paper and pencil exam, or the number of the remaining opportunities under the paper and pencil examination, multiplied by six months, whichever is first exhausted.

b. If such candidate does not pass all remaining test sections during the transition period, conditional credits earned under the paper-and-pencil examination will expire and the candidate will lose credit for the test sections earned under the paper and pencil examination. However, any test section(s) passed during the transition period is subject to the conditioning provisions of the computer-based examination, except that a previously conditioned candidate will not lose conditional credit for a test section of the computer-based examination that is passed during the transition period, even though more than eighteen months may have elapsed from the date the test section is passed, until the end of the transition period.

4. The board may in particular cases extend the term of conditional credit validity notwithstanding the requirements of Paragraphs 1, 2, and 3, upon a showing that the credit was lost by reason of circumstances beyond the candidate's control.

5. A candidate shall be deemed to have passed the examination once the candidate holds at the same time valid credit for passing each of the four test sections of the examination. For purposes of this section, credit for passing a test section of the computer-based examination is valid from the actual date of the testing event for that test section, regardless of the date the candidate actually receives notice of the passing grade.

6. Transfer of Grades. Grades shall be accepted from other states when a candidate for transfer of grades has met all the requirements of Louisiana candidates except that he sat for the examination as a candidate for another state.

a. Applicant must have completed the education requirements of §503 prior to sitting for the examination. An exception to this Rule will be allowed for a bona fide resident of another state who took the exam in his state of residency which did not have the 150 hour requirement. Such applicants may complete their education requirements after sitting for the exam.

b. Applicant shall submit a completed initial application with an official transcript from an accredited college or university and a statement from an officer of the state board from which he is transferring as to dates of passing the examination and grades made.

c. An applicant for transfer of grades who has conditioned in another state must meet this board's conditional credit Rules to retain conditional credit and to remove the condition.

d. In addition to meeting the requirements for a transfer of grades, the applicant shall be required to pay a transfer fee at the time he requests the transfer.

G. Cheating

1. Cheating or other misconduct by an applicant, or by others on an applicant's behalf, before, during, after or in applying for the examination, will invalidate any grade otherwise earned by a candidate on any part of the examination and any certificate that may have been issued based in part upon such grade, and may warrant summary expulsion from the test site and disqualification from taking the examination for a time period as prescribed by the board.

2. For purposes of this Rule, the following actions or attempted activities, among others, may be considered cheating or misconduct:

a. falsifying, misrepresenting, or omitting examination grades, educational credentials or other information, including but not limited to identification, required for admission to the examination;

b. communication between candidates inside or outside the test site or copying another candidate's answers while the examination is in progress;

c. communication with others inside or outside the test site while the examination is in progress;

d. substitution of another person to sit in the test site in the place of a candidate; or

e. reference to or possession of crib sheets, textbooks or other material, or electronic media (other than that provided to the candidate as part of the examination) inside or outside the test site while the examination is in progress;

f. violation of the security measures or candidate conduct standards at test sites, or the nondisclosure prohibitions of the examination, or aiding or abetting another in doing so;

g. retaking or attempting to retake a test section by an individual holding valid passing grades or a certificate, or by a candidate who has unexpired conditional credit for having already passed the same test section, unless the individual has been directed to retake a test section pursuant to board order or unless the individual has been expressly authorized by the board to participate in a "secret shopper" program.

3. In any case where it appears to the board, its representatives or its designee, while the examination is in progress, that cheating or misconduct has occurred or is occurring, the board, its representatives or its designee may either summarily expel the candidate involved from the examination, move the candidate to a position in the test site away from other examinees where the candidates can be watched more closely, or take other appropriate actions.

4. Any person who receives from or discloses to another person any of the contents of a CPA examination which is classified as a nondisclosed examination shall be subject to disciplinary action by the board.

5. In any case where probable cause has been determined that a candidate has cheated or engaged in misconduct on an examination, or where a candidate has been expelled from an examination, the board shall comply with the provisions of R.S. 37:81 to determine the facts, and penalty, if any. The penalty shall be in the sole discretion of the board.

6. Effective with the implementation of a computer-based examination, the board or its designee shall notify the NASBA National Candidate Database, the AICPA, and/or the test site provider of the circumstances, so that the candidate may be more closely monitored in future examinations, if applicable.

7. In any case in which a candidate is refused credit for any test section of an examination taken, disqualified from taking any test section, or barred from taking the examination in the future, the board will provide to the NASBA National Candidate Database and the board of accountancy of any other state to which the candidate may apply for the examination information as to the board's findings and actions taken.

H. Security and Irregularities. Notwithstanding any other provisions under these Rules, the board may postpone scheduled examinations, the release of grades, or the issuance of certificates due to a breach of examination security; unauthorized acquisition or disclosure of the contents of an examination; suspected or actual negligence, errors, omissions, or irregularities in conducting an examination; or for any other reasonable cause or unforeseen circumstance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71, et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1119 (September 1997), LR 26:1970 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 29:1475 (August 2003).

Chapter 7. Qualifications; Application for CPA Examination

§701. Application Forms

A. Application for examination and/or certification as a certified public accountant shall be made on the appropriate forms provided or approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71, et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), LR 26:1971 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 29:1478 (August 2003).

§703. Examination Application

A. - C. ...

D. An application will not be considered filed until all required fees and all required supporting documents have been received by the board or its designee, including proof of identity as determined by the board and specified on the application form, official transcripts and proof that the candidate has satisfied the education and other requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71, et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1122 (September 1997), LR 26:1971 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 29:1478 (August 2003).

Michael A. Henderson
Executive Director

0308#029

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Continuing Veterinary Education (LAC 46:LXXXV.405, 503, 714, and 1201)

The Louisiana Board of Veterinary Medicine has amended and adopted LAC 46:LXXXV.405, 503, 714 and 1201 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana

Veterinary Practice Act, R.S. 37:1511 et seq. This text has been amended and adopted to clarify retirement and related provisions, the veterinary student extern, and the minimum age requirements for application for Certified Animal Euthanasia Technicians. The Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The amendments to the Rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 4. Continuing Veterinary Education

§405. Exceptions and Exemptions

A. - B. ...

C. Exemptions from these requirements may be made for persons in the following categories:

1. ...

2. A licensee who submits a notarized affidavit of retirement as provided by the board for this purpose is entitled to a waiver of continuing education if he has reached the age of 65 years, or submits an affidavit of incapacity and physician's statement of permanent and total disability without probability of return to practice.

a. Once an affidavit of retirement is received by the board, a written request for reinstatement of a license may thereafter be submitted to the board within five years of such date of receipt, provided the applicant demonstrates that he has successfully obtained all continuing education hours for the past years at issue, as well as the current year.

b. A request for reinstatement within five years of the date an affidavit is received by the board may be subject to certain conditions being met as set by the board prior to such reinstatement.

c. Once an affidavit of retirement is received by the board, a written request for reinstatement of a license may be submitted to the board after the expiration of five years of such date of receipt, however, the applicant shall submit an application for re-licensure, pay all required fees and satisfactorily pass all licensure examinations.

d. A request for reinstatement shall be made in writing for review and consideration by the board.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March 1990), amended LR 19:1428 (November 1993), LR 23:1147 (September 1997), LR 29:1478 (August 2003).

Chapter 5. Fees

§503. Exemption of Fee

A. - A.2 ...

B. In each of the above cases, the veterinarian who qualified for fee exemption must register with the board annually and provide proof of his eligibility for fee exemption in affidavit form approved by the board.

C. A licensee who submits a notarized affidavit of retirement as provided by the board for this purpose is entitled to a waiver of fee if he has reached the age of 65 years, or submits an affidavit of incapacity and physician's statement of permanent and total disability without probability of return to practice.

1. Once an affidavit of retirement is received by the board, a written request for reinstatement of a license may thereafter be submitted to the board within five years of such date of receipt, provided the applicant submits with his request the payment of all back fees, as well as current fees for application.

2. A request for reinstatement within five years of the date an affidavit of retirement is received by the board may be subject to certain conditions being met as set by the board prior to such reinstatement.

3. Once an affidavit of retirement is received by the board, a written request for reinstatement of a license may be submitted to the board after the expiration of five years of such date of receipt, however, the applicant shall submit an application for re-licensure, pay all required fees and satisfactorily pass all licensure examinations.

4. A request for reinstatement shall be made in writing for review and consideration by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 and 1520.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 10:208 (March 1984), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 23:963 (August 1997), LR 29:1478 (August 2003).

Chapter 7. Veterinary Practice §714. Student Extern

A. A student extern is a person who is a regular student in an accredited veterinary school who is performing duties or actions assigned by his instructors or as part of his curriculum, or who is working during a regular school vacation, either of which must be under the direct supervision of a veterinarian licensed by the board as defined in this Rule.

B. Direct supervision as applied to a student extern shall mean continuous, visual supervision by a veterinarian licensed by the board of the duties, actions or work performed by the student extern.

C. The level of responsibility assigned to a student extern is at the discretion of the supervising veterinarian who shall be ultimately responsible for the duties, actions or work performed by such person.

D. Prior to commencement of a student externship, the supervising veterinarian must first notify the board of such on board-approved forms.

E. A student extern shall not be permitted to perform direct supervision, as defined in Rules 700 and 702, of the tasks or procedures performed by other personnel of the veterinary practice at issue.

F. The duties, actions or work performed by a student extern shall not be considered a component of, nor applied to, the requirements regarding the preceptorship program established by the board. The period of time necessary to satisfactorily complete a preceptorship program shall not run concurrently with the period of time a student extern performs or works as such.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 29:1479 (August 2003).

Chapter 12. Certified Animal Euthanasia Technicians §1201. Applications for Certificate of Approval

A. Pursuant to R.S. 37:1553, applicants shall submit the following items to the board:

1. - 2. ...

3. an official copy of a birth certificate or a notarized copy of a current driver's license as proof of attaining the age of 18 years in order to commence the application process, attend the required training course, sit for the certification examination and receive certification as a CAET or Lead CAET;

A.4. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:963 (August 1997), LR 26:317 (February 2000), LR 29:1479 (August 2003).

Wendy D. Parrish
Administrative Director

0308#052

RULE

Department of Health and Hospitals Board of Wholesale Drug Distributors

License Procedure

(LAC 46:XCI.103, 301, 303, 309, 311, 313, and 503)

The Louisiana Board of Wholesale Drug Distributors has amended LAC 46:XCI.103, 301, 303, 309, 311, 313, and 503 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq. of the Louisiana Board of Wholesale Drug Distributors revised statutes. These Rule amendments help to define the requirements for wholesale distribution and will assist the board in its ability to license, inspect wholesale drug distribution facilities in the state of Louisiana, and regulate licensees in the promotion of the public welfare. The Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The amendments to the Rule are set forth below.

Title 46

PROFESSIONAL AND OCCUPATION STANDARDS

Part XCI. Wholesale Drug Distributors

Chapter 1. General Provisions

§103. Definitions

A. As used in this regulation, unless the context otherwise requires:

Legend Drug

a. - a.iii. ...

b. The product label of a legend drug is required to contain the statement "Rx Only" or "CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT A PRESCRIPTION."

c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:381 (April 1992), amended LR 29:1479 (August 2003).

Chapter 3. Wholesale Distributors

§301. Licensing Requirements

A. - B.3. ...

4. All licenses being reinstated must pay a reinstatement fee of \$200 plus the renewal fee of \$200.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003).

§303. Required Information

A. - C. ...

D. Licenses are not transferable for change of location of the facility licensed or change of ownership. A new license application and required license fee must be submitted for location changes or change of ownership of a currently licensed facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003).

§309. Storage and Handling Requirements

A. The following are required for the storage and handling of prescription drugs, and for the establishment and maintenance of prescription drug distribution records by wholesale drug distributors and their officers, agents, representatives, and employees.

1. - 2.a.iii. ...

b. All facilities, with the exception of those facilities distributing medical gases only, shall be equipped with a monitored alarm system to detect entry after hours.

c. Medical gas distributors shall store medical gases under lock and key if all medical gases are stored inside a board-approved storage facility that is not equipped with a monitored alarm system to detect entry after hours.

d. Medical gas distributors that store medical gases on an open dock shall be equipped with a monitored alarm system to detect entry after hours.

e. All facilities shall be equipped with a security system that will provide suitable protection against theft and diversion and provide protection against theft or diversion that is facilitated or hidden by tampering with computers and electronic records.

3. ...

a. If no storage requirements are established for a prescription drug, the drug may be held at room temperature, as defined in an official compendium, to help ensure that its identity, strength, quality, and purity are not adversely affected.

b. Appropriate manual, electromechanical, or electronic temperature recording equipment, devices, and logs shall be utilized to document proper storage of prescription drugs.

3.c. - 5.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003).

§311. Drug Distribution Recordkeeping

A. Wholesale drug distributors shall establish and maintain perpetual inventories and records of all transactions regarding the receipt and distribution or other disposition of prescription drugs. These records shall include the following information:

1. - 3. ...

B. Inventories and records shall be made available for inspection and photocopying by any official authorized by the Louisiana Board of Wholesale Drug Distributors for a period of three years following disposition of the drugs.

C. ...

D. Copies of licenses for customers who are authorized by law or regulation to procure or possess federal legend drugs shall be maintained for all customers that are shipped or sold federal legend drugs. If customer licenses are maintained off site, a list of customer names, addresses, license numbers, and license expiration dates shall be maintained for all customers that are shipped or sold federal legend drugs.

E. Medical gas distributors are not required to maintain a perpetual inventory on oxygen, but are required to maintain perpetual inventories on all other medical gases.

F. Wholesales domiciled in Louisiana must verify that their suppliers of legend drugs are licensed by the Louisiana Board of Wholesale Drug Distributors to ship or sell in or into Louisiana; and are responsible for notifying the board of any unlicensed wholesalers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:383 (April 1992), amended LR 29:1480 (August 2003).

§313. Policy and Procedures

A. Wholesale drug distributors shall establish, maintain, and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory, and distribution of prescription drugs, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. Wholesale drug distributors shall include in their written policies and procedures the following.

1. - 3. ...

4. A procedure to ensure that any outdated prescription drugs shall be segregated from other drugs and either returned to the manufacturer or destroyed. This procedure shall provide for written documentation of the disposition of outdated prescription drugs. This documentation shall be maintained for three years after disposition of the outdated drugs.

5. A procedure to validate customer licenses, to review excessive or suspicious purchases, to inspect all incoming and outgoing shipments, and to monitor and record the temperature of product storage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 29:1480 (August 2003).

Chapter 5. Powers and Functions of the Board

§503. Board Domicile; Meetings

A. The board shall be domiciled in Baton Rouge, Louisiana. The regular meetings of the board shall be held at least two times a year in accordance with applicable law and at any other time the board deems necessary, at a time and place designed by the chairman. Special meetings may be called by the chairman upon giving at least 72 hours notice, sent by registered or certified mail to the post office address of each member of the board and to any persons who have previously indicated that they have business before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:385 (April 1992), amended LR 29:1481 (August 2003).

John Liggio
Executive Director

0308#016

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services**

Targeted Case Management Services
Nurse Family Partnership Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services has promulgated the following Rule as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule has been promulgated in accordance with the Administrative Procedure Act R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services has amended the December 21, 2000 Rule governing nurse home visit services to include eligible first time mothers who reside in the Department of Health and Hospitals administrative regions of Baton Rouge (Region 2), Alexandria (Region 6), and Shreveport (Region 7).

In addition, the name of the program is being changed to the Nurse-Family Partnership Program.

David W. Hood
Secretary

0308#091

RULE

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

Augmentative and Alternative Communications
(LAC 50:XVII.Chapter 11)

Chapter 11, Augmentative and Alternative Communications, has been compiled and codified. The following table shows the Rules used to compose each Section.

Section	Historical Reference
1101	LR 22:370 (May 1996), LR 22:583 (July 1996), LR 26:1625 (August 2000).
1109	LR 22:370 (May 1996), LR 22:583 (July 1996), LR 26:1625 (August 2000).
1121	LR 22:370 (May 1996), LR 22:583 (July 1996), LR 26:1625 (August 2000), LR 27:855 (June 2001).
1123	LR 22:370 (May 1996), LR 22:583 (July 1996), LR 26:1625 (August 2000)
1133	LR 22:370 (May 1996), LR 22:583 (July 1996), LR 26:1625 (August 2000), LR 27:855 (June 2001).
1143	LR 22:370 (May 1996), LR 22:583 (July 1996), LR 26:1625 (August 2000), LR 27:855 (June 2001).
1145	LR 22:370 (May 1996), LR 22:583 (July 1996), LR 26:1625 (August 2000), LR 26:855 (June 2001).

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XVII. Durable Medical Equipment

Subpart 1. Prosthetics

Chapter 11. Augmentative and Alternative Communications (AAC) Devices

Subchapter A. General Provisions

§1101. Definitions

Augmentative and Alternative Communications (AAC) Devices Electronic or non-electronic aids, devices, or systems that assist a Medicaid recipient to overcome or ameliorate (reduce to the maximum degree possible) the communication limitations that preclude or interfere with meaningful participation in current and projected medically necessary daily activities. Examples of AAC devices include:

1. communication boards or books, speech amplifiers, and electronic devices that produce speech and/or written output;
2. devices that are constructed for use as communication devices as well as systems that may include a computer, when the primary use of the computer serves as the recipient's communication device; and
3. related components and accessories, including software programs, symbol sets, overlays, mounting devices, switches, cables and connectors, auditory, visual, and tactile output devices, printers, and necessary supplies, such as rechargeable batteries.

Meaningful Participation Effective and efficient communication of messages in any form the recipient chooses.

Speech-Language Pathologist Can individual who has:

1. been licensed by the Louisiana Board of Examiners for Speech Pathologists and Audiologists;
2. a certificate of clinical competence in speech language pathology from the American Speech-Language-Hearing Association;
3. completed the equivalent educational requirements and work experience necessary for the certificate; or
4. completed the academic program and is acquiring supervised work experience to qualify for the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1481 (August 2003).

Subchapter B. Recipient Eligibility

§1109. Medical Necessity

A. Consideration shall be given for Medicaid reimbursement for AAC devices for Medicaid recipients if the device is considered medically necessary, the recipient has the ability to physically and mentally use a device and its accessories, and if the following criteria are met.

1. Medical Necessity Determinations. The following medically necessary conditions shall be established for recipients who/whose:

a. have a diagnosis of a significant expressive or receptive (language comprehension) communication impairment or disability;

b. impairment or disability either temporarily or permanently causes communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities; and

c. had a speech-language pathologist (and other health professional, as appropriate):

i. perform an assessment and submit a report pursuant to the criteria set forth in §1121 Assessment/Evaluation; and

ii. recommend speech-language pathology treatment in the form of AAC devices and services; and

iii. document the mental and physical ability of a recipient to use, or learn to use, a recommended AAC device and accessories for effective and efficient communication; and

iv. prepare a speech-language pathology treatment plan that describes the specific components of the AAC devices and the required amount, duration, and scope of the AAC services that will overcome or ameliorate communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities; and

d. requested AAC devices constitute the least costly, equally effective form of treatment that will overcome or ameliorate communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities.

2. The following are additional general principles relating to medical necessity determinations for AAC devices:

a. no cognitive, language, literacy, prior treatment, or other similar prerequisites must be satisfied by a recipient in advance of a request for AAC devices;

b. the unavailability of an AAC device, component, or accessory for rental will not serve as the basis for denying a prior approval request for that device, component, or accessory;

c. the cause of the recipient's impairment or disability (e.g., congenital, developmental, or acquired), or the recipient's age at the onset of the impairment or disability, are irrelevant considerations in the determination of medical need;

d. recipient participation in other services or programs (e.g., school, early intervention services, adult services programs, employment) is irrelevant to medical necessity determination for AAC devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1482 (August 2003).

Subchapter C. Provider Responsibilities

§1121. Assessment/Evaluation

A. An assessment, or evaluation, of the individual's functioning and communication limitations that preclude or interfere with meaningful participation in current and projected daily activities must be completed by a speech-language pathologist with input from other health professionals, (e.g., occupational therapists and rehabilitation engineers) based on the recommendation of the speech language pathologist and a physician's prescription, as appropriate.

1. Medicaid provides reimbursement for AAC assessments/evaluations.

B. Requests for AAC devices must include a description of the speech-language pathologist's qualifications, including a description of the speech-language pathologist's AAC services training and experience.

C. An assessment (augmentative and alternative communication evaluation) must include the following information about the recipient.

1. Identifying information:

a. name;

b. Medicaid identification number;

c. date of the assessment;

d. medical and neurological; diagnoses (primary, secondary, tertiary);

e. significant medical history;

f. mental or cognitive status; and

g. educational level and goals.

2. Sensory status:

a. vision and hearing screening (no more than one year prior to AAC evaluation);

b. if vision screening is failed, a complete vision evaluation;

c. if hearing screening is failed, a complete hearing evaluation;

d. description of how vision, hearing, tactile, and/or receptive communication impairments or disabilities affect expressive communication.

3. Postural, mobility, and motor status:

a. gross motor assessment;

b. fine motor assessment;

c. optimal positioning;

d. integration of mobility with AAC devices;

e. recipient's access methods (and options) for AAC devices;

4. Current speech, language, and expressive communication status:

a. identification and description of the recipient's expressive or receptive (language comprehension) communication impairment diagnosis;

b. speech skills and prognosis;

c. language skills and prognosis;

d. communication behaviors and interaction skills (i.e., styles and patterns);

e. functional communication assessment, including ecological inventory;

f. indication of past treatment, if any;

g. description of current communication strategies, including use of an AAC device, if any.

Note: If an AAC device is currently used, describe the device, when and by whom it was previously purchased, and why it is no longer adequate to meet the recipient's communication needs.

5. Communication needs inventory:

- a. description of recipient's current and projected communication needs;
- b. communication partners and tasks including partners' communication abilities limitations, if any; and
- c. communication environments and constraints which affect AAC device selection and/or features (e.g., verbal and/or visual output and/or feedback; distance communication needs).

6. Summary of Communication Limitations. Description of the communication limitations that preclude or interfere with meaningful participation in current and projected daily activities (i.e., why the recipient's current communication skills and behaviors prevent meaningful participation in the recipient's current and projected daily activities).

7. AAC devices assessment components:

- a. vocabulary requirements;
- b. representational system(s);
- c. display organization and features;
- d. rate enhancement techniques;
- e. message characteristics, speech synthesis, printed output, display characteristics, feedback, auditory and visual output;
- f. access techniques and strategies; and
- g. portability and durability concerns, if any.

8. Identification of AAC devices considered for recipients:

- a. identification of the significant characteristics and features of the AAC devices considered for the recipient; and
- b. identification of the cost of the AAC devices considered for the recipient (including all required components, accessories, peripherals, and supplies, as appropriate).

9. AAC device recommendation:

- a. identification of the requested AAC devices including all required components, accessories, software, peripheral devices, supplies, and the device vendor;
- b. identification of the recipient's and communication partner's AAC devices preference, if any;
- c. assessment of the recipient's ability (physically and mentally) to use, or to learn to use, the recommended AAC device and accessories for effective and efficient communication;
- d. justification stating why the recommended AAC device (including description of the significant characteristics, features, and accessories) is better able to overcome or ameliorate the communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities, as compared to the other AAC devices considered;
- e. justification stating why the recommended AAC device (including description of the significant characteristics, features, and accessories) is the least costly, equally effective, alternative form of treatment to overcome or ameliorate the communication limitations that preclude or

interfere with the recipient's meaningful participation in current and projected daily activities.

10. Treatment plan and follow-up:

- a. description of short term communication goals (e.g., six months);
- b. description of long term communication goals (e.g., one year);
- c. assessment criteria to measure recipient's progress toward achieving short and long term communication goals;
- d. description of amount, duration, and scope of AAC services required for the recipient to achieve short and long term communication goals; and
- e. identification and experience of AAC service provider responsible for training. These service providers may include, e.g.:
 - i. speech-language pathologists;
 - ii. occupational therapists;
 - iii. rehabilitation engineers;
 - iv. the recipient's parents, teachers; and
 - v. other service providers).

11. Summary of alternative funding source for AAC device:

- a. description of availability or lack of availability, of purchase of AAC device through other funding sources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1482 (August 2003).

§1123. Trial Use Periods

A. In instances where the appropriateness of a specific AAC device is not clear, a trial use period for an AAC device may be recommended (although it is not required) by the speech-language pathologist who conducts the AAC evaluation.

B. Prior authorization for rental of AAC devices shall be approved for trial use periods when the speech-language pathologist prepares a request consistent with the established requirements. The reasons for a trial use period request include, but are not limited to:

1. the characteristics of the recipient's communication limitations;
2. lack of familiarity with a specific AAC device; and
3. whether there are sufficient AAC services to support the recipient's use of the AAC device, or other factors.

C. If the speech-language pathologist recommends a trial use period, the pathologist must prepare a request that includes the following information:

1. the duration of the trial period;
2. the speech-language pathologist information and the recipient information as required in §1121, Assessment/Evaluation;
3. the AAC device to be examined during the trial period, including all the necessary components (e.g., mounting device, software, switches, or access control mechanism);
4. the identification of the AAC service provider(s) who will assist the recipient during the trial period;
5. the identification of the AAC services provider(s) who will assess the trial period; and

6. the evaluation criteria, specific to the recipient, that will be used to determine the success or failure of the trial period.

D. Trial use period requests must request Medicaid funding for the rental of all necessary components and accessories of the AAC device. If an accessory necessary for the trial use of a device by a recipient is not available for rental, but the communication device is available for rental for trial use, Medicaid may consider the purchase of the accessory for the trial use of the communication device by that recipient.

E. Trial periods may be extended and/or different AAC devices provided, when requested by the speech-language pathologist responsible for evaluating the trial use period.

F. Results of trial use periods must be included with any subsequent request for prior authorization of purchase of the AAC device. Recommendations for the purchase of an AAC device, as a result of a trial use period of the device, must clearly indicate the patient's ability to use the device during the trial period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1483 (August 2003).

Subchapter D. Prior Authorization

§1133. Prior Authorization Request

A. All requests for AAC devices and accessories must be prior authorized by Medicaid in accordance with the criteria described in this Chapter 11.

B. Medicaid will not consider purchase of an AAC device when an alternative means of funding through another agency or other source (e.g., Louisiana Rehabilitation Services, school systems, private insurance, etc.) is available for the recipient. All requests should indicate the availability, or lack of availability, of purchase through other funding sources.

NOTE: AAC devices may be covered through the Durable Medical Equipment (DME) Program with prior authorization for Medicaid recipients residing in nursing homes (ICF I, II and SNF).

C. When the medical necessity can not be determined for an AAC device pursuant to the criteria stated above and to the information submitted in support of a prior authorization request, the following steps shall be taken.

1. If Medicaid determines that any essential information in establishing medical necessity for the AAC device is incomplete, or has been omitted in the prior authorization request as required in §1121, Assessment/Evaluation, Medicaid will make direct contact with the speech-language pathologist who conducted the assessment for the recipient. Medicaid will then identify the specific, additional information that is needed and request that the additional information be submitted; and/or

2. if Medicaid determines that an additional interpretation of information in the prior authorization request is needed by the medical reviewer in establishing medical necessity for an AAC device, Medicaid will seek the advice of speech language pathologist(s) with extensive AAC experience recommended to Medicaid by the

American Speech Language and Hearing Association (ASHA), the United States Society for Augmentative and Alternative Communication (USSAAC), and/or the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA), who shall provide the required interpretation.

a. Only one request for additional information by direct contact with the speech/language pathologist and/or only one interpretation will be made per prior authorization request.

b. If additional information requested by Medicaid from the speech/language pathologist who conducted the assessment, or if an additional interpretation requested from a consulting speech-language pathologist, is not received by Medicaid within the 25-day time frame required of Medicaid for a prior authorization determination, a decision will be made by the medical reviewer for Medicaid based on the information that has been submitted with the prior authorization request and on the reviewer's interpretation of that information. If the additional information or additional interpretation is provided at a later time, another request must be submitted by the provider to the Prior Authorization Unit for additional review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1484 (August 2003).

Subchapter E. Repairs and Replacement

§1143. Repairs

A. Medicaid will cover repairs to keep AAC devices, accessories, and other system components in working condition. Medicaid coverage for repairs will include the cost of parts, labor, and shipping, when not otherwise available without charge pursuant to a manufacturer's warranty.

1. Providers of AAC devices are expected to comply with the Louisiana New Assistive Devices Warranty Act.

a. One of the provisions of this law is that all persons who make, sell, or lease assistive devices, including AAC devices, must provide those who buy or lease the equipment with a warranty which lasts at least one year from the time the equipment is delivered to the customer.

b. If, during the warranty period, the equipment does not work, the manufacturer or dealer must make an attempt to repair the equipment.

2. Medicaid additionally requires providers to provide the recipient with a comparable, alternate AAC device while repairing the recipient's device during a warranty period.

3. Medicaid coverage may be provided for rental of an alternate AAC device during a repair period after expiration of the warranty.

4. Medicaid will not cover repairs, or rental of a loaner device, when repairs are made during a warranty period.

B. When a device is received by the provider for the purpose of repair, the provider will conduct an assessment of the device to determine whether it can be repaired, and if so, prepare a written estimate of the parts, labor, and total cost

of the repair, as well as the effectiveness (i.e., estimated durability) of the repair. If the manufacturer or provider concludes that the device is not repairable and a replacement device is needed, written notice will be provided to the recipient.

C. Medicaid coverage for repairs greater than \$300 must be accompanied by a statement from the speech-language pathologist. The statement must indicate:

1. whether there have been any significant changes in the sensory status (e.g., vision, hearing, tactile); postural, mobility or motor status; speech, language, and expressive communication status; or any other communication need or limitation of the recipient as described in §1121.C.2-7.g and 10.a-e.v; and

2. whether the device remains the speech language pathologist's recommendation for recipient's use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1484 (August 2003).

§1145. Replacement or Modification

A. Modification or replacement of AAC devices will be covered by Medicaid subject to the following limitations:

1. requests for modification or replacement of AAC devices and/or accessories may be considered for coverage after the expiration of three or more years from the date of purchase of the current device and accessories in use, except as stated in Paragraphs 4 and Subparagraph 5.a. of this Subsection A.

2. requests for modification or replacement require prior authorization and must include the recommendation of the speech-language pathologist;

3. requests for replacements of AAC devices may be submitted for identical or different devices;

4. requests for replacements of identical AAC devices must be accompanied by a statement from the provider that the current device can not be repaired or that replacement will be more cost effective than repair of the current device. Data must be provided about the following:

- a. age;
- b. repair history;
 - i. frequency;
 - ii. duration; and
 - iii. cost; and
- c. repair projections (estimated durability of repairs);

5. requests for modification or replacement of AAC devices with different devices must include the following additional information:

a. a significant change has occurred in the recipient's expressive communication, impairments, and/or communication limitations. Modification or replacement requests due to changed individual circumstances must be supported by a new assessment of communication limitations by a speech-language pathologist, and may be submitted at any time; or

b. even though there has been no significant change in the recipient's communication limitations, there has been a significant change in the features or abilities of available AAC devices (i.e., a technological change) that will

overcome or permit an even greater amelioration of the recipient's communication limitations as compared to the current AAC device. A detailed description of all AAC device changes and the purpose of the changes must be provided with the results of a re-evaluation by a speech-language pathologist;

6. requests for replacements of AAC devices due to loss or damage (either for identical or different devices) must include a complete explanation of the cause of the loss or damage and a plan to prevent the recurrence of the loss or damage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1485 (August 2003).

David W. Hood
Secretary

0308#006

RULE

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

Laboratory and X-Ray Prenatal Lab Panels
(LAC 50:XIX.4313)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 50:XIX.4313 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule has been amended in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and X-Ray

Chapter 43. Billing and Reimbursement

Subchapter A. Billing

§4313. Prenatal Lab Panel Services

A. Prenatal lab panel services must be billed utilizing standard Physicians' Current Procedural Terminology (CPT) codes from the Organ or Disease Oriented Panels sub-heading in the Pathology and Laboratory section of the CPT.

B. Only one prenatal lab panel claim shall be billed per recipient per pregnancy (270 days) per billing provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 49:1008(A), and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1025 (May 2002), amended LR 29:1485 (August 2003).

David W. Hood
Secretary

0308#089

RULE

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

**Medicaid Eligibility Disregard of Insurance
Cash Surrender Value**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has promulgated the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended the current policy governing countable resources in the determination of Medicaid eligibility for the Medically Needy Program, Qualified Medicare Beneficiaries, Specified Low Income Beneficiaries, Qualified Individuals-I, TB-infected individuals and the special income level group (individuals in a medical institution for at least 30 consecutive days and individuals receiving home and community based waiver services for at least 30 consecutive days with gross income that does not exceed 300 percent of the SSI income standard).

Utilizing provisions allowed under Section 1902(r)(2) of the Social Security Act, the cash surrender value of life insurance and burial policies with a combined face value up to \$10,000 will be disregarded in the determination of Medicaid eligibility for the Medically Needy Program, Qualified Medicare Beneficiaries, Specified Low Income Beneficiaries, Qualified Individuals-I, TB-infected individuals, and the special income level group (individuals in a medical institution for at least 30 consecutive days and individuals receiving home and community based waiver services for at least 30 consecutive days with gross income that does not exceed 300 percent of the SSI income standard).

Implementation of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0308#088

RULE

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

**Medicaid Eligibility
Increase of Burial Fund Exclusion**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has promulgated the following Rule in the Medical Assistance

Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended the current policy governing countable resources in the determination of Medicaid eligibility for the Medically Needy Program, Qualified Medicare Beneficiaries, Specified Low Income Beneficiaries, Qualified Individuals-I, TB-infected individuals, and the special income level group (individuals in a medical institution for at least 30 consecutive days and individuals receiving home and community based waiver services for at least 30 consecutive days with gross income that does not exceed 300 percent of the SSI income standard).

Utilizing provisions allowed under Section 1902(r)(2) of the Social Security Act, the maximum burial fund exclusion will be increased from \$1,500 to \$10,000 in the determination of Medicaid eligibility for the Medically Needy Program, Qualified Medicare Beneficiaries, Specified Low Income Beneficiaries, Qualified Individuals-I, TB-infected individuals, and the special income level group (individuals in a medical institution for at least 30 consecutive days and individuals receiving home and community based waiver services for at least 30 consecutive days with gross income that does not exceed 300 percent of the SSI income standard).

Implementation of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0308#087

RULE

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

**Mental Health Rehabilitation Services
HIPAA Implementation**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has promulgated the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule was promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended the provisions contained in the November 20, 2001 Rule governing the procedure codes for mental health rehabilitation services. Mental health rehabilitation services shall be billed utilizing appropriate Health Care Financing Administration Common Procedure Codes and modifiers.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0308#090

RULE

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

Personal Assistant Services Employment Support (LAC 50:XV.Chapter 141)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:XV. Chapter 141 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule was adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted the following provisions governing the coverage of Personal Assistant Services as an optional service under the Medicaid State Plan to support the employment efforts of recipients with disabilities who are age 18 through 64 years old. Disabled is defined as meeting the eligibility criteria established by the Social Security Administration for disability benefits.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 11. Personal Assistant Services

Chapter 141. Employment Support

§14101. General Provisions

A. The purpose of personal assistant services is to enable an individual to obtain, regain and/or maintain employment. The mission of Medicaid funded personal assistant services is to enhance the individual's independence and thereby reduce their dependency on cash assistance. The intent of this service program is to supplement the family and/or community supports that are available to assist the recipient in securing or maintaining employment in the community. This service program is not intended to be a substitute for available family and/or community supports. Personal assistant services must be prescribed by a physician or psychiatrist and provided in accordance with an approved service plan and supporting documentation. In addition, personal assistant services must be coordinated with the other Medicaid services being provided to the recipient and will be considered in conjunction with those other services. Personal assistant services will be provided in a manner consistent with the basic principles of consumer direction as set forth in §14107.

B. The responsibility of employers to provide assistance to disabled employees under the Americans with Disabilities Act includes job-related functions, and are not primarily for the personal benefit of the individual with a disability.

Personal assistant services provided under this Chapter will not supplant the employer's responsibilities.

C. An assessment shall be performed for every recipient who requests personal assistant services. This assessment shall be utilized to identify the recipient's needs and preferences as related to obtaining and maintaining employment, the availability of family and community supports and to develop the service plan. The Minimum Data Set-Home Care (MDS-HC) System will be used as the basic assessment tool. However, other assessment tools may be utilized as a supplement to the MDS-HC to address the needs of special groups within the target population.

D. Prior Authorization. Personal assistant services must be prior authorized. Requests for prior authorization must be submitted to the Bureau of Health Services Financing or its designee and include a copy of the assessment form and the service plan. Any other pertinent documents that substantiates the recipient's request for services may also be submitted. These documents will be reviewed to determine whether the recipient meets the criteria for personal assistant services and the necessity for the number of service hours requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1487 (August 2003).

§14103. Covered Services

A. Personal assistant services are defined as those services that provide assistance with the activities of daily living (ADL) and the instrumental activities of daily living (IADL) that are necessary for the purposes of obtaining and/or maintaining employment. Assistance may be either the actual performance of the personal assistant task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by an individual for continued well-being, health and safety. ADLs include tasks such as:

1. eating;
2. bathing;
3. dressing;
4. grooming;
5. transferring (getting in/out of the tub, from a bed to a chair);
6. reminding the recipient to take medication;
7. ambulation; and
8. toileting.

B. IADLs are those activities that are considered essential for sustaining the individual's health and safety, but may not require performance on a daily basis. IADLs include tasks such as:

1. light housekeeping;
2. food preparation and storage;
3. grocery shopping;
4. laundry;
5. providing transportation when necessary:
 - a. to seek employment;
 - b. to go to and from the recipient's place of employment; or
 - c. to access other necessary activities; and
6. providing assistance in the completion of employment related or other necessary correspondence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1487 (August 2003).

§14105. Recipient Qualifications

A. Personal assistant services to support employment shall be available to recipients with disabilities who are age 18 through 64 years old. Disabled is defined as meeting the eligibility criteria established by the Social Security Administration for disability benefits. The recipient must require assistance with at least two activities of daily living and be able to participate in his/her care and self direct the services provided by the personal assistant independently or through a responsible representative. Responsible representative is defined as the person designated by the recipient to act on his/her behalf in the process of accessing personal care assistant services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1488 (August 2003).

§14107. Recipient Rights

A. Recipients who receive services under Employment Support Personal Assistant Services Program have the right to actively participate in the development of their service plan and the decision-making process regarding service delivery. Recipients also have the right to freedom of choice in the selection of a provider of personal assistant services and to participate in the following activities:

1. interviewing and selecting the personal assistant who will be providing services;
2. developing the work schedule for their personal assistant;
3. training the individual personal assistant in the specific skills necessary to maintain the recipient's independent functioning while safely maintaining him/her in various settings;
4. developing an emergency component in the service plan that includes a list of personal assistant staff who can serve as back-up when unforeseen circumstances prevent the regularly scheduled personal assistant from providing services;
5. signing off on payroll logs and other documentation to verify staff work hours and to authorize payment;
6. evaluating the personal assistant's job performance; and
7. transferring or discharging the personal assistant assigned to provide their services;
8. an informal resolution process to address their complaints and/or concerns regarding personal assistant services; and
9. a formal resolution process to address those situations where the informal resolution process fails to resolve their complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1488 (August 2003).

§14109. Standards for Participation

A. In order to participate as a Personal Assistant Services provider in the Medicaid Program, an agency:

1. must comply with:
 - a. state licensing regulations;
 - b. Medicaid provider enrollment requirements;
 - c. the standards of care set forth by the Louisiana Board of Nursing; and
 - d. the policy and procedures contained in the Personal Assistant Services provider manual;
2. must possess a current, valid license for the Client Services Providers, Personal Care Attendant Services Module issued by the Department of Social Services, Bureau of Licensing.

B. In addition, a Medicaid enrolled agency must:

1. either demonstrate experience in successfully providing direct care services to the target population or demonstrate the ability to successfully provide direct care services to the target population;
2. employ a sufficient number of personal assistant and supervisory staff to ensure adequate coverage in the event that a assistant's illness or an emergency prevents him/her from reporting for work;
3. ensure that a criminal background check and drug testing is conducted for all direct care staff prior to an offer of employment being made;
4. ensure that the direct care staff is qualified to provide personal assistant services. Assure that all new staff satisfactorily completes an orientation and training program in the first 30 days of employment;

NOTE: A legally responsible relative is prohibited from being the paid personal assistant for a family member. Legally responsible relative is defined as a recipient's spouse or a parent of a minor child.

5. ensure that an employee has a current, valid driver's license and automobile liability insurance if transportation is furnished. The provider agency must accept the liability for their employee transporting a recipient;
6. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations. The subcontracting of individual personal care staff and/or supervisors is prohibited;
7. implement and maintain an internal quality assurance plan to monitor recipient satisfaction with services on an ongoing basis;
8. document and maintain recipient records in accordance with federal and state regulations governing confidentiality and licensing requirements;
9. have written policies and procedures that recognize and reflect the recipient's right to participate in the activities set forth in §14107;
10. have a written policy for an informal resolution process to address recipient complaints and/or concerns regarding personal assistant services; and
11. have a written policy for a formal resolution process to address those situations where the informal resolution process fails to resolve the recipient's complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1488 (August 2003).

§14111. (Reserved)

§14113. Place of Service

A. Personal assistant services may be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in activities to obtain or maintain employment. The recipient's home is defined as the recipient's place of residence including his/her own house or apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. A hospital, an institution for mental disease, a nursing facility, or an intermediate care facility for the mentally retarded, are not considered to be the recipient's home.

B. The provision of services outside of the recipient's home does not include trips outside of the borders of the state. However, consideration will be given when the recipient lives in an area adjacent to the state's border and it is customary for residents of that area to seek medical and other services in the neighboring state or when the recipient is required to travel out of state for employment related business.

C. Personal assistant services shall not be provided in the personal assistant's home. However, consideration will be given if it can be satisfactorily assured that:

1. the selection of the place of service is consistent with the recipient's choice;
2. the recipient's health and safety can be maintained when services are provided in the personal assistant's home; and
3. the services do not substitute for otherwise available family and/or community supports.

D. Place(s) of service must be documented in the service plan and progress notes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1489 (August 2003).

§14115. Service Limitations

A. Personal assistant services shall be limited to up to 56 hours per week. Authorization of service hours shall be considered on a case-by-case basis as substantiated by the recipient's service plan and supporting documentation. An extension of the weekly service limit may be requested and will be considered on the basis of medical necessity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1489 (August 2003).

§14117. Reimbursement Methodology

A. Reimbursement for personal assistant services shall be a prospective flat rate for each approved unit of service that is provided to the recipient. One quarter hour is the standard unit of service for personal assistant services.

Reimbursement shall not be paid for the provision of less than one quarter hour of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:1489 (August 2003).

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0308#092

RULE

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

Professional Services Program
Physician Services
HIPPA Implementation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has promulgated the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended the February 20, 1996, and May 20, 2001 and 2002 Rules governing the reimbursement methodology for physician services to clarify the billing procedures for the reimbursement of the following services.

Prenatal and Postpartum Visits

A. Prenatal visits and postpartum visits must be billed utilizing standard Physicians= Current Procedural Terminology (CPT) codes from the Maternity Care and Delivery sub-heading in the Surgery section of the CPT and Office or Other Outpatient Services subheading in the Evaluation and Management section of CPT.

Brainstem Evoked Response Screening

A. Brainstem Evoked Response screening services must be billed utilizing standard CPT codes from the Special Otorhinolaryngologic Services subheading in the Medicine section of the CPT.

David W. Hood
Secretary

0308#093

RULE

Department of Health and Hospitals Office of Public Health

Genetic Diseases Neonatal Screening (LAC 48:V.6303)

Under the authority of R.S. 40:5 and 40:1299 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended and revised LAC 48:V.6303.A, B, C, D, F and G.

The Rule adds screening for galactosemia and includes other requirements necessary for ensuring proper testing, follow-up and reporting.

The Rule should have an overall positive impact on the stability, authority, functioning, behavior and personal responsibility of the family unit in that the Rule would ensure that all Louisiana newborns are screened for an additional life-threatening disease, galactosemia. Early detection and treatment of galactosemia can prevent mortality from the overwhelming infections as well as many of the debilitating neurological symptoms associated with this disease.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this Rule on the family has been considered. It is anticipated that this Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. The Rule will enhance the functioning of the family for affected families as screening for galactosemia is life saving and prevents many of the debilitating symptoms associated with this disease.

Title 48

PUBLIC HEALTH GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 63. Neonatal Screening

§6303. Purpose, Scope, Methodology

A. Purpose and Scope. R.S. 40:1299.1, 2, and 3 require physicians to test Louisiana newborns for phenylketonuria, congenital hypothyroidism, sickle cell disease, biotinidase deficiency and galactosemia. The Office of Public Health (OPH) maintains a laboratory for performing screening tests for hyperphenylalanemia manifest in phenylketonuria (PKU), for thyroxine (T₄) and thyroid stimulating hormone (TSH) used in congenital hypothyroidism detection, hemoglobin identification for sickle cell disease and enzyme assays for detection of biotinidase deficiency and galactosemia. Definitive diagnostic tests are provided if the screening test is positive. The newborn screening battery may also be available through other approved laboratories (see Subsection G).

B. Methodology

1. - 3. ...

4. To ensure that specimens for testing are received within two to three days by the laboratory approved by OPH to perform newborn screening pursuant to the pertaining requirements of this Chapter, all such laboratories must provide mailing envelopes to submitting hospitals which guarantee a delivery time no longer than three days from

mailing. An example of an acceptable minimum option would be the use of the United States Postal Service's Flat Rate Priority Mailing Envelopes. The use of all other companies and courier services providing this service are acceptable.

C. Policy for Predischarge and Repeat Screening

1. ...

2. A newborn initially screened before 48 hours of age must receive a repeat screening no later than the third week of life. Repeat screening should be arranged by the primary pediatrician; however, it may be done by any primary healthcare provider or clinical facility qualified to perform newborn screening specimen collection. The blood specimen collection should be performed at the infant's first medical visit, regardless of age if they are seen at 48 hours of age or older. To ensure that neonates who need rescreening (due to initial unsatisfactory specimen, an initial collection performed on a baby less than 48 hours old) actually receive the repeat test, hospitals with maternity units must establish a system for disseminating information to parents about the importance of rescreening.

D. Notification of Screening Results

1. Providers are notified immediately of positive screens by telephone. Otherwise, submitters should receive the result slip from the State Central Laboratory within two to three weeks. Submitters may call the Central Lab for results 10 days after submission. The telephone number for the Central Lab is 504-568-5371. Results are also available to submitters 24 hours a day, 365 days a year through the Voice Response System with FAX (VRS) which is accessed by using a touch tone telephone. Information on using VRS can be obtained by calling the Genetic Diseases Program Office at 1-800-871-9548. To assist the pediatrician's office in the retrieval of the results on the initial specimen of the infant at the first medical visit, the phlebotomist or nurse collecting the initial specimen should tear off the blue carbon of the Lab-10 form and give this to the parent or guardian.

E. ...

F. Medical/Nutritional Management

1. - 1.a. ...

b. The patient must receive clinical and dietary management services through a metabolic center to include a medical evaluation at least once annually by a physician who is board certified in biochemical genetics or a medical geneticist physician with written documentation of a medical evaluation and continuing consultation with a physician board certified in biochemical genetics. A licensed registered dietitian must also be on staff and be readily available for both acute and chronic dietary needs of the patient. Children less than one year of age must be seen by the dietitian and medical geneticist at least twice a year. Children greater than one year of age must be seen at least once per year by the dietitian and medical geneticist.

c. The patient must provide necessary blood specimens for laboratory testing as requested by the treating physician meeting the above requirements. Laboratory test result values for phenylalanine and tyrosine must be submitted to the Genetics Program Office by the treating medical center within 15 working days after data reduction and interpretation.

d. The patient must include dietary records with the submission of each blood specimen.

e. - f. ...

g. If a patient fails to comply with these requirements, he/she will not be able to receive metabolic formula, medications and medical services through the Office of Public Health.

G. Acceptable Newborn Screening Testing Methodologies and Procedures for Medical Providers not using the State Laboratory. Laboratories performing or intending to perform the state mandated newborn screening battery on specimens collected on Louisiana newborns must meet the conditions specified below pursuant to R.S. 40:1299.1.

1. The testing battery must include testing for phenylketonuria (PKU), congenital hypothyroidism, biotinidase deficiency, galactosemia and the following hemoglobinopathies: sickle cell disease, SC disease, thalassemias, E disease and C disease.

2. - 4. ...

5. Only the following testing methodologies are acceptable without prior approval.

Disease	Testing Methodology
PKU	Flourometric Tandem Mass Spectrometry Guthrie Bacterial Inhibition Assay Phenylalanine level cut-off: ≥ 3 mg/dL, call Genetics Office immediately for obtaining phenylalanine/tyrosine
Congenital Hypothyroidism	Radioimmunoassay (RIA) or Enzyme Immunoassay (EIA) Methods for T4 and/or Thyroid Stimulating Hormone (TSH) which have been calibrated for neonates
Biotinidase Deficiency	Qualitative or Quantitative Enzymatic Colorometric or Flourometric
Hemoglobinopathies (Sickle Cell)	Cellulose acetate/citrate agar Capillary isoelectric focusing (CIEF) Gel isoelectric focusing (IEF) High Pressure Liquid Chromatography (HPLC) DNA Analysis Sickle Dex – NOT acceptable Controls must include: F, A, S, C, E Result Reporting: by phenotype Positive/negative is NOT acceptable
Galactosemia	Galt enzyme assay Total Galactose
New Food and Drug Administration approved methodologies may be used if found to be acceptable by the Genetic Diseases Program. Approval should be requested in writing 60 days before the intended date of implementation (see Genetic Diseases Program mailing address below). Requests for approval will be based on documentation of FDA approval and an in-house validation study of said methodology.	

6. - 7. ...

8. Mandatory Reporting of Positive Test Results Indicating Disease

a. ...

b. Specific time deadlines after data reduction and interpretation for reporting positive results indicating probable disease to the Genetics Office:

i. pku: report a phenylalanine level of ≥ 3 mg/dL on the initial or repeat blood specimen within 2 hours;

ii. galactosemia: report test results on the initial or repeat blood specimen within 2 hours;

iii. congenital hypothyroidism: report confirmatory test results within 24 hours;

iv. biotinidase deficiency: report results within 24 hours;

v. sickle cell disease and other hemoglobinopathies: report results of FS, FSC, FSA, FSE, FS-other, FC, FCA and FC-other from initial specimens within 24 hours.

8.c. - 9.b.ii. ...

10. Reporting requirements of private laboratories to the Genetic Diseases Program Office for public health surveillance and quality assurance purposes.

a. ...

b. Effective July 1, 2001, the laboratory must also report to the Genetic Diseases Program Office via electronic transmission newborn screening results on all Louisiana newborns screened monthly or quarterly. The method of transmitting as well as the reporting must be by diskette or another mutually agreed upon form of electronic transmission. The file format and data layout will be determined by the Genetic Diseases Program. Essential patient data is the following:

- i. child's first name;
- ii. child's last name;
- iii. mother's first name;
- iv. mother's last name;
- v. mother's maiden name (optional);
- vi. child's street address;
- vii. child's city;
- viii. child's state;
- ix. child's zip code;
- x. child's parish (optional);
- xi. child's date of birth (format: mm/dd/yyyy);
- xii. child's sex;
- xiii. child's race (format: (W)hite, (B)lack, Native America, Asian, other, Hispanic);
- xiv. mother's social security number (format: 999-99-9999).

11. ...

a. assurance of compliance with the requirements described in Paragraphs 1-10 above.

11.a. - 12.notes ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 18:378 (April 1991), LR 18:1131 (October 1992), LR 20:1386 (December 1994), LR 23:301 (March 1997), LR 27:545 (April 2001), LR 29:1490 (August 2003).

David W. Hood
Secretary

0308#069

RULE

**Department of Natural Resources
Office of Conservation**

Surface Mining

(LAC 43:XV.105, 1105-1109, 2111, 2113, 2311, 2323, 2731, 2733, 3103, 3115, 3705, 5423, 5424 and 5425)

Under the authority of the Louisiana Surface Mining and Reclamation Act, particularly R.S. 30:901 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation adopts rules and regulations to amend LAC 43:XV, (Statewide Order 29-O-1) the Louisiana Surface Mining Regulations, governing valid existing rights and revegetation success standards for post-mining land uses of pastureland and wildlife habitat.

The Department of the Interior, Office of Surface Mining Reclamation and Enforcement, under the provisions of 30 CFR 732.17(d), has notified the Louisiana Office of Conservation, Injection and Mining Division of changes in Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and the federal regulations promulgated pursuant to SMCRA which make it necessary for Louisiana to modify its Surface Mining Regulatory Program to remain consistent with all federal regulations. The director of the Office of Surface Mining Reclamation and Enforcement approved the proposed amendments in *Federal Register*, Vol. 67, No. 38, February 26, 2002, pp. 8717-8719 and Vol. 67, No. 221, November 15, 2002, pp. 69123-69129.

Title 43

NATURAL RESOURCES

Part XV. Office of Conservation - Surface Mining

Subpart 1. General Information

Chapter 1. General

§105. Definitions

A. ...

* * *

Valid Existing Rights—A set of circumstances under which a person may, subject to office approval, conduct surface coal mining operations on lands where §922.D of the Act and §1105 of these regulations would otherwise prohibit such operations. Possession of *valid existing rights* only confers an exception from the prohibitions of §1105 of these regulations or §922.D of the Act. A person seeking to exercise *valid existing rights* must comply with all other pertinent requirements of the act and the regulatory program.

a. Property Rights Demonstration. Except as provided in §105. *Valid Existing Rights.c*, a person claiming *valid existing rights* must demonstrate that a legally binding conveyance, lease, deed, contract, or other document vests that person, or a predecessor in interest, with the right to conduct the type of surface coal mining operations intended. This right must exist at the time that the land came under the protection of §922.D of the Act or §1105 of these regulations. Applicable state law will govern interpretation of documents relied upon to establish property rights, unless federal law provides otherwise. If no applicable state law exists, custom and generally accepted usage at the time and place that the documents came into existence will govern their interpretation.

b. Except as provided in §105. *Valid Existing Rights.c*, a person claiming *valid existing rights* also must demonstrate compliance with one of the following standards.

i. Good Faith/All Permits Standard. All permits and other authorizations required to conduct surface coal mining operations had been obtained, or a good faith effort to obtain all necessary permits and authorizations had been made, before the land came under the protection of §922.D of the Act or §1105 of these regulations. At a minimum, an application must have been submitted for any permit required under Subpart 3 of these regulations.

ii. Needed for and Adjacent Standard. The land is needed for and immediately adjacent to a surface coal mining operation for which all permits and other authorizations required to conduct surface coal mining operations had been obtained, or a good faith attempt to obtain all permits and authorizations had been made, before the land came under the protection of §922.D of the Act or §1105 of these regulations. To meet this standard, a person must demonstrate that prohibiting expansion of the operation onto that land would unfairly impact the viability of the operation as originally planned before the land came under the protection of §922.D of the Act or §1105 of these regulations. Except for operations in existence before August 3, 1977, or for which a good faith effort to obtain all necessary permits had been made before August 3, 1977, this standard does not apply to lands already under the protection of §922.D of the Act or §1105 of these regulations when the office approved the permit for the original operation or when the good faith effort to obtain all necessary permits for the original operation was made. In evaluating whether a person meets this standard, the office may consider factors such as:

(a) the extent to which coal supply contracts or other legal and business commitments that predate the time that the land came under the protection of §922.D of the Act or §1105 of these regulations depend upon use of that land for surface coal mining operations;

(b) the extent to which plans used to obtain financing for the operation before the land came under the protection of §922.D of the Act or §1105 of these regulations rely upon use of that land for surface coal mining operations;

(c) the extent to which investments in the operation before the land came under the protection of §922.D of the Act or §1105 of these regulations rely upon use of that land for surface coal mining operations; and

(d) whether the land lies within the area identified on the life-of-mine map submitted under §2535.A.3 before the land came under the protection of §1105.

a. Roads. A person who claims *valid existing rights* to use or construct a road across the surface of lands protected by §1105 of these regulations or §922.D of the Act must demonstrate that one or more of the following circumstances exist if the road is included within the definition of surface coal mining operations in §105:

i. the road existed when the land upon which it is located came under the protection of §1105 of these regulations or §922.D of the Act, and the person has a legal right to use the road for surface coal mining operations;

ii. a properly recorded right-of-way or easement for a road in that location existed when the land came under the protection of §1105 of these regulations or §922.D of the

Act, and, under the document creating the right-of-way or easement and under subsequent conveyances, the person has a legal right to use or construct a road across the right-of-way or easement for surface coal mining operations;

iii. a valid permit for use or construction of a road in that location for surface coal mining operations existed when the land came under the protection of §1105 of these regulations or §922.D of the Act; or

iv. valid existing rights exist under §105.Valid Existing Rights.a and b.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:177 (May 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:2283 (December 1998), LR 29:1492 (August 2003).

Subpart 2. Areas Unsuitable for Mining

Chapter 11. Areas Designated by Act of Congress

§1105. Areas Where Mining is Prohibited or Limited

A. No surface coal mining operation shall be conducted on the following lands unless the applicant has either valid existing rights, as determined under §2323, or qualifies for the exception for existing operations under §1109.

A.1. - A.4.a. ...

b. where the office allows the public road to be relocated or the area affected to be within 100 feet of such road, after public notice and opportunity for a public hearing in accordance with §1107.D, and after making a written finding that the interests of the affected public and landowners will be protected;

A.5. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:177 (May 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 29:1493 (August 2003).

§1107. Procedures

A. ...

B. The office shall reject any portion of the application that would locate surface coal mining operations on land protected under §1105 unless:

1. the site qualifies for the exception for existing operations under §1109;

2. a person has valid existing rights for the land, as determined under §2323;

3. the applicant obtains a waiver or exception from the prohibitions of §1105 in accordance with §1107.D or E; or

4. for lands protected by §1105.A.3, both the office and the agency with jurisdiction over the park or place jointly approve the proposed operation in accordance with §1107.F.

C. If the office is unable to determine whether the proposed operation includes land within an area specified in §1105.A.1 or is located closer than the limits provided in §1105.A.6 or 7, the office shall transmit a copy of the relevant portions of the permit application to the federal, state or local government agency with jurisdiction over the protected land, structure or feature for a determination or clarification of the relevant boundaries or distances, with a notice to the appropriate agency that it must respond within 30 days of receipt of the request. The notice must specify

that another 30 days is available upon request, and that the office will not necessarily consider a response received after the comment period provided. If no response is received within the 30-day period or within the extended period granted, the office may make the necessary determination based on the information it has available.

D. §1107.D does not apply to lands for which a person has valid existing rights, as determined under §2323; lands within the scope of the exception for existing operations in §1109; or access or haul roads that join a public road, as described in §1105.A.4.b. Where the mining operation is proposed to be conducted within 100 feet, measured horizontally, of the outside right-of-way line of any public road (except as provided in §1105.A.4.b) or where the applicant proposes to relocate or close any public road, the office or public road authority designated by the office shall:

1. require the applicant to obtain necessary approvals of the authority with jurisdiction over the public road;

2. provide an opportunity for a public hearing in the locality of the proposed mining operation for the purpose of determining whether the interests of the public and affected landowners will be protected;

3. if a public hearing is requested, provide appropriate advance notice of the public hearing, to be published in a newspaper of general circulation in the affected locale at least two weeks prior to the hearing; and

4. make a written finding based upon information received at the public hearing within 30 days after completion of the hearing, or after any public comment period ends if no hearing is held, as to whether the interests of the public and affected landowners will be protected from the proposed mining operation. No mining shall be allowed within 100 feet of the outside right-of-way line of a road, nor may a road be relocated or closed, unless the office or public road authority determines that the interests of the public and affected landowners will be protected.

E.1. Subsection 1107.E does not apply to lands for which a person has valid existing rights, as determined under §2323; lands within the scope of the exception for existing operations in §1109; or access or haul roads that connect with an existing public road on the side of the public road opposite the dwelling, as provided in §1105.A.5. Where the proposed surface coal mining operations would be conducted within 300 feet, measured horizontally, of any occupied dwelling, the applicant shall submit with the application a written waiver by lease, deed or other conveyance from the owner of the dwelling clarifying that the owner and signatory had the legal right to deny mining and knowingly waived that right. The waiver shall act as consent to such operations within a closer distance of the dwelling as specified.

2. Where the applicant for a permit after August 3, 1977 had obtained a valid waiver prior to August 3, 1977 from the owner of an occupied dwelling to mine within 300 feet of such dwelling, a new waiver shall not be required.

3.a. Where the applicant for a permit after August 3, 1977 had obtained a valid waiver from the owner of an occupied dwelling, that waiver shall remain effective against subsequent purchasers who had actual or constructive knowledge of the existing waiver at the time of purchase.

b. A subsequent purchaser shall be deemed to have constructive knowledge if the waiver has been properly filed

in public-property records pursuant to state laws or if the mining has proceeded to within the 300-foot limit prior to the date of purchase.

F.1. Where the office determines that the proposed surface coal mining operation will adversely affect any publicly owned park or any place included in the National Register of Historic Places, the office shall transmit to the federal, state or local agency with jurisdiction over the park or place a copy of applicable parts of the permit application, together with a request for that agency's approval or disapproval of the operation, and a notice to that agency that it has 30 days from receipt of the request within which to respond. The notice must specify that another 30 days is available upon request, and that failure to interpose a timely objection will constitute approval. The office may not issue a permit for a proposed operation subject to the provisions of this Paragraph unless all affected agencies jointly approve.

2. Subsection 1107.F does not apply to lands for which a person has valid existing rights, as determined under §2323 or lands within the scope of the exception for existing operations in §1109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:177 (May 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 29:1493 (August 2003).

§1109. Exception for Existing Operations

A. The prohibitions and limitations of §1105 do not apply to surface coal mining operations for which a valid permit, issued under Subpart 3 of these regulations, exists when the land comes under the protection of §1105. This exception applies only to lands within the permit area as it exists when the land comes under the protection of §1105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:1494 (August 2003).

Subpart 3. Surface Coal Mining and Reclamation Operations Permits and Coal Exploration and Development Procedures Systems

Chapter 21. Coal Exploration and Development

§2111. General Requirements: Development Operations Involving Removal of More Than 250 Tons

A. - A.7. ...

8. for any lands listed in §1105, a demonstration that, to the extent technologically and economically feasible, the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. The application must include documentation of consultation with the owner of the feature causing the land to come under the protection of §1105, and, when applicable, with the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of §1105.

B. - B.3 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December

1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 29:1494 (August 2003).

§2113. Applications: Approval or Disapproval of Development of More Than 250 Tons

A. - B.3 ...

4. will, with respect to exploration activities on any lands protected under §1105, minimize interference, to the extent technologically and economically feasible, with the values for which those lands were designated as unsuitable for surface coal mining operations. Before making this finding, the office will provide reasonable opportunity to the owner of the feature causing the land to come under the protection of §1105, and, when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of §1105, to comment on whether the finding is appropriate.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:177 (May 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 29:1494 (August 2003).

Chapter 23. Surface Mining Permit Applications: Minimum Requirements for Legal, Financial, Compliance and Related Information

§2311. Relationship to Areas Designated Unsuitable for Mining

A. ...

B. If an applicant proposes to conduct surface mining activities within 300 feet of an occupied dwelling, the application shall contain the waiver of the owner of the dwelling as required by §1107.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 29:1494 (August 2003).

§2323. Valid Existing Rights Determination

A. OSM is responsible for determining valid existing rights for federal lands listed at §1105. The office is responsible for determining valid existing rights for all non-Federal lands listed at §1105. The provisions of this Section apply when the office is responsible for determining valid existing rights.

B. A request for a valid existing rights determination must be submitted if surface coal mining operations will be conducted on the basis of valid existing rights under §1105. This request may be submitted before submitting an application for a permit or boundary revision.

1. Requirements for property rights demonstration. If the request relies upon the good faith/all permits standard or the needed for and adjacent standard in §105. *Valid Existing Rights*.b, the applicant must provide a property rights demonstration under §105. *Valid Existing Rights*.a. This demonstration must include the following items:

a. a legal description of the land to which the request pertains;

b. complete documentation of the character and extent of the applicant's current interests in the surface and mineral estates of the land to which your request pertains;

c. a complete chain of title for the surface and mineral estates of the land to which the request pertains;

d. a description of the nature and effect of each title instrument that forms the basis for the request, including any provision pertaining to the type or method of mining or mining-related surface disturbances and facilities;

e. a description of the type and extent of surface coal mining operations that the applicant claims the right to conduct, including the method of mining, any mining-related surface activities and facilities, and an explanation of how those operations would be consistent with Louisiana property law;

f. complete documentation of the nature and ownership, as of the date that the land came under the protection §1105, of all property rights for the surface and mineral estates of the land to which the request pertains;

g. names and addresses of the current owners of the surface and mineral estates of the land to which the request pertains;

h. if the coal interests have been severed from other property interests, documentation that the applicant has notified and provided reasonable opportunity for the owners of other property interests in the land to which the request pertains to comment on the validity of the applicant's property rights claims;

i. any comments that the applicant received in response to the notification provided under §2323.B.1.h.

2. Requirements for Good Faith/All Permits Standard. If the request relies upon the good faith/all permits standard in §105.*Valid Existing Rights*.b.i, the applicant must submit the information required under §2323.B.1. The applicant also must submit the following information about permits, licenses, and authorizations for surface coal mining operations on the land to which the request pertains:

a. approval and issuance dates and identification numbers for any permits, licenses, and authorizations that the applicant or a predecessor in interest obtained before the land came under the protection of §1105;

b. application dates and identification numbers for any permits, licenses, and authorizations for which the applicant or a predecessor in interest submitted an application before the land came under the protection of §1105;

c. an explanation of any other good faith effort that the applicant or a predecessor in interest made to obtain the necessary permits, licenses, and authorizations as of the date that the land came under the protection of §1105.

3. Requirements for Needed for and Adjacent Standard. If the request relies upon the needed for and adjacent standard in §105.*Valid Existing Rights*.b.ii, the applicant must submit the information required under §2323.B.1. In addition, the applicant must explain how and why the land is needed for and immediately adjacent to the operation upon which the request is based, including a demonstration that prohibiting expansion of the operation onto that land would unfairly impact the viability of the operation as originally planned before the land came under the protection of §1105.

4. Roads. If the request relies upon one of the standards for roads in §105.*Valid Existing Rights*.c.i-iii, documentation must show that:

a. the road existed when the land upon which it is located came under the protection of §1105 of these regulations or §922.D of the Act, and the applicant has a legal right to use the road for surface coal mining operations;

b. a properly recorded right-of-way or easement for a road in that location existed when the land came under the protection of §1105 of these regulations or §922.D of the Act, and, under the document creating the right-of-way or easement, and under any subsequent conveyances, the applicant has a legal right to use or construct a road across that right-of-way or easement to conduct surface coal mining operations; or

c. a valid permit for use or construction of a road in that location for surface coal mining operations existed when the land came under the protection of §1105 of these regulations or §922.D of the Act.

C. Initial Review of Request

1. The office shall conduct an initial review to determine whether the request includes all applicable components of the submission requirements of §2323.B. This review pertains only to the completeness of the request, not the legal or technical adequacy of the materials submitted.

2. If the request does not include all applicable components of the submission requirements of §2323.B, the office shall notify the applicant and establish a reasonable time for submission of the missing information.

3. When the request includes all applicable components of the submission requirements of §2323.B, the office shall implement the notice and comment requirements of §2323.D.

4. If the information requested under §2323.C.2 is not provided within the time specified or as subsequently extended, the office shall issue a determination that valid existing rights have not been demonstrated, as provided in §2323.E.4.

D. Notice and Comment Requirements and Procedures

1. When the request satisfies the completeness requirements of §2323.C, the applicant must publish a public notice in accordance with §3103.A. This notice must invite comment on the merits of the request. The notice shall contain, at a minimum:

a. the location of the land to which the request pertains;

b. a description of the type of surface coal mining operations planned;

c. a reference to and brief description of the applicable standards under the definition of valid existing rights in §105;

i. if the request relies upon the good faith/all permits standard or the needed for and adjacent standard in §105.*Valid Existing Rights*.b, the notice also must include a description of the property rights claimed and the basis for that claim;

ii. if the request relies upon the standard in §105.*Valid Existing Rights*.c.i, the notice also must include a description of the basis for the claim that the road existed when the land came under the protection of §1105 of these regulations or §922.D of the Act. In addition, the notice must include a description of the basis for the claim that the applicant has a legal right to use that road for surface coal mining operations;

iii. if the request relies upon the standard in §105.*Valid Existing Rights.c.ii*, the notice also must include a description of the basis for the claim that a properly recorded right-of-way or easement for a road in that location existed when the land came under the protection of §1105 of these regulations or §922.D of the Act. In addition, the notice must include a description of the basis for the claim that, under the document creating the right-of-way or easement, and under any subsequent conveyances, the applicant has a legal right to use or construct a road across the right-of-way or easement to conduct surface coal mining operations;

d. if the request relies upon one or more of the standards in §105.*Valid Existing Rights.b, c.i, and c.ii*, a statement that the office will not make a decision on the merits of the request if, by the close of the comment period under this notice or the notice required by §2323.D.3, a person with a legal interest in the land initiates appropriate legal action in the proper venue to resolve any differences concerning the validity or interpretation of the deed, lease, easement, or other documents that form the basis of the claim;

e. a description of the procedures that the office will follow in processing the request;

f. the closing date of the comment period, which must be a minimum of 30 days after the publication date of the notice;

g. a statement that interested persons may obtain a 30-day extension of the comment period upon request; and

h. the name and address of the office where a copy of the request is available for public inspection and to which comments and requests for extension of the comment period should be sent.

2. The office shall promptly provide a copy of the notice required under §2323.D.1 to:

a. all reasonably locatable owners of surface and mineral estates in the land included in the request; and

b. the owner of the feature causing the land to come under the protection of §1105, and, when applicable, the agency with primary jurisdiction over the feature with respect to the values causing the land to come under the protection of §1105.

3. The letter transmitting the notice required under §2323.D.2 must provide a 30-day comment period, starting from the date of service of the letter, and specify that another 30 days is available upon request. At its discretion, the agency responsible for the determination of valid existing rights may grant additional time for good cause upon request. The agency need not necessarily consider comments received after the closing date of the comment period.

E. How a Decision Will Be Made

1. The office must review the materials submitted under §2323.B, comments received under §2323.D, and any other relevant, reasonably available information to determine whether the record is sufficiently complete and adequate to support a decision on the merits of the request. If not, the office must notify the applicant in writing, explaining the inadequacy of the record and requesting submittal, within a specified reasonable time, of any additional information that the office deems necessary to remedy the inadequacy.

2. Once the record is complete and adequate, the office must determine whether the applicant has demonstrated valid existing rights. The decision document must explain how the applicant has or has not satisfied all applicable elements of the definition of valid existing rights in §105. It must contain findings of fact and conclusions, and it must specify the reasons for the conclusions.

3. Impact of Property Rights Disagreements. This Paragraph applies only when the request relies upon one or more of the standards in §105.*Valid Existing Rights.b, c.i, and c.ii*.

a. The office must issue a determination that the applicant has not demonstrated valid existing rights if property rights claims are the subject of pending litigation in a court or administrative body with jurisdiction over the property rights in question. The office will make this determination without prejudice, meaning that the applicant may refile the request once the property rights dispute is finally adjudicated. This Paragraph applies only to situations in which legal action has been initiated as of the closing date of the comment period under §§2323.D.1 or D.3.

b. If the record indicates disagreement as to the accuracy of property rights claims, but this disagreement is not the subject of pending litigation in a court or administrative agency of competent jurisdiction, the office must evaluate the merits of the information in the record and determine whether the applicant has demonstrated that the requisite property rights exist under §105.*Valid Existing Rights.a, c.i, or c.ii*, as appropriate. The office must then proceed with the decision process under §2323.E.2.

4. The office must issue a determination that the applicant has not demonstrated valid existing rights if information that the office requests under §§2323.C.2 or E.1 is not submitted within the time specified or as subsequently extended. The office will make this determination without prejudice, meaning that the applicant may refile a revised request at any time.

5. After making a determination, the office must:

a. provide a copy of the determination, together with an explanation of appeal rights and procedures, to the applicant, to the owner or owners of the land to which the determination applies, to the owner of the feature causing the land to come under the protection of §1105, and, when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of §1105; and

b. publish notice of the determination in a newspaper of general circulation in the parish in which the land is located.

F. Administrative and Judicial Review. A determination that the applicant has or does not have valid existing rights is subject to administrative and judicial review under §§3301 and 3303.

G. Availability of Records. The office must make a copy of that request available to the public in the same manner as the office must make permit applications available to the public under §2119. In addition, the office must make records associated with that request, and any subsequent determination under §2323.E, available to the public in accordance with the requirements and procedures of §6311.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:1494 (August 2003).

**Chapter 27. Surface Mining Permit Applications:
Minimum Requirements for Reclamation
and Operation Plan**

§2731. Protection of Public Parks and Historic Places

A. - A.1. ...

2. if valid existing rights exist or joint agency approval is to be obtained under §1107.F, to minimize adverse impacts.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:177 (May 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 29:1497 (August 2003).

§2733. Relocation or Use of Public Roads

A. Each application shall describe, with appropriate maps and cross-sections, the measures to be used to ensure that the interests of the public and landowners affected are protected if, under §1107.D, the applicant seeks to have the office approve conduction of the proposed surface mining activities within 100 feet of the right-of-way line of any public road, except where mine access or haul roads join that right-of-way, or seeks approval for relocating a public road.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:177 (May 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 29:1497 (August 2003).

**Chapter 31. Public Participation, Approval of Permit
Applications and Permit Terms and
Conditions**

§3103. Public Notices of Filing of Permit Applications

A. - A.4. ...

5. if an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate or close a public road, except where public notice and hearing have previously been provided for this particular part of the road in accordance with §1107.D, a concise statement describing the public road, the particular part to be relocated or closed, and the approximate timing and duration of the relocation or closing;

A.6. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 29:1497 (August 2003).

§3115. Criteria for Permit Approval or Denial

A. - A.4.b. ...

c. not on any lands subject to the prohibitions or limitations of §1105; or

4.d. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December

1979), amended LR 6:177 (May 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 29:1497 (August 2003).

Chapter 37. Small Operator Assistance

§3705. Eligibility for Assistance

A. - A.1. ...

2. establishes that his or her probable total actual and attributed production from all locations during any consecutive 12-month period either during the term of his or her permit or during the first five years after issuance of his or her permit, whichever period is shorter, will not exceed 300,000 tons. Production from the following operations shall be attributed to the applicant:

a. the pro rata share, based upon percentage of ownership of the applicant, of coal produced by operations in which the applicant owns more than a 10 percent interest;

b. the pro rata share, based upon percentage of ownership of the applicant, of coal produced in other operations by persons who own more than 10 percent of the applicant's operation;

A.2.c. - A.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 6:177 (May 1980), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 29:1497 (August 2003).

Subpart 5. Permanent Program Performance Standards

**Chapter 53. Permanent Program Performance
Standards: Surface Mining Activities**

§5423. Revegetation: Standards for Success

A. - B.1.d.iv. ...

e. The criteria and procedures for determining ground cover and production success are found at §5424.

B.2. - B.8. ...

a. The criteria and procedures for determining ground cover and stocking success are found at §5425.

B.9. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:177 (May 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 21:1082 (October 1995), LR 29:1497 (August 2003).

**§5424. Revegetation: Standards for Success Post-
Mining Land Use of Pastureland**

A. Introduction

1. This Section describes the criteria and procedures for determining ground cover and production success for areas being restored to pastureland.

2. Pursuant to §5423, ground cover and production success on pastureland must be determined on the basis of the following conditions:

a. general revegetation requirements of the approved permit;

b. ground cover density; and

c. production.

3. The permittee is responsible for determining and measuring ground cover and production and submitting this data to the commissioner for evaluation. Procedures for making these determinations are described below.

B. Success Standards and Measurement Frequency

1. Ground Cover

a. Ground cover shall be considered acceptable if it is at least 90 percent of the approved success standard at a 90 percent statistical confidence level for any two of the last four years of the five-year responsibility period. The success standard for ground cover shall be 90 percent.

i. Ground cover must be measured over each noncontiguous area that is proposed for release. The aggregate of areas with less than 90 percent ground cover must not exceed 5 percent of the release area. These areas must not be larger than 1 acre and must be completely surrounded by desirable vegetation that has a ground cover of 90 percent. Areas void of desirable vegetation may not be larger than 1/4 acre and must be surrounded by desirable vegetation that has a ground cover of 90 percent. Refer to sampling technique for ground cover in §5424.C.2.a.

b. Ground cover shall consist of the species mixture approved in the original permit or an approved acceptable species mixture as recommended by the USDA/Natural Resources Conservation Service (NRCS) for use in that area. No more than 15 percent of the stand can be approved species not listed in the permit.

c. The sampling techniques for measuring success shall use a 90 percent statistical confidence interval (i.e., one-sided test with a .10 alpha error). Whenever ground cover is equal to or exceeds the success standard, the statistical confidence interval test does not have to be determined.

d. Ground cover success and forage production success need not be met during the same year.

e. Ground cover shall be sampled once per year during any two of the last four years of the five-year responsibility period to verify cover data.

2. Forage Production

a. The success standard for production of hay on pastureland shall be 90 percent of an approved reference area, if a reference area is established, or 90 percent of the estimated yield found in the Soil Conservation Service (now Natural Resources Conservation Service (NRCS)) parish soil survey. The estimated yields are those expected under a high level of management and were determined by the NRCS based on records of farmers, conservationists and extension agents.

b. Production shall be sampled for at least two separate years. Any two of the last four years of the five-year responsibility period may be selected.

3. Reference Area Requirements

a. Reference areas must be representative of soils, slope, aspect, and vegetation in the premined permit area. However, in cases where differences exist because of mixing of several soil series on the reclaimed area or unavailability of a reference area as herein described, yields must be adjusted.

b. Reference area pastureland must be under the same management as pastureland in the reclaimed area. This means that it must:

i. consist of similar plant species and diversity as approved in the permit;

ii. be currently managed under the same land use designation as the proposed mined release area;

iii. consist of soils in the same land capability class;

iv. be located in the general vicinity of the mined test area to minimize the impact of differing weather;

v. use the same fertilizer and pest management techniques;

vi. use fertilizer rates based on the same yield goal;

vii. be mowed at the same time to the same height as the reclaimed area;

viii. use identical harvest dates and plant populations; and

ix. use any other commonly used management techniques not listed above such as adequate weed and insect control, provided the pastureland area and the reference plot are treated identically.

c. Reference areas shall consist of a single plot (whole plot) at least four acres in size. Either statistically adequate subsampling or whole plot harvesting may be used to determine yields.

d. Reference plot forage yields must be at a level that is reasonably comparable to the parish average for the given crop. Reference plot yields that are less than 80 percent of the parish average are highly suspect and may be rejected.

e. Reference areas may be located on undisturbed acreage within permitted areas. If not so located, the permittee must obtain from the landowner(s) a written agreement allowing use of the property as a reference area and allowing right of entry for regulatory personnel.

f. When release areas and reference plots fall on different soil series, adjustments must be made to compensate for the productivity difference.

C. Sampling Procedures

1. Random Sampling

a. To assure that the samples truly represent the vegetative characteristics of the whole release or reference area, the permittee must use methods that will provide:

i. a random selection of sampling sites;

ii. a sampling technique unaffected by the sampler's preference; and

iii. sufficient samples to represent the true mean of the vegetation characteristics.

b. Sampling points shall be randomly located by using a grid overlay on a map of the release or reference area and by choosing horizontal and vertical coordinates. Each sample point must fall within the release or reference area boundaries and be within an area having the vegetative cover type being measured. Additionally, at least one ground cover sample point must be measured in each noncontiguous unit, if the release area does not consist of a single unit.

c. The permittee shall notify the office 10 days prior to conducting sampling or other harvesting operations to allow regulatory personnel an opportunity to monitor the sampling procedures.

2. Sampling Techniques

a. Ground Cover. There are several approved methods for measuring ground cover. As stated at §5423.A.1, these are: pin method, point frame method and line intercept method. The first contact, or "hit," of

vegetation shall be classified by species as acceptable or unacceptable as follows:

Acceptable	Unacceptable
Vegetation approved in permit	Vegetation not approved in permit
Dead vegetation or litter from acceptable species	Rock or bare ground
Acceptable not approved in permit	

i. Pin Method. In the pin method, a pinpoint is lowered to the ground. If vegetation is encountered, a hit is recorded. If bare ground is encountered, a miss is recorded. Sample locations are distributed randomly throughout the area to be measured. Percentage of cover is the number of hits divided by the total number of points sampled. Each randomly placed pin is considered one sample unit. An acceptable type of pin method would include recording each pin contact at one-foot intervals along a 100-foot tape. Each randomly placed 100-foot tape would be considered one sample unit.

ii. Point Frame Method. In the point frame method, a group of pinpoints is lowered to the ground. If vegetation is encountered, a hit is recorded. If bare ground is encountered, a miss is recorded. Sample locations are distributed randomly throughout the area to be measured. Percentage of cover is the number of hits divided by the total number of points sampled. Each randomly placed frame is considered one sample unit.

iii. Line Intercept Method. The sampling unit is a tape at least 100 feet long that is stretched from a random starting point in a randomly selected direction. The procedure consists of recording the length of tape underlain by vegetation, then dividing by the total length of tape to obtain the percentage of cover. Each randomly located tape is considered one sampling unit.

b. Productivity

i. When evaluating productivity, two components that may potentially influence the end results of production yields are time of harvest and moisture content.

(a). Time of Harvest. Herbaceous species must be harvested at times and frequencies appropriate to the plant species (i.e., cool-season species should be sampled in the winter or spring; warm-season species should be sampled in the summer or fall). Sampling should be timed to coincide with seed ripeness or the mature stage of the target vegetative species. Plant communities that are comprised of both cool- and warm-season species should be sampled when the overall plant community production is at a peak. If an area has not had herbaceous biomass removed (i.e., mowing, baling, grazing) since the last sampling, then sampling must not be conducted until the vegetation is removed and regrowth has taken place.

(b). Moisture Content. The moisture content of harvested herbaceous biomass and other vegetative components must be standardized, in order to eliminate weight variations due to moisture content. The weight of harvested vegetation is to be standardized by oven-drying at 60° C for 24 hours or until the weight stabilizes.

ii. Productivity can be evaluated by hand-harvesting or with mechanized agricultural implements. Productivity measurements must be obtained during the

growing season of the primary vegetation species. Productivity is estimated from only the current season's growth. There are two methods that can be used to evaluate production: using sampling frames for harvesting plots or whole-field harvests.

(a). Sampling Frames. A sampling frame shall be an enclosure, of known dimension appropriate for sampling pasture lands, capable of enclosing the sample location. A sample location shall be established at each of the randomly chosen sites, such that the center of the sampling frame is the random point. The permittee shall clip the biomass 2 inches above ground level within the frame. The biomass to be clipped shall be from all plant species growth whose base lies within the sampling frame. This biomass shall then be weighed and recorded. As each frame is clipped and weighed, the biomass shall be put into a bag for oven drying. Samples shall be oven-dried to a constant weight and reweighed to determine dried weight. All data collected from the clippings within the sampling frame shall be recorded and analyzed.

(b). Whole Area Harvesting. If whole release area harvesting is chosen as the method for data collection, the entire area shall be harvested and the data recorded and analyzed.

iii. If truckloads of bales are weighed for hay production when a whole area is harvested, at least three truckloads from each 100 acres are weighed. Each truckload should have at least three large round bales or 20 square bales. A sample will consist of the average bale weight per truckload. A statistically adequate sample size must be obtained. Multiply the number of hay bales per area by the average bale weight to obtain total production for that area. Total production is then compared to 90 percent of the reference or target yield, using a 90 percent or greater statistical confidence level.

iv. If performing statistical comparisons for hay production when a whole field is harvested, the weights of either 10 percent or 15 bales, whichever is greater, are converted to pounds per acre (lbs/ac) by taking their average weight and multiplying that figure by the total number of bales, divided by the number of acres harvested. Total production is then compared to 90 percent of the reference or target yield, using a 90 percent or greater statistical confidence level.

v. To determine which bales to weigh, randomly select a number from one to ten then count and weigh every tenth bale thereafter until the minimum number or 10 percent of the bales have been weighed. The first and last bale of any noncontiguous field or site should not be weighed. The bales shall be counted, but if the random number falls on either of the two bales mentioned, either advance one bale or select the bale immediately previous to the last bale produced.

3. Sample Adequacy

a. Ground Cover Data

i. Data shall be collected using a multi-staged sampling procedure. During the first stage, an initial minimum number of samples is taken. Using this initial group and applying the formula below, determine the actual number of samples needed.

$$n = (t^2 s^2) / (0.1x)^2$$

Where:

n = minimum number of samples needed;

t² = squared t-value from the T-Table;

s² = initial estimate of the variance of the release (or reference) area; and

(0.1x)² = the level of accuracy expressed as 10 percent of the average cover (note that this term is squared).

ii. If the formula reveals that the required number of samples is equal to or less than the initial minimum number, the initial sampling will satisfy the sampling requirements. If the number of samples needed is greater than the initial minimum number, additional samples must be taken (Stage Two Sampling), as specified by the formula, and n recalculated. This process shall be repeated until sample adequacy is met.

b. Productivity Data

i. Data shall be collected using a multi-staged sampling procedure. During the first stage, an initial minimum number of samples is taken. Using this initial group and applying the formula below, determine the actual number of samples needed.

$$n = (t^2 s^2) / (0.1x)^2$$

(the variance (s²) must be based on oven dry weight)

Where:

n = minimum number of samples needed;

t² = squared t-value from the T-Table;

s² = initial estimate of the variance of the release (or reference) area; and

(0.1x)² = the level of accuracy expressed as 10 percent of the average weight (note that this term is squared).

ii. If the formula reveals that the required number of samples have been taken, the initial sampling will satisfy the sampling requirements. If a greater number of samples is needed, additional samples must be taken (Stage Two Sampling), as specified by the formula, and n recalculated. This process shall be repeated until sample adequacy is met.

D. Data Submission and Analysis

1. If the data shows that revegetation success has been met, the permittee shall submit the data to the commissioner for review. Ground cover or production for the release area will be considered successful when it has been measured with an acceptable method, has achieved sample adequacy, and where the average ground cover or production value is equal to or greater than the success standard.

2. When the data indicates that the average ground cover and average forage production was insufficient, but close to the standards, the permittee may submit the data to the commissioner to determine if the production was acceptable when statistically compared to the standards using a t-test at a 90-percent statistical confidence interval.

3. Raw yield data from reclaimed areas and raw data from reference areas must first be oven dried to remove moisture, then adjusted by the parish soil survey average yields before statistical comparisons can be made.

E. Maps

1. When a proposed reclamation phase III release is submitted to the office, it must be accompanied by maps showing:

- a. the location of the area covered by the proposed release;
- b. the location of reference plots; and
- c. all permit boundaries.

2. When data from a previously approved plan is submitted to the office, it must be accompanied by maps showing:

- a. the location of and reference plots;
- b. the location of each sample point;
- c. the area covered by the sampling; and
- d. all permit boundaries.

F. Mitigation Plan

1. Ground cover and forage productivity must equal or exceed the standards for reclamation phase III liability release for at least two sampling years during the second through the fifth years following completion of the last augmented seeding. If productivity is not achieved by these dates, the permittee must submit a mitigation plan to the commissioner that includes the following:

- a. a statement outlining the problem;
- b. a discussion of what practices, beyond normal farming practices, the operator intends to use to enable the area to finally meet the release standards; and
- c. a new phase III release proposal.

2. If renovation, soil substitution or any other practice that constitutes augmentation is employed, the five-year responsibility period shall restart after the mitigation plan is approved and the practices are completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:1497 (August 2003).

§5425. Revegetation: Standards for Success Post-Mining Land Use of Wildlife Habitat

A. Introduction

1. This Section describes the criteria and procedures for determining ground cover and stocking success for areas developed for wildlife habitat.

2. Pursuant to §5423, ground cover and stocking success on wildlife habitat must be determined on the basis of the following conditions:

- a. general revegetation requirements of the approved permit;
- b. ground cover; and
- c. tree or shrub stocking and survival.

3. The permittee is responsible for measuring and determining ground cover and stocking and submitting this data to the commissioner for evaluation. Procedures for making these determinations are described below.

B. Success Standards and Measurement Frequency

1. Ground Cover

a. Ground cover shall be considered acceptable if it has at least 70 percent density with a 90 percent statistical confidence for the last year of the five year responsibility period.

b. The aggregate of areas with less than 70 percent ground cover must not exceed five percent of the release area. These individual areas must not be larger than 1 acre and must be completely surrounded by desirable vegetation that has a ground cover of not less than 70 percent. Areas void of desirable vegetation may not be larger than 1/4 acre

and must be surrounded by desirable vegetation that has a ground cover of not less than 70 percent.

c. No more than 35 percent of the stand can consist of approved species not listed in the permit.

2. Tree and Shrub Stocking Rate

a. The stocking rate for trees and shrubs shall be determined on a permit-specific basis after consultation and approval by the Louisiana Department of Wildlife and Fisheries. Trees and shrubs that will be used in determining the success of stocking and the adequacy of the plant arrangement shall have utility for the approved post-mining land use. When this requirement is met and acceptable ground cover is achieved, the five-year responsibility period shall begin.

b. Tree and shrub stocking rate shall be sampled once during the last year of the five-year responsibility period. The woody plants established on the revegetated site must be equal to or greater than 90 percent of the stocking rate approved in the permit with 90 percent statistical confidence. Trees and shrubs counted shall be healthy and in place for not less than two growing seasons. At the time of final bond release at least 80 percent of the trees and shrubs used to determine success shall have been in place for 60 percent of the applicable minimum period of responsibility. The permittee must provide documentation of this in the form of paid receipts, reclamation status reports, and normal correspondence.

C. Sampling Procedures

1. Random Sampling

a. To assure that the samples truly represent the vegetative characteristics of the whole release or reference area, the permittee must use methods that will provide:

- i. a random selection of sampling sites,
- ii. a sampling technique unaffected by the sampler's preference, and
- iii. sufficient samples to represent the true mean of the vegetative characteristics.

b. Sampling points shall be randomly located by using a grid overlay on a map of the release or reference area and by choosing horizontal and vertical coordinates. Each sample point must fall within the release or reference area boundaries and be within an area having the vegetative cover type being measured. Additionally, if the release area does not consist of a single unit, at least one sample point must be measured in each noncontiguous unit.

c. The permittee shall notify the office 10 days prior to conducting sampling or other harvesting operations to allow regulatory personnel an opportunity to monitor the sampling procedures.

2. Sampling Techniques

a. Ground Cover. There are several approved methods for measuring ground cover. As stated at §5423.A.1, these are: pin method, point frame method and line intercept method. The first contact, or "hit," of vegetation shall be classified by species as acceptable or unacceptable as follows.

Acceptable	Unacceptable
Vegetation approved in permit	Vegetation not approved in permit
Dead vegetation or litter from acceptable species	Rock or bare ground
Acceptable	Not approved in permit

i. Pin Method. In the pin method, a pinpoint is lowered to the ground. If vegetation is encountered, a hit is recorded. If bare ground is encountered, a miss is recorded. Sample locations are distributed randomly throughout the area to be measured. Percentage of cover is the number of hits divided by the total number of points sampled. Each randomly placed pin is considered one sample unit. An acceptable type of pin method would include recording each pin contact at one-foot intervals along a 100-foot tape. Each randomly placed 100-foot tape would be considered one sample unit.

ii. Point Frame Method. In the point frame method, a group of pinpoints is lowered to the ground. If vegetation is encountered, a hit is recorded. If bare ground is encountered, a miss is recorded. Sample locations are distributed randomly throughout the area to be measured. Percentage of cover is the number of hits divided by the total number of points sampled. Each randomly placed frame is considered one sample unit.

iii. Line Intercept Method. The sampling unit is a tape at least 100 feet long that is stretched from a random starting point in a randomly selected direction. The procedure consists of recording the length of tape underlain by vegetation, then dividing by the total length of tape to obtain the percentage of cover. Each randomly located tape is considered one sampling unit.

b. Sampling Circles (Trees/Shrubs)

i. A sampling circle shall be a round area of known radius. The permittee shall establish a sampling circle at each randomly selected sampling point such that the center of the sampling circle is the random point. Permittee may draw the circle by attaching a string to a stake fixed at the random point and then sweeping the end of the string (tightly stretched) in a circle around the stake. The permittee shall count all living trees and shrubs within each of the sampling circles. In more mature tree/shrub areas, the stakes may need to be extended to elevate the string above the growth.

ii. To count as a living tree or shrub, the tree or shrub must be healthy and must have been in place for at least two years. At the time of liability release, 80 percent must have been in place for three years.

3. Sample Adequacy

a. Ground Cover Data

i. Data shall be collected using a multi-staged sampling procedure. During the first stage, an initial minimum number of samples is taken. Using this initial group and applying the formula below, determine the actual number of samples needed.

$$n = (t^2 s^2) / (0.1x)^2$$

Where:

n = minimum number of samples needed;

t² = squared t-value from the T-Table;

s² = initial estimate of the variance of the release (or reference) area; and

(0.1x)² = the level of accuracy expressed as 10 percent of the average cover (note that this term is squared).

ii. If the formula reveals that the required number of samples have been taken, the initial sampling will satisfy the sampling requirements. If a greater number of samples is

needed, additional samples must be taken (Stage Two Sampling), as specified by the formula, and n recalculated. This process shall be repeated until sample adequacy is met.

b. Sampling Circles (Trees/Shrubs) Data

i. Data shall be collected using a multi-staged sampling procedure. During the first stage, an initial minimum number of samples is taken. Using this initial group and applying the formula below, determine the actual number of samples needed.

$$n = (t^2 s^2) / (0.1x)^2$$

(the variance (s^2) must be based on oven dry weight)

Where:

n = minimum number of samples needed;

t^2 = squared t-value from the T-Table;

s^2 = initial estimate of the variance of the release (or reference) area; and

$(0.1x)^2$ = the level of accuracy expressed as 10 percent of the average weight (note that this term is squared).

ii. If the formula reveals that the required number of samples have been taken, the initial sampling will satisfy the sampling requirements. If a greater number of samples is needed, additional samples must be taken (Stage Two Sampling), as specified by the formula, and n recalculated. This process shall be repeated until sample adequacy is met.

D. Data Submission and Analysis

1. If the data shows that revegetation success has been met, the permittee shall submit the data to the commissioner for review. Ground cover or stocking for the release area will be considered successful when it has been measured with an acceptable method, has achieved sample adequacy, and where the average ground cover or stocking value is equal to or greater than the success standard.

2. When the data indicates that the average ground cover and/or tree and shrub average stocking density is insufficient, but close to the standards, the permittee may submit the data to the Commissioner to determine if the revegetation is acceptable when statistically compared to the standards using a t-test at a 90-percent statistical confidence interval.

E. Maps

1. When a proposed reclamation phase III release is submitted to the office, it must be accompanied by maps showing:

- a. the location of the area covered by the proposed release;
- b. the location of reference plots; and
- c. all permit boundaries.

2. When data from a previously approved plan is submitted to the office, it must be accompanied by maps showing:

- a. the location of each transect and sampling circle location;
- b. the area covered by the sampling; and

- c. all permit boundaries.

F. Mitigation Plan

1. Ground cover must be greater than or equal to 70 percent coverage and tree and shrub stocking must achieve the revegetation standards by the fifth year of the five-year responsibility period. If these standards are not achieved by this date, the permittee must submit a mitigation plan to the commissioner that includes the following:

- a. a statement outlining the problem;
- b. a discussion of what practices, beyond normal agronomic practices, the operator intends to use to enable the area to finally meet the release standards; and
- c. a new Phase III release proposal.

2. If renovation, soil substitution, or any other practice that constitutes augmentation is employed, the five-year responsibility period shall restart after the mitigation plan is approved and the practices are completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 29:1500 (August 2003).

James H. Welsh
Commissioner

0308#051

RULE

**Department of Revenue
Policy Services Division**

**Individual Income Tax Tables
(LAC 61:I.1310)**

Under the authority of R.S. 47:295, R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, adopts LAC 61:I.1310 establishing the individual income tax tables based on the individual brackets provided by Act 51 of the 2002 Regular Session of the Louisiana Legislature.

Act 51 amended R.S. 47:295, and provides for the tax brackets. This statutory amendment became effective January 1, 2003, with the passage of the constitutional amendment adopted at the statewide election held November 5, 2002.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

**Chapter 13. Income: Individual Income Tax Tables
§1310. Income Tax Tables**

A. Residents. The tax due for resident individuals shall be determined using one of the following tables depending on your filing status.

Single or Married Filing Separately Filing Status									
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
0	4,500	0	0	0	0	0	0	0	0
4,500	4,750	3	0	0	0	0	0	0	0
4,750	5,000	8	0	0	0	0	0	0	0
5,000	5,250	13	0	0	0	0	0	0	0
5,250	5,500	18	0	0	0	0	0	0	0
5,500	5,750	23	3	0	0	0	0	0	0
5,750	6,000	28	8	0	0	0	0	0	0
6,000	6,250	33	13	0	0	0	0	0	0
6,250	6,500	38	18	0	0	0	0	0	0
6,500	6,750	43	23	3	0	0	0	0	0
6,750	7,000	48	28	8	0	0	0	0	0
7,000	7,250	53	33	13	0	0	0	0	0
7,250	7,500	58	38	18	0	0	0	0	0
7,500	7,750	63	43	23	3	0	0	0	0
7,750	8,000	68	48	28	8	0	0	0	0
8,000	8,250	73	53	33	13	0	0	0	0
8,250	8,500	78	58	38	18	0	0	0	0
8,500	8,750	83	63	43	23	3	0	0	0
8,750	9,000	88	68	48	28	8	0	0	0
9,000	9,250	93	73	53	33	13	0	0	0
9,250	9,500	98	78	58	38	18	0	0	0
9,500	9,750	103	83	63	43	23	3	0	0
9,750	10,000	108	88	68	48	28	8	0	0
10,000	10,250	113	93	73	53	33	13	0	0
10,250	10,500	118	98	78	58	38	18	0	0
10,500	10,750	123	103	83	63	43	23	3	0
10,750	11,000	128	108	88	68	48	28	8	0
11,000	11,250	133	113	93	73	53	33	13	0
11,250	11,500	138	118	98	78	58	38	18	0
11,500	11,750	143	123	103	83	63	43	23	3
11,750	12,000	148	128	108	88	68	48	28	8
12,000	12,250	153	133	113	93	73	53	33	13
12,250	12,500	158	138	118	98	78	58	38	18
12,500	12,750	165	145	125	105	85	65	45	25
12,750	13,000	175	155	135	115	95	75	55	35
13,000	13,250	185	165	145	125	105	85	65	45
13,250	13,500	195	175	155	135	115	95	75	55
13,500	13,750	205	185	165	145	125	105	85	65
13,750	14,000	215	195	175	155	135	115	95	75
14,000	14,250	225	205	185	165	145	125	105	85
14,250	14,500	235	215	195	175	155	135	115	95
14,500	14,750	245	225	205	185	165	145	125	105
14,750	15,000	255	235	215	195	175	155	135	115
15,000	15,250	265	245	225	205	185	165	145	125
15,250	15,500	275	255	235	215	195	175	155	135

Single or Married Filing Separately Filing Status									
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
15,500	15,750	285	265	245	225	205	185	165	145
15,750	16,000	295	275	255	235	215	195	175	155
16,000	16,250	305	285	265	245	225	205	185	165
16,250	16,500	315	295	275	255	235	215	195	175
16,500	16,750	325	305	285	265	245	225	205	185
16,750	17,000	335	315	295	275	255	235	215	195
17,000	17,250	345	325	305	285	265	245	225	205
17,250	17,500	355	335	315	295	275	255	235	215
17,500	17,750	365	345	325	305	285	265	245	225
17,750	18,000	375	355	335	315	295	275	255	235
18,000	18,250	385	365	345	325	305	285	265	245
18,250	18,500	395	375	355	335	315	295	275	255
18,500	18,750	405	385	365	345	325	305	285	265
18,750	19,000	415	395	375	355	335	315	295	275
19,000	19,250	425	405	385	365	345	325	305	285
19,250	19,500	435	415	395	375	355	335	315	295
19,500	19,750	445	425	405	385	365	345	325	305
19,750	20,000	455	435	415	395	375	355	335	315
20,000	20,250	465	445	425	405	385	365	345	325
20,250	20,500	475	455	435	415	395	375	355	335
20,500	20,750	485	465	445	425	405	385	365	345
20,750	21,000	495	475	455	435	415	395	375	355
21,000	21,250	505	485	465	445	425	405	385	365
21,250	21,500	515	495	475	455	435	415	395	375
21,500	21,750	525	505	485	465	445	425	405	385
21,750	22,000	535	515	495	475	455	435	415	395
22,000	22,250	545	525	505	485	465	445	425	405
22,250	22,500	555	535	515	495	475	455	435	415
22,500	22,750	565	545	525	505	485	465	445	425
22,750	23,000	575	555	535	515	495	475	455	435
23,000	23,250	585	565	545	525	505	485	465	445
23,250	23,500	595	575	555	535	515	495	475	455
23,500	23,750	605	585	565	545	525	505	485	465
23,750	24,000	615	595	575	555	535	515	495	475
24,000	24,250	625	605	585	565	545	525	505	485
24,250	24,500	635	615	595	575	555	535	515	495
24,500	24,750	645	625	605	585	565	545	525	505
24,750	25,000	655	635	615	595	575	555	535	515
25,000	25,250	668	648	628	608	588	568	548	528
25,250	25,500	683	663	643	623	603	583	563	543
25,500	25,750	698	678	658	638	618	598	578	558
25,750	26,000	713	693	673	653	633	613	593	573
26,000	26,250	728	708	688	668	648	628	608	588
26,250	26,500	743	723	703	683	663	643	623	603
26,500	26,750	758	738	718	698	678	658	638	618

Single or Married Filing Separately Filing Status									
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
26,750	27,000	773	753	733	713	693	673	653	633
27,000	27,250	788	768	748	728	708	688	668	648
27,250	27,500	803	783	763	743	723	703	683	663
27,500	27,750	818	798	778	758	738	718	698	678
27,750	28,000	833	813	793	773	753	733	713	693
28,000	28,250	848	828	808	788	768	748	728	708
28,250	28,500	863	843	823	803	783	763	743	723
28,500	28,750	878	858	838	818	798	778	758	738
28,750	29,000	893	873	853	833	813	793	773	753
29,000	29,250	908	888	868	848	828	808	788	768
29,250	29,500	923	903	883	863	843	823	803	783
29,500	29,750	938	918	898	878	858	838	818	798
29,750	30,000	953	933	913	893	873	853	833	813
30,000	30,250	968	948	928	908	888	868	848	828
30,250	30,500	983	963	943	923	903	883	863	843
30,500	30,750	998	978	958	938	918	898	878	858
30,750	31,000	1,013	993	973	953	933	913	893	873
31,000	31,250	1,028	1,008	988	968	948	928	908	888
31,250	31,500	1,043	1,023	1,003	983	963	943	923	903
31,500	31,750	1,058	1,038	1,018	998	978	958	938	918
31,750	32,000	1,073	1,053	1,033	1,013	993	973	953	933
32,000	32,250	1,088	1,068	1,048	1,028	1,008	988	968	948
32,250	32,500	1,103	1,083	1,063	1,043	1,023	1,003	983	963
32,500	32,750	1,118	1,098	1,078	1,058	1,038	1,018	998	978
32,750	33,000	1,133	1,113	1,093	1,073	1,053	1,033	1,013	993
33,000	33,250	1,148	1,128	1,108	1,088	1,068	1,048	1,028	1,008
33,250	33,500	1,163	1,143	1,123	1,103	1,083	1,063	1,043	1,023
33,500	33,750	1,178	1,158	1,138	1,118	1,098	1,078	1,058	1,038
33,750	34,000	1,193	1,173	1,153	1,133	1,113	1,093	1,073	1,053
34,000	34,250	1,208	1,188	1,168	1,148	1,128	1,108	1,088	1,068
34,250	34,500	1,223	1,203	1,183	1,163	1,143	1,123	1,103	1,083
34,500	34,750	1,238	1,218	1,198	1,178	1,158	1,138	1,118	1,098
34,750	35,000	1,253	1,233	1,213	1,193	1,173	1,153	1,133	1,113
35,000	35,250	1,268	1,248	1,228	1,208	1,188	1,168	1,148	1,128
35,250	35,500	1,283	1,263	1,243	1,223	1,203	1,183	1,163	1,143
35,500	35,750	1,298	1,278	1,258	1,238	1,218	1,198	1,178	1,158
35,750	36,000	1,313	1,293	1,273	1,253	1,233	1,213	1,193	1,173
36,000	36,250	1,328	1,308	1,288	1,268	1,248	1,228	1,208	1,188
36,250	36,500	1,343	1,323	1,303	1,283	1,263	1,243	1,223	1,203
36,500	36,750	1,358	1,338	1,318	1,298	1,278	1,258	1,238	1,218
36,750	37,000	1,373	1,353	1,333	1,313	1,293	1,273	1,253	1,233
37,000	37,250	1,388	1,368	1,348	1,328	1,308	1,288	1,268	1,248
37,250	37,500	1,403	1,383	1,363	1,343	1,323	1,303	1,283	1,263
37,500	37,750	1,418	1,398	1,378	1,358	1,338	1,318	1,298	1,278
37,750	38,000	1,433	1,413	1,393	1,373	1,353	1,333	1,313	1,293

Single or Married Filing Separately Filing Status									
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
38,000	38,250	1,448	1,428	1,408	1,388	1,368	1,348	1,328	1,308
38,250	38,500	1,463	1,443	1,423	1,403	1,383	1,363	1,343	1,323
38,500	38,750	1,478	1,458	1,438	1,418	1,398	1,378	1,358	1,338
38,750	39,000	1,493	1,473	1,453	1,433	1,413	1,393	1,373	1,353
39,000	39,250	1,508	1,488	1,468	1,448	1,428	1,408	1,388	1,368
39,250	39,500	1,523	1,503	1,483	1,463	1,443	1,423	1,403	1,383
39,500	39,750	1,538	1,518	1,498	1,478	1,458	1,438	1,418	1,398
39,750	40,000	1,553	1,533	1,513	1,493	1,473	1,453	1,433	1,413
40,000	40,250	1,568	1,548	1,528	1,508	1,488	1,468	1,448	1,428
40,250	40,500	1,583	1,563	1,543	1,523	1,503	1,483	1,463	1,443
40,500	40,750	1,598	1,578	1,558	1,538	1,518	1,498	1,478	1,458
40,750	41,000	1,613	1,593	1,573	1,553	1,533	1,513	1,493	1,473
41,000	41,250	1,628	1,608	1,588	1,568	1,548	1,528	1,508	1,488
41,250	41,500	1,643	1,623	1,603	1,583	1,563	1,543	1,523	1,503
41,500	41,750	1,658	1,638	1,618	1,598	1,578	1,558	1,538	1,518
41,750	42,000	1,673	1,653	1,633	1,613	1,593	1,573	1,553	1,533
42,000	42,250	1,688	1,668	1,648	1,628	1,608	1,588	1,568	1,548
42,250	42,500	1,703	1,683	1,663	1,643	1,623	1,603	1,583	1,563
42,500	42,750	1,718	1,698	1,678	1,658	1,638	1,618	1,598	1,578
42,750	43,000	1,733	1,713	1,693	1,673	1,653	1,633	1,613	1,593
43,000	43,250	1,748	1,728	1,708	1,688	1,668	1,648	1,628	1,608
43,250	43,500	1,763	1,743	1,723	1,703	1,683	1,663	1,643	1,623
43,500	43,750	1,778	1,758	1,738	1,718	1,698	1,678	1,658	1,638
43,750	44,000	1,793	1,773	1,753	1,733	1,713	1,693	1,673	1,653
44,000	44,250	1,808	1,788	1,768	1,748	1,728	1,708	1,688	1,668
44,250	44,500	1,823	1,803	1,783	1,763	1,743	1,723	1,703	1,683
44,500	44,750	1,838	1,818	1,798	1,778	1,758	1,738	1,718	1,698
44,750	45,000	1,853	1,833	1,813	1,793	1,773	1,753	1,733	1,713
45,000	45,250	1,868	1,848	1,828	1,808	1,788	1,768	1,748	1,728
45,250	45,500	1,883	1,863	1,843	1,823	1,803	1,783	1,763	1,743
45,500	45,750	1,898	1,878	1,858	1,838	1,818	1,798	1,778	1,758
45,750	46,000	1,913	1,893	1,873	1,853	1,833	1,813	1,793	1,773
46,000	46,250	1,928	1,908	1,888	1,868	1,848	1,828	1,808	1,788
46,250	46,500	1,943	1,923	1,903	1,883	1,863	1,843	1,823	1,803
46,500	46,750	1,958	1,938	1,918	1,898	1,878	1,858	1,838	1,818
46,750	47,000	1,973	1,953	1,933	1,913	1,893	1,873	1,853	1,833
47,000	47,250	1,988	1,968	1,948	1,928	1,908	1,888	1,868	1,848
47,250	47,500	2,003	1,983	1,963	1,943	1,923	1,903	1,883	1,863
47,500	47,750	2,018	1,998	1,978	1,958	1,938	1,918	1,898	1,878
47,750	48,000	2,033	2,013	1,993	1,973	1,953	1,933	1,913	1,893
48,000	48,250	2,048	2,028	2,008	1,988	1,968	1,948	1,928	1,908
48,250	48,500	2,063	2,043	2,023	2,003	1,983	1,963	1,943	1,923
48,500	48,750	2,078	2,058	2,038	2,018	1,998	1,978	1,958	1,938
48,750	49,000	2,093	2,073	2,053	2,033	2,013	1,993	1,973	1,953
49,000	49,250	2,108	2,088	2,068	2,048	2,028	2,008	1,988	1,968

Single or Married Filing Separately Filing Status									
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
49,250	49,500	2,123	2,103	2,083	2,063	2,043	2,023	2,003	1,983
49,500	49,750	2,138	2,118	2,098	2,078	2,058	2,038	2,018	1,998
49,750	50,000	2,153	2,133	2,113	2,093	2,073	2,053	2,033	2,013
50,000	50,250	2,168	2,148	2,128	2,108	2,088	2,068	2,048	2,028
50,250	50,500	2,183	2,163	2,143	2,123	2,103	2,083	2,063	2,043
50,500	50,750	2,198	2,178	2,158	2,138	2,118	2,098	2,078	2,058
50,750	51,000	2,213	2,193	2,173	2,153	2,133	2,113	2,093	2,073
Plus 6% of tax table income in excess of \$51,000									

Married Filing Jointly or Qualifying Widow(er) Filing Status									
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:							
At Least	Less Than	2	3	4	5	6	7	8	
		Your Louisiana tax is:							
0	9,000	0	0	0	0	0	0	0	0
9,000	9,250	3	0	0	0	0	0	0	0
9,250	9,500	8	0	0	0	0	0	0	0
9,500	9,750	13	0	0	0	0	0	0	0
9,750	10,000	18	0	0	0	0	0	0	0
10,000	10,250	23	3	0	0	0	0	0	0
10,250	10,500	28	8	0	0	0	0	0	0
10,500	10,750	33	13	0	0	0	0	0	0
10,750	11,000	38	18	0	0	0	0	0	0
11,000	11,250	43	23	3	0	0	0	0	0
11,250	11,500	48	28	8	0	0	0	0	0
11,500	11,750	53	33	13	0	0	0	0	0
11,750	12,000	58	38	18	0	0	0	0	0
12,000	12,250	63	43	23	3	0	0	0	0
12,250	12,500	68	48	28	8	0	0	0	0
12,500	12,750	73	53	33	13	0	0	0	0
12,750	13,000	78	58	38	18	0	0	0	0
13,000	13,250	83	63	43	23	3	0	0	0
13,250	13,500	88	68	48	28	8	0	0	0
13,500	13,750	93	73	53	33	13	0	0	0
13,750	14,000	98	78	58	38	18	0	0	0
14,000	14,250	103	83	63	43	23	3	0	0
14,250	14,500	108	88	68	48	28	8	0	0
14,500	14,750	113	93	73	53	33	13	0	0
14,750	15,000	118	98	78	58	38	18	0	0
15,000	15,250	123	103	83	63	43	23	3	0
15,250	15,500	128	108	88	68	48	28	8	0
15,500	15,750	133	113	93	73	53	33	13	0
15,750	16,000	138	118	98	78	58	38	18	0
16,000	16,250	143	123	103	83	63	43	23	0
16,250	16,500	148	128	108	88	68	48	28	0
16,500	16,750	153	133	113	93	73	53	33	0

Married Filing Jointly or Qualifying Widow(er) Filing Status								
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisiana tax is:								
16,750	17,000	158	138	118	98	78	58	38
17,000	17,250	163	143	123	103	83	63	43
17,250	17,500	168	148	128	108	88	68	48
17,500	17,750	173	153	133	113	93	73	53
17,750	18,000	178	158	138	118	98	78	58
18,000	18,250	183	163	143	123	103	83	63
18,250	18,500	188	168	148	128	108	88	68
18,500	18,750	193	173	153	133	113	93	73
18,750	19,000	198	178	158	138	118	98	78
19,000	19,250	203	183	163	143	123	103	83
19,250	19,500	208	188	168	148	128	108	88
19,500	19,750	213	193	173	153	133	113	93
19,750	20,000	218	198	178	158	138	118	98
20,000	20,250	223	203	183	163	143	123	103
20,250	20,500	228	208	188	168	148	128	108
20,500	20,750	233	213	193	173	153	133	113
20,750	21,000	238	218	198	178	158	138	118
21,000	21,250	243	223	203	183	163	143	123
21,250	21,500	248	228	208	188	168	148	128
21,500	21,750	253	233	213	193	173	153	133
21,750	22,000	258	238	218	198	178	158	138
22,000	22,250	263	243	223	203	183	163	143
22,250	22,500	268	248	228	208	188	168	148
22,500	22,750	273	253	233	213	193	173	153
22,750	23,000	278	258	238	218	198	178	158
23,000	23,250	283	263	243	223	203	183	163
23,250	23,500	288	268	248	228	208	188	168
23,500	23,750	293	273	253	233	213	193	173
23,750	24,000	298	278	258	238	218	198	178
24,000	24,250	303	283	263	243	223	203	183
24,250	24,500	308	288	268	248	228	208	188
24,500	24,750	313	293	273	253	233	213	193
24,750	25,000	318	298	278	258	238	218	198
25,000	25,250	325	305	285	265	245	225	205
25,250	25,500	335	315	295	275	255	235	215
25,500	25,750	345	325	305	285	265	245	225
25,750	26,000	355	335	315	295	275	255	235
26,000	26,250	365	345	325	305	285	265	245
26,250	26,500	375	355	335	315	295	275	255
26,500	26,750	385	365	345	325	305	285	265
26,750	27,000	395	375	355	335	315	295	275
27,000	27,250	405	385	365	345	325	305	285
27,250	27,500	415	395	375	355	335	315	295
27,500	27,750	425	405	385	365	345	325	305
27,750	28,000	435	415	395	375	355	335	315

Married Filing Jointly or Qualifying Widow(er) Filing Status								
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisiana tax is:								
28,000	28,250	445	425	405	385	365	345	325
28,250	28,500	455	435	415	395	375	355	335
28,500	28,750	465	445	425	405	385	365	345
28,750	29,000	475	455	435	415	395	375	355
29,000	29,250	485	465	445	425	405	385	365
29,250	29,500	495	475	455	435	415	395	375
29,500	29,750	505	485	465	445	425	405	385
29,750	30,000	515	495	475	455	435	415	395
30,000	30,250	525	505	485	465	445	425	405
30,250	30,500	535	515	495	475	455	435	415
30,500	30,750	545	525	505	485	465	445	425
30,750	31,000	555	535	515	495	475	455	435
31,000	31,250	565	545	525	505	485	465	445
31,250	31,500	575	555	535	515	495	475	455
31,500	31,750	585	565	545	525	505	485	465
31,750	32,000	595	575	555	535	515	495	475
32,000	32,250	605	585	565	545	525	505	485
32,250	32,500	615	595	575	555	535	515	495
32,500	32,750	625	605	585	565	545	525	505
32,750	33,000	635	615	595	575	555	535	515
33,000	33,250	645	625	605	585	565	545	525
33,250	33,500	655	635	615	595	575	555	535
33,500	33,750	665	645	625	605	585	565	545
33,750	34,000	675	655	635	615	595	575	555
34,000	34,250	685	665	645	625	605	585	565
34,250	34,500	695	675	655	635	615	595	575
34,500	34,750	705	685	665	645	625	605	585
34,750	35,000	715	695	675	655	635	615	595
35,000	35,250	725	705	685	665	645	625	605
35,250	35,500	735	715	695	675	655	635	615
35,500	35,750	745	725	705	685	665	645	625
35,750	36,000	755	735	715	695	675	655	635
36,000	36,250	765	745	725	705	685	665	645
36,250	36,500	775	755	735	715	695	675	655
36,500	36,750	785	765	745	725	705	685	665
36,750	37,000	795	775	755	735	715	695	675
37,000	37,250	805	785	765	745	725	705	685
37,250	37,500	815	795	775	755	735	715	695
37,500	37,750	825	805	785	765	745	725	705
37,750	38,000	835	815	795	775	755	735	715
38,000	38,250	845	825	805	785	765	745	725
38,250	38,500	855	835	815	795	775	755	735
38,500	38,750	865	845	825	805	785	765	745
38,750	39,000	875	855	835	815	795	775	755
39,000	39,250	885	865	845	825	805	785	765

Married Filing Jointly or Qualifying Widow(er) Filing Status								
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
		Your Louisiana tax is:						
39,250	39,500	895	875	855	835	815	795	775
39,500	39,750	905	885	865	845	825	805	785
39,750	40,000	915	895	875	855	835	815	795
40,000	40,250	925	905	885	865	845	825	805
40,250	40,500	935	915	895	875	855	835	815
40,500	40,750	945	925	905	885	865	845	825
40,750	41,000	955	935	915	895	875	855	835
41,000	41,250	965	945	925	905	885	865	845
41,250	41,500	975	955	935	915	895	875	855
41,500	41,750	985	965	945	925	905	885	865
41,750	42,000	995	975	955	935	915	895	875
42,000	42,250	1,005	985	965	945	925	905	885
42,250	42,500	1,015	995	975	955	935	915	895
42,500	42,750	1,025	1,005	985	965	945	925	905
42,750	43,000	1,035	1,015	995	975	955	935	915
43,000	43,250	1,045	1,025	1,005	985	965	945	925
43,250	43,500	1,055	1,035	1,015	995	975	955	935
43,500	43,750	1,065	1,045	1,025	1,005	985	965	945
43,750	44,000	1,075	1,055	1,035	1,015	995	975	955
44,000	44,250	1,085	1,065	1,045	1,025	1,005	985	965
44,250	44,500	1,095	1,075	1,055	1,035	1,015	995	975
44,500	44,750	1,105	1,085	1,065	1,045	1,025	1,005	985
44,750	45,000	1,115	1,095	1,075	1,055	1,035	1,015	995
45,000	45,250	1,125	1,105	1,085	1,065	1,045	1,025	1,005
45,250	45,500	1,135	1,115	1,095	1,075	1,055	1,035	1,015
45,500	45,750	1,145	1,125	1,105	1,085	1,065	1,045	1,025
45,750	46,000	1,155	1,135	1,115	1,095	1,075	1,055	1,035
46,000	46,250	1,165	1,145	1,125	1,105	1,085	1,065	1,045
46,250	46,500	1,175	1,155	1,135	1,115	1,095	1,075	1,055
46,500	46,750	1,185	1,165	1,145	1,125	1,105	1,085	1,065
46,750	47,000	1,195	1,175	1,155	1,135	1,115	1,095	1,075
47,000	47,250	1,205	1,185	1,165	1,145	1,125	1,105	1,085
47,250	47,500	1,215	1,195	1,175	1,155	1,135	1,115	1,095
47,500	47,750	1,225	1,205	1,185	1,165	1,145	1,125	1,105
47,750	48,000	1,235	1,215	1,195	1,175	1,155	1,135	1,115
48,000	48,250	1,245	1,225	1,205	1,185	1,165	1,145	1,125
48,250	48,500	1,255	1,235	1,215	1,195	1,175	1,155	1,135
48,500	48,750	1,265	1,245	1,225	1,205	1,185	1,165	1,145
48,750	49,000	1,275	1,255	1,235	1,215	1,195	1,175	1,155
49,000	49,250	1,285	1,265	1,245	1,225	1,205	1,185	1,165
49,250	49,500	1,295	1,275	1,255	1,235	1,215	1,195	1,175
49,500	49,750	1,305	1,285	1,265	1,245	1,225	1,205	1,185
49,750	50,000	1,315	1,295	1,275	1,255	1,235	1,215	1,195
50,000	50,250	1,328	1,308	1,288	1,268	1,248	1,228	1,208
50,250	50,500	1,343	1,323	1,303	1,283	1,263	1,243	1,223

Married Filing Jointly or Qualifying Widow(er) Filing Status								
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
		Your Louisiana tax is:						
50,500	50,750	1,358	1,338	1,318	1,298	1,278	1,258	1,238
50,750	51,000	1,373	1,353	1,333	1,313	1,293	1,273	1,253
51,000	51,250	1,388	1,368	1,348	1,328	1,308	1,288	1,268
51,250	51,500	1,403	1,383	1,363	1,343	1,323	1,303	1,283
51,500	51,750	1,418	1,398	1,378	1,358	1,338	1,318	1,298
51,750	52,000	1,433	1,413	1,393	1,373	1,353	1,333	1,313
52,000	52,250	1,448	1,428	1,408	1,388	1,368	1,348	1,328
52,250	52,500	1,463	1,443	1,423	1,403	1,383	1,363	1,343
52,500	52,750	1,478	1,458	1,438	1,418	1,398	1,378	1,358
52,750	53,000	1,493	1,473	1,453	1,433	1,413	1,393	1,373
53,000	53,250	1,508	1,488	1,468	1,448	1,428	1,408	1,388
53,250	53,500	1,523	1,503	1,483	1,463	1,443	1,423	1,403
53,500	53,750	1,538	1,518	1,498	1,478	1,458	1,438	1,418
53,750	54,000	1,553	1,533	1,513	1,493	1,473	1,453	1,433
54,000	54,250	1,568	1,548	1,528	1,508	1,488	1,468	1,448
54,250	54,500	1,583	1,563	1,543	1,523	1,503	1,483	1,463
54,500	54,750	1,598	1,578	1,558	1,538	1,518	1,498	1,478
54,750	55,000	1,613	1,593	1,573	1,553	1,533	1,513	1,493
55,000	55,250	1,628	1,608	1,588	1,568	1,548	1,528	1,508
55,250	55,500	1,643	1,623	1,603	1,583	1,563	1,543	1,523
55,500	55,750	1,658	1,638	1,618	1,598	1,578	1,558	1,538
55,750	56,000	1,673	1,653	1,633	1,613	1,593	1,573	1,553
56,000	56,250	1,688	1,668	1,648	1,628	1,608	1,588	1,568
56,250	56,500	1,703	1,683	1,663	1,643	1,623	1,603	1,583
56,500	56,750	1,718	1,698	1,678	1,658	1,638	1,618	1,598
56,750	57,000	1,733	1,713	1,693	1,673	1,653	1,633	1,613
57,000	57,250	1,748	1,728	1,708	1,688	1,668	1,648	1,628
57,250	57,500	1,763	1,743	1,723	1,703	1,683	1,663	1,643
57,500	57,750	1,778	1,758	1,738	1,718	1,698	1,678	1,658
57,750	58,000	1,793	1,773	1,753	1,733	1,713	1,693	1,673
58,000	58,250	1,808	1,788	1,768	1,748	1,728	1,708	1,688
58,250	58,500	1,823	1,803	1,783	1,763	1,743	1,723	1,703
58,500	58,750	1,838	1,818	1,798	1,778	1,758	1,738	1,718
58,750	59,000	1,853	1,833	1,813	1,793	1,773	1,753	1,733
59,000	59,250	1,868	1,848	1,828	1,808	1,788	1,768	1,748
59,250	59,500	1,883	1,863	1,843	1,823	1,803	1,783	1,763
59,500	59,750	1,898	1,878	1,858	1,838	1,818	1,798	1,778
59,750	60,000	1,913	1,893	1,873	1,853	1,833	1,813	1,793
60,000	60,250	1,928	1,908	1,888	1,868	1,848	1,828	1,808
60,250	60,500	1,943	1,923	1,903	1,883	1,863	1,843	1,823
60,500	60,750	1,958	1,938	1,918	1,898	1,878	1,858	1,838
60,750	61,000	1,973	1,953	1,933	1,913	1,893	1,873	1,853
61,000	61,250	1,988	1,968	1,948	1,928	1,908	1,888	1,868
61,250	61,500	2,003	1,983	1,963	1,943	1,923	1,903	1,883
61,500	61,750	2,018	1,998	1,978	1,958	1,938	1,918	1,898

Married Filing Jointly or Qualifying Widow(er) Filing Status								
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisiana tax is:								
61,750	62,000	2,033	2,013	1,993	1,973	1,953	1,933	1,913
62,000	62,250	2,048	2,028	2,008	1,988	1,968	1,948	1,928
62,250	62,500	2,063	2,043	2,023	2,003	1,983	1,963	1,943
62,500	62,750	2,078	2,058	2,038	2,018	1,998	1,978	1,958
62,750	63,000	2,093	2,073	2,053	2,033	2,013	1,993	1,973
63,000	63,250	2,108	2,088	2,068	2,048	2,028	2,008	1,988
63,250	63,500	2,123	2,103	2,083	2,063	2,043	2,023	2,003
63,500	63,750	2,138	2,118	2,098	2,078	2,058	2,038	2,018
63,750	64,000	2,153	2,133	2,113	2,093	2,073	2,053	2,033
64,000	64,250	2,168	2,148	2,128	2,108	2,088	2,068	2,048
64,250	64,500	2,183	2,163	2,143	2,123	2,103	2,083	2,063
64,500	64,750	2,198	2,178	2,158	2,138	2,118	2,098	2,078
64,750	65,000	2,213	2,193	2,173	2,153	2,133	2,113	2,093
65,000	65,250	2,228	2,208	2,188	2,168	2,148	2,128	2,108
65,250	65,500	2,243	2,223	2,203	2,183	2,163	2,143	2,123
65,500	65,750	2,258	2,238	2,218	2,198	2,178	2,158	2,138
65,750	66,000	2,273	2,253	2,233	2,213	2,193	2,173	2,153
66,000	66,250	2,288	2,268	2,248	2,228	2,208	2,188	2,168
66,250	66,500	2,303	2,283	2,263	2,243	2,223	2,203	2,183
66,500	66,750	2,318	2,298	2,278	2,258	2,238	2,218	2,198
66,750	67,000	2,333	2,313	2,293	2,273	2,253	2,233	2,213
67,000	67,250	2,348	2,328	2,308	2,288	2,268	2,248	2,228
67,250	67,500	2,363	2,343	2,323	2,303	2,283	2,263	2,243
67,500	67,750	2,378	2,358	2,338	2,318	2,298	2,278	2,258
67,750	68,000	2,393	2,373	2,353	2,333	2,313	2,293	2,273
68,000	68,250	2,408	2,388	2,368	2,348	2,328	2,308	2,288
68,250	68,500	2,423	2,403	2,383	2,363	2,343	2,323	2,303
68,500	68,750	2,438	2,418	2,398	2,378	2,358	2,338	2,318
68,750	69,000	2,453	2,433	2,413	2,393	2,373	2,353	2,333
69,000	69,250	2,468	2,448	2,428	2,408	2,388	2,368	2,348
69,250	69,500	2,483	2,463	2,443	2,423	2,403	2,383	2,363
69,500	69,750	2,498	2,478	2,458	2,438	2,418	2,398	2,378
69,750	70,000	2,513	2,493	2,473	2,453	2,433	2,413	2,393
70,000	70,250	2,528	2,508	2,488	2,468	2,448	2,428	2,408
70,250	70,500	2,543	2,523	2,503	2,483	2,463	2,443	2,423
70,500	70,750	2,558	2,538	2,518	2,498	2,478	2,458	2,438
70,750	71,000	2,573	2,553	2,533	2,513	2,493	2,473	2,453
71,000	71,250	2,588	2,568	2,548	2,528	2,508	2,488	2,468
71,250	71,500	2,603	2,583	2,563	2,543	2,523	2,503	2,483
71,500	71,750	2,618	2,598	2,578	2,558	2,538	2,518	2,498
71,750	72,000	2,633	2,613	2,593	2,573	2,553	2,533	2,513
72,000	72,250	2,648	2,628	2,608	2,588	2,568	2,548	2,528
72,250	72,500	2,663	2,643	2,623	2,603	2,583	2,563	2,543
72,500	72,750	2,678	2,658	2,638	2,618	2,598	2,578	2,558
72,750	73,000	2,693	2,673	2,653	2,633	2,613	2,593	2,573

Married Filing Jointly or Qualifying Widow(er) Filing Status								
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisiana tax is:								
73,000	73,250	2,708	2,688	2,668	2,648	2,628	2,608	2,588
73,250	73,500	2,723	2,703	2,683	2,663	2,643	2,623	2,603
73,500	73,750	2,738	2,718	2,698	2,678	2,658	2,638	2,618
73,750	74,000	2,753	2,733	2,713	2,693	2,673	2,653	2,633
74,000	74,250	2,768	2,748	2,728	2,708	2,688	2,668	2,648
74,250	74,500	2,783	2,763	2,743	2,723	2,703	2,683	2,663
74,500	74,750	2,798	2,778	2,758	2,738	2,718	2,698	2,678
74,750	75,000	2,813	2,793	2,773	2,753	2,733	2,713	2,693
75,000	75,250	2,828	2,808	2,788	2,768	2,748	2,728	2,708
75,250	75,500	2,843	2,823	2,803	2,783	2,763	2,743	2,723
75,500	75,750	2,858	2,838	2,818	2,798	2,778	2,758	2,738
75,750	76,000	2,873	2,853	2,833	2,813	2,793	2,773	2,753
76,000	76,250	2,888	2,868	2,848	2,828	2,808	2,788	2,768
76,250	76,500	2,903	2,883	2,863	2,843	2,823	2,803	2,783
76,500	76,750	2,918	2,898	2,878	2,858	2,838	2,818	2,798
76,750	77,000	2,933	2,913	2,893	2,873	2,853	2,833	2,813
77,000	77,250	2,948	2,928	2,908	2,888	2,868	2,848	2,828
77,250	77,500	2,963	2,943	2,923	2,903	2,883	2,863	2,843
77,500	77,750	2,978	2,958	2,938	2,918	2,898	2,878	2,858
77,750	78,000	2,993	2,973	2,953	2,933	2,913	2,893	2,873
78,000	78,250	3,008	2,988	2,968	2,948	2,928	2,908	2,888
78,250	78,500	3,023	3,003	2,983	2,963	2,943	2,923	2,903
78,500	78,750	3,038	3,018	2,998	2,978	2,958	2,938	2,918
78,750	79,000	3,053	3,033	3,013	2,993	2,973	2,953	2,933
79,000	79,250	3,068	3,048	3,028	3,008	2,988	2,968	2,948
79,250	79,500	3,083	3,063	3,043	3,023	3,003	2,983	2,963
79,500	79,750	3,098	3,078	3,058	3,038	3,018	2,998	2,978
79,750	80,000	3,113	3,093	3,073	3,053	3,033	3,013	2,993
80,000	80,250	3,128	3,108	3,088	3,068	3,048	3,028	3,008
80,250	80,500	3,143	3,123	3,103	3,083	3,063	3,043	3,023
80,500	80,750	3,158	3,138	3,118	3,098	3,078	3,058	3,038
80,750	81,000	3,173	3,153	3,133	3,113	3,093	3,073	3,053
81,000	81,250	3,188	3,168	3,148	3,128	3,108	3,088	3,068
81,250	81,500	3,203	3,183	3,163	3,143	3,123	3,103	3,083
81,500	81,750	3,218	3,198	3,178	3,158	3,138	3,118	3,098
81,750	82,000	3,233	3,213	3,193	3,173	3,153	3,133	3,113
82,000	82,250	3,248	3,228	3,208	3,188	3,168	3,148	3,128
82,250	82,500	3,263	3,243	3,223	3,203	3,183	3,163	3,143
82,500	82,750	3,278	3,258	3,238	3,218	3,198	3,178	3,158
82,750	83,000	3,293	3,273	3,253	3,233	3,213	3,193	3,173
83,000	83,250	3,308	3,288	3,268	3,248	3,228	3,208	3,188
83,250	83,500	3,323	3,303	3,283	3,263	3,243	3,223	3,203
83,500	83,750	3,338	3,318	3,298	3,278	3,258	3,238	3,218
83,750	84,000	3,353	3,333	3,313	3,293	3,273	3,253	3,233
84,000	84,250	3,368	3,348	3,328	3,308	3,288	3,268	3,248

Married Filing Jointly or Qualifying Widow(er) Filing Status								
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisiana tax is:								
84,250	84,500	3,383	3,363	3,343	3,323	3,303	3,283	3,263
84,500	84,750	3,398	3,378	3,358	3,338	3,318	3,298	3,278
84,750	85,000	3,413	3,393	3,373	3,353	3,333	3,313	3,293
85,000	85,250	3,428	3,408	3,388	3,368	3,348	3,328	3,308
85,250	85,500	3,443	3,423	3,403	3,383	3,363	3,343	3,323
85,500	85,750	3,458	3,438	3,418	3,398	3,378	3,358	3,338
85,750	86,000	3,473	3,453	3,433	3,413	3,393	3,373	3,353
86,000	86,250	3,488	3,468	3,448	3,428	3,408	3,388	3,368
86,250	86,500	3,503	3,483	3,463	3,443	3,423	3,403	3,383
86,500	86,750	3,518	3,498	3,478	3,458	3,438	3,418	3,398
86,750	87,000	3,533	3,513	3,493	3,473	3,453	3,433	3,413
87,000	87,250	3,548	3,528	3,508	3,488	3,468	3,448	3,428
87,250	87,500	3,563	3,543	3,523	3,503	3,483	3,463	3,443
87,500	87,750	3,578	3,558	3,538	3,518	3,498	3,478	3,458
87,750	88,000	3,593	3,573	3,553	3,533	3,513	3,493	3,473
88,000	88,250	3,608	3,588	3,568	3,548	3,528	3,508	3,488
88,250	88,500	3,623	3,603	3,583	3,563	3,543	3,523	3,503
88,500	88,750	3,638	3,618	3,598	3,578	3,558	3,538	3,518
88,750	89,000	3,653	3,633	3,613	3,593	3,573	3,553	3,533
89,000	89,250	3,668	3,648	3,628	3,608	3,588	3,568	3,548
89,250	89,500	3,683	3,663	3,643	3,623	3,603	3,583	3,563
89,500	89,750	3,698	3,678	3,658	3,638	3,618	3,598	3,578
89,750	90,000	3,713	3,693	3,673	3,653	3,633	3,613	3,593
90,000	90,250	3,728	3,708	3,688	3,668	3,648	3,628	3,608
90,250	90,500	3,743	3,723	3,703	3,683	3,663	3,643	3,623
90,500	90,750	3,758	3,738	3,718	3,698	3,678	3,658	3,638
90,750	91,000	3,773	3,753	3,733	3,713	3,693	3,673	3,653
91,000	91,250	3,788	3,768	3,748	3,728	3,708	3,688	3,668
91,250	91,500	3,803	3,783	3,763	3,743	3,723	3,703	3,683
91,500	91,750	3,818	3,798	3,778	3,758	3,738	3,718	3,698
91,750	92,000	3,833	3,813	3,793	3,773	3,753	3,733	3,713
92,000	92,250	3,848	3,828	3,808	3,788	3,768	3,748	3,728
92,250	92,500	3,863	3,843	3,823	3,803	3,783	3,763	3,743
92,500	92,750	3,878	3,858	3,838	3,818	3,798	3,778	3,758
92,750	93,000	3,893	3,873	3,853	3,833	3,813	3,793	3,773
93,000	93,250	3,908	3,888	3,868	3,848	3,828	3,808	3,788
93,250	93,500	3,923	3,903	3,883	3,863	3,843	3,823	3,803
93,500	93,750	3,938	3,918	3,898	3,878	3,858	3,838	3,818
93,750	94,000	3,953	3,933	3,913	3,893	3,873	3,853	3,833
94,000	94,250	3,968	3,948	3,928	3,908	3,888	3,868	3,848
94,250	94,500	3,983	3,963	3,943	3,923	3,903	3,883	3,863
94,500	94,750	3,998	3,978	3,958	3,938	3,918	3,898	3,878
94,750	95,000	4,013	3,993	3,973	3,953	3,933	3,913	3,893
95,000	95,250	4,028	4,008	3,988	3,968	3,948	3,928	3,908
95,250	95,500	4,043	4,023	4,003	3,983	3,963	3,943	3,923

Married Filing Jointly or Qualifying Widow(er) Filing Status								
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
		Your Louisiana tax is:						
95,500	95,750	4,058	4,038	4,018	3,998	3,978	3,958	3,938
95,750	96,000	4,073	4,053	4,033	4,013	3,993	3,973	3,953
96,000	96,250	4,088	4,068	4,048	4,028	4,008	3,988	3,968
96,250	96,500	4,103	4,083	4,063	4,043	4,023	4,003	3,983
96,500	96,750	4,118	4,098	4,078	4,058	4,038	4,018	3,998
96,750	97,000	4,133	4,113	4,093	4,073	4,053	4,033	4,013
97,000	97,250	4,148	4,128	4,108	4,088	4,068	4,048	4,028
97,250	97,500	4,163	4,143	4,123	4,103	4,083	4,063	4,043
97,500	97,750	4,178	4,158	4,138	4,118	4,098	4,078	4,058
97,750	98,000	4,193	4,173	4,153	4,133	4,113	4,093	4,073
98,000	98,250	4,208	4,188	4,168	4,148	4,128	4,108	4,088
98,250	98,500	4,223	4,203	4,183	4,163	4,143	4,123	4,103
98,500	98,750	4,238	4,218	4,198	4,178	4,158	4,138	4,118
98,750	99,000	4,253	4,233	4,213	4,193	4,173	4,153	4,133
99,000	99,250	4,268	4,248	4,228	4,208	4,188	4,168	4,148
99,250	99,500	4,283	4,263	4,243	4,223	4,203	4,183	4,163
99,500	99,750	4,298	4,278	4,258	4,238	4,218	4,198	4,178
99,750	100,000	4,313	4,293	4,273	4,253	4,233	4,213	4,193
100,000	100,250	4,328	4,308	4,288	4,268	4,248	4,228	4,208
100,250	100,500	4,343	4,323	4,303	4,283	4,263	4,243	4,223
100,500	100,750	4,358	4,338	4,318	4,298	4,278	4,258	4,238
100,750	101,000	4,373	4,353	4,333	4,313	4,293	4,273	4,253
Plus 6% of tax table income in excess of \$101,000								

Head of Household Filing Status									
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
0	9,000	0	0	0	0	0	0	0	0
9,000	9,250	3	0	0	0	0	0	0	0
9,250	9,500	8	0	0	0	0	0	0	0
9,500	9,750	13	0	0	0	0	0	0	0
9,750	10,000	18	0	0	0	0	0	0	0
10,000	10,250	23	3	0	0	0	0	0	0
10,250	10,500	28	8	0	0	0	0	0	0
10,500	10,750	33	13	0	0	0	0	0	0
10,750	11,000	38	18	0	0	0	0	0	0
11,000	11,250	43	23	3	0	0	0	0	0
11,250	11,500	48	28	8	0	0	0	0	0
11,500	11,750	53	33	13	0	0	0	0	0
11,750	12,000	58	38	18	0	0	0	0	0
12,000	12,250	63	43	23	3	0	0	0	0
12,250	12,500	68	48	28	8	0	0	0	0
12,500	12,750	75	55	35	15	0	0	0	0
12,750	13,000	85	65	45	25	0	0	0	0

Head of Household Filing Status									
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
13,000	13,250	95	75	55	35	5	0	0	0
13,250	13,500	105	85	65	45	15	0	0	0
13,500	13,750	115	95	75	55	25	0	0	0
13,750	14,000	125	105	85	65	35	0	0	0
14,000	14,250	135	115	95	75	45	5	0	0
14,250	14,500	145	125	105	85	55	15	0	0
14,500	14,750	155	135	115	95	65	25	0	0
14,750	15,000	165	145	125	105	75	35	0	0
15,000	15,250	175	155	135	115	85	45	5	0
15,250	15,500	185	165	145	125	95	55	15	0
15,500	15,750	195	175	155	135	105	65	25	0
15,750	16,000	205	185	165	145	115	75	35	0
16,000	16,250	215	195	175	155	125	85	45	5
16,250	16,500	225	205	185	165	135	95	55	15
16,500	16,750	235	215	195	175	145	105	65	25
16,750	17,000	245	225	205	185	155	115	75	35
17,000	17,250	255	235	215	195	165	125	85	45
17,250	17,500	265	245	225	205	175	135	95	55
17,500	17,750	275	255	235	215	185	145	105	65
17,750	18,000	285	265	245	225	195	155	115	75
18,000	18,250	295	275	255	235	205	165	125	85
18,250	18,500	305	285	265	245	215	175	135	95
18,500	18,750	315	295	275	255	225	185	145	105
18,750	19,000	325	305	285	265	235	195	155	115
19,000	19,250	335	315	295	275	245	205	165	125
19,250	19,500	345	325	305	285	255	215	175	135
19,500	19,750	355	335	315	295	265	225	185	145
19,750	20,000	365	345	325	305	275	235	195	155
20,000	20,250	375	355	335	315	285	245	205	165
20,250	20,500	385	365	345	325	295	255	215	175
20,500	20,750	395	375	355	335	305	265	225	185
20,750	21,000	405	385	365	345	315	275	235	195
21,000	21,250	415	395	375	355	325	285	245	205
21,250	21,500	425	405	385	365	335	295	255	215
21,500	21,750	435	415	395	375	345	305	265	225
21,750	22,000	445	425	405	385	355	315	275	235
22,000	22,250	455	435	415	395	365	325	285	245
22,250	22,500	465	445	425	405	375	335	295	255
22,500	22,750	475	455	435	415	385	345	305	265
22,750	23,000	485	465	445	425	395	355	315	275
23,000	23,250	495	475	455	435	405	365	325	285
23,250	23,500	505	485	465	445	415	375	335	295
23,500	23,750	515	495	475	455	425	385	345	305
23,750	24,000	525	505	485	465	435	395	355	315
24,000	24,250	535	515	495	475	445	405	365	325

Head of Household Filing Status									
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
24,250	24,500	545	525	505	485	455	415	375	335
24,500	24,750	555	535	515	495	465	425	385	345
24,750	25,000	565	545	525	505	485	435	395	355
25,000	25,250	578	558	538	518	488	448	408	368
25,250	25,500	593	573	553	533	503	463	423	383
25,500	25,750	608	588	568	548	518	478	438	398
25,750	26,000	623	603	583	563	533	493	453	413
26,000	26,250	638	618	598	578	548	508	468	428
26,250	26,500	653	633	613	593	563	523	483	443
26,500	26,750	668	648	628	608	578	538	498	458
26,750	27,000	683	663	643	623	593	553	513	473
27,000	27,250	698	678	658	638	608	568	528	488
27,250	27,500	713	693	673	653	623	583	543	503
27,500	27,750	728	708	688	668	638	598	558	518
27,750	28,000	743	723	703	683	653	613	573	533
28,000	28,250	758	738	718	698	668	628	588	548
28,250	28,500	773	753	733	713	683	643	603	563
28,500	28,750	788	768	748	728	698	658	618	578
28,750	29,000	803	783	763	743	713	673	633	593
29,000	29,250	818	798	778	758	728	688	648	608
29,250	29,500	833	813	793	773	743	703	663	623
29,500	29,750	848	828	808	788	758	718	678	638
29,750	30,000	863	843	823	803	773	733	693	653
30,000	30,250	878	858	838	818	788	748	708	668
30,250	30,500	893	873	853	833	803	763	723	683
30,500	30,750	908	888	868	848	818	778	738	698
30,750	31,000	923	903	883	863	833	793	753	713
31,000	31,250	938	918	898	878	848	808	768	728
31,250	31,500	953	933	913	893	863	823	783	743
31,500	31,750	968	948	928	908	878	838	798	758
31,750	32,000	983	963	943	923	893	853	813	773
32,000	32,250	998	978	958	938	908	868	828	788
32,250	32,500	1,013	993	973	953	923	883	843	803
32,500	32,750	1,028	1,008	988	968	938	898	858	818
32,750	33,000	1,043	1,023	1,003	983	953	913	873	833
33,000	33,250	1,058	1,038	1,018	998	968	928	888	848
33,250	33,500	1,073	1,053	1,033	1,013	983	943	903	863
33,500	33,750	1,088	1,068	1,048	1,028	998	958	918	878
33,750	34,000	1,103	1,083	1,063	1,043	1,013	973	933	893
34,000	34,250	1,118	1,098	1,078	1,058	1,028	988	948	908
34,250	34,500	1,133	1,113	1,093	1,073	1,043	1,003	963	923
34,500	34,750	1,148	1,128	1,108	1,088	1,058	1,018	978	938
34,750	35,000	1,163	1,143	1,123	1,103	1,073	1,033	993	953
35,000	35,250	1,178	1,158	1,138	1,118	1,088	1,048	1,008	968
35,250	35,500	1,193	1,173	1,153	1,133	1,103	1,063	1,023	983

Head of Household Filing Status									
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
Your Louisiana tax is:									
35,500	35,750	1,208	1,188	1,168	1,148	1,118	1,078	1,038	998
35,750	36,000	1,223	1,203	1,183	1,163	1,133	1,093	1,053	1,013
36,000	36,250	1,238	1,218	1,198	1,178	1,148	1,108	1,068	1,028
36,250	36,500	1,253	1,233	1,213	1,193	1,163	1,123	1,083	1,043
36,500	36,750	1,268	1,248	1,228	1,208	1,178	1,138	1,098	1,058
36,750	37,000	1,283	1,263	1,243	1,223	1,193	1,153	1,113	1,073
37,000	37,250	1,298	1,278	1,258	1,238	1,208	1,168	1,128	1,088
37,250	37,500	1,313	1,293	1,273	1,253	1,223	1,183	1,143	1,103
37,500	37,750	1,328	1,308	1,288	1,268	1,238	1,198	1,158	1,118
37,750	38,000	1,343	1,323	1,303	1,283	1,253	1,213	1,173	1,133
38,000	38,250	1,358	1,338	1,318	1,298	1,268	1,228	1,188	1,148
38,250	38,500	1,373	1,353	1,333	1,313	1,283	1,243	1,203	1,163
38,500	38,750	1,388	1,368	1,348	1,328	1,298	1,258	1,218	1,178
38,750	39,000	1,403	1,383	1,363	1,343	1,313	1,273	1,233	1,193
39,000	39,250	1,418	1,398	1,378	1,358	1,328	1,288	1,248	1,208
39,250	39,500	1,433	1,413	1,393	1,373	1,343	1,303	1,263	1,223
39,500	39,750	1,448	1,428	1,408	1,388	1,358	1,318	1,278	1,238
39,750	40,000	1,463	1,443	1,423	1,403	1,373	1,333	1,293	1,253
40,000	40,250	1,478	1,458	1,438	1,418	1,388	1,348	1,308	1,268
40,250	40,500	1,493	1,473	1,453	1,433	1,403	1,363	1,323	1,283
40,500	40,750	1,508	1,488	1,468	1,448	1,418	1,378	1,338	1,298
40,750	41,000	1,523	1,503	1,483	1,463	1,433	1,393	1,353	1,313
41,000	41,250	1,538	1,518	1,498	1,478	1,448	1,408	1,368	1,328
41,250	41,500	1,553	1,533	1,513	1,493	1,463	1,423	1,383	1,343
41,500	41,750	1,568	1,548	1,528	1,508	1,478	1,438	1,398	1,358
41,750	42,000	1,583	1,563	1,543	1,523	1,493	1,453	1,413	1,373
42,000	42,250	1,598	1,578	1,558	1,538	1,508	1,468	1,428	1,388
42,250	42,500	1,613	1,593	1,573	1,553	1,523	1,483	1,443	1,403
42,500	42,750	1,628	1,608	1,588	1,568	1,538	1,498	1,458	1,418
42,750	43,000	1,643	1,623	1,603	1,583	1,553	1,513	1,473	1,433
43,000	43,250	1,658	1,638	1,618	1,598	1,568	1,528	1,488	1,448
43,250	43,500	1,673	1,653	1,633	1,613	1,583	1,543	1,503	1,463
43,500	43,750	1,688	1,668	1,648	1,628	1,598	1,558	1,518	1,478
43,750	44,000	1,703	1,683	1,663	1,643	1,613	1,573	1,533	1,493
44,000	44,250	1,718	1,698	1,678	1,658	1,628	1,588	1,548	1,508
44,250	44,500	1,733	1,713	1,693	1,673	1,643	1,603	1,563	1,523
44,500	44,750	1,748	1,728	1,708	1,688	1,658	1,618	1,578	1,538
44,750	45,000	1,763	1,743	1,723	1,703	1,673	1,633	1,593	1,553
45,000	45,250	1,778	1,758	1,738	1,718	1,688	1,648	1,608	1,568
45,250	45,500	1,793	1,773	1,753	1,733	1,703	1,663	1,623	1,583
45,500	45,750	1,808	1,788	1,768	1,748	1,718	1,678	1,638	1,598
45,750	46,000	1,823	1,803	1,783	1,763	1,733	1,693	1,653	1,613
46,000	46,250	1,838	1,818	1,798	1,778	1,748	1,708	1,668	1,628
46,250	46,500	1,853	1,833	1,813	1,793	1,763	1,723	1,683	1,643
46,500	46,750	1,868	1,848	1,828	1,808	1,778	1,738	1,698	1,658

Head of Household Filing Status									
If Your Louisiana Tax Table Income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
Your Louisiana tax is:									
46,750	47,000	1,883	1,863	1,843	1,823	1,793	1,753	1,713	1,673
47,000	47,250	1,898	1,878	1,858	1,838	1,808	1,768	1,728	1,688
47,250	47,500	1,913	1,893	1,873	1,853	1,823	1,783	1,743	1,703
47,500	47,750	1,928	1,908	1,888	1,868	1,838	1,798	1,758	1,718
47,750	48,000	1,943	1,923	1,903	1,883	1,853	1,813	1,773	1,733
48,000	48,250	1,958	1,938	1,918	1,898	1,868	1,828	1,788	1,748
48,250	48,500	1,973	1,953	1,933	1,913	1,883	1,843	1,803	1,763
48,500	48,750	1,988	1,968	1,948	1,928	1,898	1,858	1,818	1,778
48,750	49,000	2,003	1,983	1,963	1,943	1,913	1,873	1,833	1,793
49,000	49,250	2,018	1,998	1,978	1,958	1,928	1,888	1,848	1,808
49,250	49,500	2,033	2,013	1,993	1,973	1,943	1,903	1,863	1,823
49,500	49,750	2,048	2,028	2,008	1,988	1,958	1,918	1,878	1,838
49,750	50,000	2,063	2,043	2,023	2,003	1,973	1,933	1,893	1,853
50,000	50,250	2,078	2,058	2,038	2,018	1,988	1,948	1,908	1,868
50,250	50,500	2,093	2,073	2,053	2,033	2,003	1,963	1,923	1,883
50,500	50,750	2,108	2,088	2,068	2,048	2,018	1,978	1,938	1,898
50,750	51,000	2,123	2,103	2,083	2,063	2,033	1,993	1,953	1,913
Plus 6% of tax table income in excess of \$51,000									

B. Nonresidents and Part-Year Residents. Compute tax table income as defined in R.S. 47:293(7). Reduce the tax table income by the total amount of personal exemptions and deductions allowed for in R.S. 47:294, and increase the tax table income by the proportionate share of those personal exemptions and deductions as provided by R.S. 47:293(7). The resulting amount is considered taxable income. The tax due for nonresidents and part-year residents shall be determined using one of the following tables depending on your filing status:

1. Married Individuals Filing Joint Returns and Qualified Surviving Spouses

If taxable income is	The tax is:
Not over \$25,000	2 percent of taxable income excluding the proportionate share of personal exemptions and deductions allowed for in R.S. 47:294.
Over \$25,000 but not over \$50,000	\$500 plus 4 percent of the excess over \$25,000. This amount is to be reduced by 2 percent of the first \$25,000 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$25,000.

Over \$50,000	\$1,500 plus 6% of the excess over \$50,000. This amount is to be reduced by 2 percent of the first \$25,000 of the proportionate share of personal exemptions and deductions and 4 percent of the proportionate share of personal exemptions and deductions over \$25,000 but not over \$50,000 and 6 percent of the proportionate share of personal exemptions and deductions over \$50,000.
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2. Single Individuals and Married Individuals Filing Separate Returns

If taxable income is	The tax is:
Not over \$12,500	2 percent of taxable income excluding the proportionate share of personal exemptions and deductions allowed for in R.S. 47:294.
Over \$12,500 but not over \$25,000	\$250 plus 4 percent of the excess over \$12,500. This amount is to be reduced by 2 percent of the first \$12,500 of the proportionate share of personal exemptions and deductions and 4 percent of the proportionate share of personal exemptions and deductions over \$12,500.

Over \$25,000	\$750 plus 6 percent of the excess over \$25,000. This amount is to be reduced by 2 percent of the first \$12,500 of the proportionate share of personal exemptions and deductions and 4 percent of the proportionate share of personal exemptions and deductions over \$12,500 but not over \$25,000 and 6 percent of the proportionate share of personal exemptions and deductions over \$25,000.
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3. Head of Households

If taxable income is:	The tax is:
Not over \$12,500	2 percent of taxable income excluding the proportionate share of personal exemptions and deductions allowed for in R.S. 47:294.
Over \$12,500 but not over \$25,000	\$250 plus 4 percent of the excess over \$12,500. This amount is to be reduced by 2 percent of the first \$12,500 of the proportionate share of personal exemptions and deductions and 4 percent of the proportionate share of personal exemptions and deductions over \$12,500.
Over \$25,000	\$750 plus 6 percent of the excess over \$25,000. This amount is to be reduced by 2 percent of the first \$12,500 of the proportionate share of personal exemptions and deductions and 4 percent of the proportionate share of personal exemptions and deductions over \$12,500 but not over \$25,000 and 6 percent of the proportionate share of personal exemptions and deductions over \$25,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:295 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, LR 29:1502 (August 2003).

Cynthia Bridges
Secretary

0308#012

RULE

Department of Revenue Policy Services Division

Surplus and Undivided Profits (LAC 61:I.305)

Under the authority of R.S. 47:605(C), R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:I.305 relative to reserves and assets.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 3. Corporation Franchise Tax

§305. Surplus and Undivided Profits

A. - C.4. ...

D. For purposes of this Chapter, reserves include all accounts appearing on the books of a corporation that represent amounts payable or potentially payable to others. However, the term reserves shall not include accounts included in capital stock as used in R.S. 47:604 and shall not include accounts that represent indebtedness, regardless of maturity date, as indebtedness is used in R.S. 47:603.

E. For purposes of this Chapter, the term assets shall mean all of a corporation's property and rights of every kind. The definition of the term assets for corporation franchise tax purposes may differ from the definition of assets for general accounting purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:605 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, Office of Group III, LR 6:25 (January 1980), amended LR 11:108 (February 1985), amended by the Department of Revenue, Policy Services Division LR 28:1995 (September 2002), LR 29:1520 (August 2003).

Cynthia Bridges
Secretary

0308#013

RULE

Department of Revenue Policy Services Division

Various Exemptions from the Tax (LAC 61:I.4401)

Under the authority of R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4401 relative to the sales tax exemption set forth in Article VII, Section 2.2 of the Constitution of Louisiana and R.S. 47:305(D) regarding food for home consumption.

This Rule provides guidance as to which food items are taxable and which are exempt under the Constitutional and Statutory provisions.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4401. Various Exemptions from the Tax

A. - F. ...

1. R.S. 47:305(D) provides an exemption from state sales tax upon the sale at retail of food sold for preparation and consumption in the home as well as for some other expressed types of food sales. For this purpose, meat, fish, milk, butter, eggs, bread, vegetables, fruit and their juices, canned goods, oleo, coffee and its substitutes, soft drinks, tea, cocoa and products of these items, bakery products, candy, condiments, relishes and spreads, are all considered food items. Items such as flour, sugar, salt, spices, shortening, flavoring and oil that are generally purchased for use as ingredients in other food items constitute food. Items considered to be food are not limited to the examples set forth above. The listing is not all inclusive.

2. Alcoholic beverages, malt beverages and beer; tobacco products; distilled water, water in bottles, carbonated water, ice and "dry ice" are not considered to be food. Medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts are also not considered to be food.

Dietary Supplements Any product, other than tobacco, intended to supplement the diet that:

i. contains one or more of the following dietary ingredients:

- (a). a vitamin;
- (b). a mineral;
- (c). an herb or other botanical;
- (d). an amino acid;
- (e). a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

f. a concentrate, metabolite, constituent, extract, or combination of any ingredients described in Subclauses (a) - (e) above; and

ii. is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

iii. is required to be labeled as a dietary supplement, which is identifiable by the fact that the product contains a "Supplemental Facts" box on the label.

3. "Food for home consumption" as used in R.S. 47:305(D)(1)(n) does not include "prepared food."

Prepared Food

i. food sold in a heated state or heated by the seller;

ii. two or more food ingredients mixed or combined by the seller for sale as a single item, which does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and food containing these raw animal foods requiring cooking by the consumer in order to prevent food borne illnesses; or

iii. food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

4. Notwithstanding language to the contrary in Paragraph F.3, bakery products, dairy products, soft drinks, fresh fruits and vegetables, and package foods requiring further preparation by the purchaser are considered "food for home consumption" unless sold by an establishment listed in R.S. 47:305(D)(3). However, soft drinks that are sold with a cup, glass or straw are not considered "food for home consumption."

5. Sales of meals furnished to the staff and students of educational institutions including kindergartens; the staff and patients of hospitals; the staff, inmates and patients of mental institutions; boarders of rooming houses; and occasional meals furnished in connection with or by educational, religious or medical organizations are exempt from the taxes imposed by this Chapter, provided the meals are consumed on the premises where purchased. Sales of food by any of these institutions or organizations in facilities open to outsiders or to the general public are not exempt from the

taxes imposed by this Chapter, and tax should be charged on the entire gross receipts, rather than just the receipts from the outsiders or the general public.

6. Facilities for the consumption of food on the premises as discussed in R.S. 47:305(D)(3) include not only inside facilities, but also outside facilities, including parking facilities.

7. Purchases of food items by stores, institutions and organizations can be purchased without payment of the advance sales tax provided the ultimate retail sale or consumption of the food is exempt from taxes imposed by this Chapter. Regardless of the type of purchaser, if a majority of the food purchased and disposed is taxable under the established rules, advance sales tax must be paid by the purchaser.

G. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 29:1520 (August 2003).

Raymond E. Tangney
Senior Policy Consultant

0308#022

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**2003-2004 Resident Game Hunting Seasons
(LAC 76:XIX.103)**

Editor's Note: Subsection C of Section 103 is being repromulgated to correct a printing error. This Rule may be viewed in its entirety on pages 1122-1123 of the July 2003 edition of the *Louisiana Register*.

The Wildlife and Fisheries Commission has amended Rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§103. Resident Game Birds and Animals 2003-2004

A. - B. ...

C. Deer Hunting Schedule

Area	Archery	Muzzleloader (All Either Sex)	Still Hunt (No Dogs Allowed)	With or Without Dogs
1	Oct. 1-Jan. 31	Nov. 15- Nov. 21 Jan. 19-Jan. 25	Nov. 22-Dec.5 Jan. 5-Jan. 18	Dec. 6- Jan. 4
2	Oct. 1-Jan. 31	Oct. 25-Oct. 31 Jan. 10-Jan. 16	Nov. 1-Dec. 5	Dec. 6- Jan. 9
3	Sept. 13- Jan. 15	Oct. 4-Oct. 10 Dec. 1-Dec. 5	Oct. 11-Nov.30 Dec. 6-Dec.31	
4	Oct. 1-Jan. 31	Nov. 8- Nov. 14 Jan. 10-Jan. 18	Nov.15-Jan. 9	

5	Oct. 1-Jan. 31	Nov. 15-Nov. 21 Dec. 26-Jan. 1 Bucks Only	Nov.28- Dec.14	
6	Oct. 1-Jan. 31	Nov. 15-Nov. 21 Jan. 19-Jan. 25	Nov.22-Dec.5	Dec. 6- Jan.18
7	Oct. 1-Jan. 31	Oct. 11-Oct. 17 Nov. 8- Nov. 14	Oct.18-Nov. 7 Nov.15- Nov.30	Dec. 1- Dec.31
8	Sept. 13- Jan. 15	Oct. 4-Oct. 10 Dec. 1-Dec. 5	Oct.11-Nov.30	Dec. 6- Dec.31

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), amended LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003).

Terry D. Denmon
Chairman

0308#027

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

General and Wildlife Management Area (WMA) Hunting (LAC 76:XIX.111)

Editor's Note: Paragraph C.3 of Section 111 is being repromulgated to correct a printing error. This Rule may be viewed in its entirety on pages 1124-1135 of the July 2003 edition of the *Louisiana Register*.

The Wildlife and Fisheries Commission has amended Rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§111. General and Wildlife Management Area Hunting Rules and Regulations

A. - C.2. ...

3. Nutria. On WMAs and private property nutria may be taken recreationally from September 1 through February 29 during legal shooting hours by any legal hunting method with no limit except if taken with a shotgun, steel shot must be used. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than F steel, and during gun deer seasons, anyone taking nutria must display 400 square inches of "hunter orange" and wear a "hunter orange" cap or hat. Pelting or selling of carcasses is illegal except when taken by a licensed trapper during the trapping season. Trespass upon private property without consent for the purpose of taking nutria is punishable by fines and possible jail time (R.S. 56:265).

C.4. - G.17.xx. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003).

Terry D. Denmon
Chairman

0308#028